LEGISLATIVE COUNCIL

Tuesday 10 April 2001

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following bills:

Essential Services (Miscellaneous) Amendment,

Fisheries (Southern Zone Rock Lobster Fishery Rationalisation) Act Repeal,

Sandalwood Act Repeal,

State Disaster (State Disaster Committee) Amendment.

DISTINGUISHED VISITORS

The PRESIDENT: I would like to recognise a CPA delegation from the Pacific Islands who are sitting at the back of the gallery. The delegation is made up of two delegates from Kiribati and two from Papua New Guinea. The delegation also included two delegates from the Cook Islands but they had to head home after lunch today. This delegation has been to Sydney and Canberra and they have just returned from the Flinders Ranges and seem to be in good heart from having been entertained by the local member at Wilpena. They are accompanied by Ms Julia Morris, who is a parliamentary relations officer from Canberra. On behalf of honourable members, I welcome you to the Legislative Council and hope that you find rewarding your time in South Australia and at our parliament.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 19 and 65.

TRANSPORT, PUBLIC

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

1. What strategies is the Passenger Transport Board implementing to ensure that issues of safety will not preclude customers from using the various services given that the perception of safety is paramount to the usage of public transport, particularly with women after dark?

2. What strategies will be put into place to ensure that recent reported problems during times of high public transport usage (Skyshow, Big Day Out) leaving a perception of lack of safety on our buses, are not repeated?

3. How will this message be publicised to the general public?

4. What is the status of the Transit Police?

5. Will the Transit Police continue?

6. What measures of safety and security are being implemented for both customers and their vehicles with regard to parking at interchanges and major shopping centres, e.g. O-Bahn, Salisbury Interchange, Tea Tree Plaza, West Lakes, Marion and Noarlunga?

7. Please give details of the success, or otherwise, of the recent payment for secure parking?

8. Can the minister please provide a copy of the report on the rail safety survey conducted in 1999?

The Hon. DIANA LAIDLAW: The government introduced a range of safety and security measures for Adelaide's metropolitan train, tram and bus services on 2 July 2000, including:

- a Passenger Service Attendant and a security officer on every train trip after 7 p.m.;
- compulsory ticket barrier checks every day from sunrise to sunset for trains at Adelaide Railway Station;
- an initial seven 'safer stations' across the metropolitan rail line, as part of a comprehensive station upgrade;
- the provision of mobile phones for bus drivers after 8 p.m. on evening services, to enable passengers to arrange to be collected from their bus stop, as required;
- installation of closed circuit video cameras on buses;
- safer set down points at night, which will allow drivers to drop passengers at locations closer to their homes; and
- secure car parks and video cameras at interchanges.

The Government, through the Passenger Transport Board (PTB) and all service providers, is committed to continuously improving security on public transport by using advanced technology, more personnel, and close liaison with community groups.

2. Following every major event—ranging from Skyshow and Big Day Out to Clipsal 500 and Tour Down Under—the PTB reviews all security arrangements with Transit Police, service providers and other stakeholders to ensure security is continuously improved. Meanwhile, the consistently high numbers of people using public transport to attend major events—with bus patronage alone at over 35 000 for the last Skyshow—suggest a high level of community confidence in our bus, train and tram drivers, plus other service assistants, to transport safely thousands of people to and from Skyshow and other major events.

3. Programs promoting the benefits of using public transport are regularly undertaken by the PTB and contractors through the publication of pamphlets, media campaigns and special events.

4. The Transit Police continue to play an important role in safety and security on the public transport system. As part of the major upgrade in public transport safety, the number of rail security officers has been increased to supplement Transit Police officers on the rail services. On weekdays there will be 14 security officers and one supervisor working across the metropolitan rail system, and on weekends there will be 10 security officers and one supervisor. This will enable the Transit Police to work more broadly across the transit system, including buses.

5. Transit Police will continue to have an important presence on public transport—and are to be given a more prominent presence at the Adelaide Railway Station.

6. The Safer Rail Stations Program has been undertaken, with major upgrades now completed at Noarlunga Centre, Elizabeth, Salisbury, Gawler, Glanville, Brighton and Blackwood. In addition:

- security cameras have been introduced at Paradise Interchange covering the bus stops and car parks;
- approximately 400 new commuter car parking spaces have been established during 1999-2000 and more car parks at various locations are planned for this financial year;
- a secure car park is being trialled at Tea Tree Plaza Interchange; and
- measures are being explored to improve safety and security at the Salisbury Interchange.

7. Since January 2000, a commercial car park operator, Ezi Park, has operated the secure car park at Modbury Interchange under a contract with the PTB. As at March 2001, average use of the car park on a daily basis is 270 cars—with the maximum capacity being about 308 cars. Meanwhile, only one minor incident of break-in has occurred since the secure car park was introduced.

8. The 1999 Train Customer Survey Summary Report, to be provided to the honourable member with this reply, formed the basis of the package of rail safety and security measures successfully introduced by the government on 2 July 2000.

GOVERNMENT, BILLBOARD

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

1. How much has the government spent on the billboard located on South Road at Thebarton which promotes the government's debt reduction progress?

2. How long will the billboard be left there?

3. Are there any more similar billboards in metropolitan Adelaide?

4. If so:

(a) what are the costs associated with these billboards; and

(b) where are they placed?

The Hon. R.I. LUCAS: The Premier has provided the following information:

'State of Debt' billboards were placed at Adelaide Airport (water tower—east side) and South Road for the month of February, and Adelaide Airport (water tower—west side) and Goodwood Road for

the month of March, 2001. The total cost for this communication project is $15 000.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
Liquor Licensing Act 1997—Dry Areas—Onkaparinga

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

The Architects Board of South Australia—Report, 2000
Regulation under the following Act—
Occupational Therapists Act 1974—Registration Renewal Fee.

DISTINGUISHED VISITORS

The PRESIDENT: It has been drawn to my attention that at the front of the gallery we have with us a delegation of judges and prosecutors from Indonesia, and on behalf of members I very much welcome that delegation also to the parliament today.

QUESTION TIME

FESTIVAL OF ARTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): My question is directed to the Minister for the Arts. Following my question last week to the Minister for the Arts on the financial crisis facing the Festival of Arts, can the minister confirm that the Adelaide Festival Centre Trust is also facing a financial loss of somewhere between $4 million and $7 million? What is the financial status of the centre? How has this loss occurred? Will the minister provide a detailed report to parliament outlining the situation? Has the minister met with the board of the Festival of Arts, as she promised, particularly in the light of the shock departure of the festival's accountant and, if so, what was the outcome of that board meeting?

The Hon. DIANA LAIDLAW (Minister for the Arts): I have met with the board of the Adelaide Festival, as I outlined that I intended to do last week, and there are matters that are now before the board for consideration. In terms of the Adelaide Festival Centre Trust, I am unable to confirm that there are losses to the extent to which the honourable member has speculated. She would know that, as the annual report for the past financial year defined, losses arose from *Showboat* and *Crazy For You*. Those losses are still on the books of the Adelaide Festival Centre Trust. I have asked for a consultant to be engaged (and that has happened) to look at some matters relating to the trust's operation; and that was undertaken as a condition of looking at a refinancing package.

ELECTRICITY, SUPPLY

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

Leave granted.

The Hon. P. HOLLOWAY: In the last year for which ETSA consolidated accounts were available, that is, the year ending June 1999, annual electricity sales were in excess of $1.05 billion. Of this amount about $250 million was from sales to industry. The state's electricity retailer, AGL, has just issued electricity pricing offers to grace-period customers, that is, those businesses using more than $20 000 of electricity per year, of between 30 per cent and 80 per cent for the next five years—more for shorter periods. This represents an increase in electricity sales revenue, which will mainly accrue to generators of at least $75 million annually. When households are made contestable on 31 December 2002—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford should listen to this because he might need to provide some answers to households. When households are made contestable on 31 December 2002, the total increased income to generators will be of the order of $300 million per year—almost $1 million per day (and where have we heard that figure before?) if this 30 per cent increase flows on to households. My questions to the Treasurer are:

1. Does he believe that generators in South Australia are exercising market power to extract windfall profits?

2. Does he still believe that the state received a good price for the sale of its electricity generators?

3. When will he apologise to the people of South Australia for his incompetent handling of electricity issues over the past four years?

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS (Treasurer): I cannot understand the basis for the Hon. Mr Holloway's calculations in relation to the year 2003. I would be very interested for the honourable member, if he would like to, to indicate how he arrived at that unusual figure of $1 million a day. I suspect that it is a figment of the honourable member's imagination.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, no, it does not. The honourable member is making up those figures and he knows that he is—he has no justification. I would like him to present the calculations to the Auditor-General or to an independent commentator. I would ask the honourable member to provide his calculations and we will have an independent expert look at how he arrived at this magnificent figure of $1 million a day in 2003.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No; this is your question. The honourable member made up this figure.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: You made up the figure.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The honourable member quoted no-one in terms of justification for the figures. He has come into the House, he has made up a figure of $1 million a day and he has provided no background at all for the calculation that he put on the public record. The challenge is there for the Hon. Mr Holloway, again, to produce the calculation and the evidence as to how he has come up with his $1 million, and we will happily have an independent person look at his calculation and make some commentary about its truthfulness. I would be willing, not that I am much of a gambling man, to have a small wager with the Hon. Mr Holloway that there is not likely to be independent justification or validation for a figure that he has just made up in this chamber.

In relation to the operation of the national market, I am happy to repeat again what we talked about last week. All governments, Labor and Liberal, in New South Wales, Victoria and South Australia will obviously be concerned at the operations of the national market at the moment, because

businesses in those three states are facing price increases as their contracts come up for renewal.

AGL has advised that the average price increase that it has sent out is of the order of 30 per cent, not 30 per cent to 80 per cent. I understand that some have had price reductions and some have had price increases, but the average is about 30 per cent. Again, the honourable member, coming from the opposition—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you said in the order of 30 per cent to 80 per cent. You did not mention from a cut to 80 per cent. You took the average to the highest rather than the complete range. Again, the honourable member—

The Hon. P. Holloway: You show me someone who has had a cut in their electricity price.

The Hon. R.I. LUCAS: You show me the person who has got the 80 per cent. We do not know the names of the companies. AGL has advised us, as it advised the honourable member or his colleague (so we are in the same position as his colleague who was advised of these numbers), that there is a range—a very small number who had a small cut, some who had a very big increase and an average of about 30 per cent.

The honourable member comes in here and says that there have been price increases of 30 per cent to 80 per cent, even though he has been told that some had a price reduction. If he wants to talk about the range, according to AGL, the range is from a small reduction up to an 80 per cent increase, and the average is 30 per cent. The member comes in here and forgets about those who have had a small reduction or less than 30 per cent, and says that the increases have been of the order of 30 per cent to 80 per cent.

The main point is that the governments of Victoria, New South Wales and South Australia are concerned at the operations of the national electricity market. That is why the government in South Australia has established a task force, that is why the issue is to be raised at COAG, and that is why both the Victorian and New South Wales Labor governments are saying that aspects of the market need to be reviewed.

The Hon. P. Holloway: We have been saying it for three years.

The Hon. R.I. LUCAS: Everyone is happy then, aren't they, other than those who have to pay the increase in prices? All of us are concerned about the operation of the market. Labor governments and Liberal governments have said that we need to review it; therefore, everyone is heading down the same path in relation to a review. I am sure, as I said last week, that, when Prime Minister Keating and Premier Bannon first conceived the idea of the national market in the early 1990s, their objective was to see a competitive market and reduced prices. When Liberal governments, federal and state, supported it, our objective was to see a competitive market with reduction in prices.

What we are now seeing in Victoria, New South Wales and South Australia are price increases. It is dishonest of the honourable member to come in here and claim that these price increases are being felt only in South Australia. It suits his political purposes to say it is because of privatisation, but New South Wales has not been privatised and BHP in Newcastle is facing a 50 per cent price increase. If one wants to follow the logic of the Hon. Mr Holloway's explanation, what is the explanation in New South Wales, with a Labor government and not having been privatised, for a 50 per cent price increase for BHP at Newcastle? I challenge the Hon. Mr Holloway to explain how, if he is correct and it is privatisation that has caused this, BHP in Newcastle, under a non privatised system and under a Labor government, has complained recently at a national electricity conference that it is facing a 50 per cent price increase.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: It may well be that it is chasing the billion dollars it lost. Again, last week, another $40 million was lost by one of the electricity companies listed in New South Wales. Clearly, that is the preferred path that the Labor Party is going to follow. If there is to be a Labor government after the next election, clearly there will be an element of the government investing again in power stations and electricity businesses. There is nothing to stop it from investing in these generators. It does not have to reclaim them. It can build government owned generators—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, you can do it. If this is the Labor policy, government owned generators can be built and government owned retailers can be reintroduced—

Members interjecting:

The Hon. R.I. LUCAS: Exactly! You will not hear a peep out of them.

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron!

The Hon. R.I. LUCAS: What is the latest solution in relation to electricity today? Mike Rann was challenged regarding his policy. He said, 'Call a summit.' Call a summit! Another one! We have had a job summit, a tax summit, a crime summit and now we are to have an electricity summit. He does not have a policy. When there is no policy, call a summit. And that was his response. Mike Rann was challenged and someone said to him yesterday, 'We hear what you are complaining about, but what is your policy?'

The Hon. P. Holloway: We told you.

The Hon. R.I. LUCAS: Yes, 'We will have a summit'. And a summit will solve all these problems.

Members interjecting:

The Hon. R.I. LUCAS: Exactly. I leave two challenges with the Hon. Mr Holloway. First, produce for me, by the end of today, the calculations on this million dollars per day. I will happily have an independent expert have a look at these. Secondly, if the problem is privatisation, explain to us why BHP in Newcastle, under a Labor government and a non-privatised system, is saying that it is facing a 50 per cent price increase.

The Hon. SANDRA KANCK: As the Treasurer rejects the figures given by the Hon. Paul Holloway, what estimate does he have for the total increase in annual electricity costs for the 3 000 electricity consumers who are to become contestable on 1 July?

The Hon. R.I. LUCAS: I do not know whether the Hon. Sandra Kanck was dozing, or musing about what has gone on with the federal leadership changes in Canberra, but I was not talking about—

An honourable member interjecting:

The Hon. R.I. LUCAS: She is still in shock. She was deep in discussion with some of the staffers of the outgoing leader in the last 24 hours, I understand. We know where her sympathies lie in relation to these issues.

The Hon. Sandra Kanck: Better answer the question.

The Hon. R.I. LUCAS: What I was about to say is that I do not know whether you were musing or dreaming, but I was not referring to that. I was referring to the million dollar a day calculation that the Hon. Mr Holloway has calculated.

That is, in the year 2003 he has calculated that the generators will be making a million dollars a day in relation to the price increases. I am not talking about what AGL has just put out. I am talking about the Hon. Mr Holloway's calculation for 2003.

EXOTIC DISEASES

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question on exotic disease investigation, treatment, eradication and compensation.

Leave granted.

The Hon. T.G. ROBERTS: I recently asked a question about the outbreak of a disease found in the South-East of the state that affected a dairy herd. There has been a watch kept in this state on a couple of exotic diseases in various parts of the state in relation to bovine diseases, and OJD is one of those diseases—that is, ovine Johnes—

An honourable member interjecting:

The Hon. T.G. ROBERTS: The honourable member corrects my pronunciation—Johnes disease. The difficulty is that primary producers are reluctant to make any public announcements about the arrival of this disease, and in a lot of cases the arrival has not been heralded. Unlike the other disease that I mentioned which has an almost immediate effect on dairy herds, this is an insidious wasting disease which takes some time to show. An article in today's *Advertiser* indicates that the disease has crossed over into the native fauna and that Tammar wallabies have been found to be infected. One of the difficulties researchers have is being able to predict any possibility of cross-over of diseases from animal species to humans. I do not want to make the circumstances any more difficult than already exist for primary producers, as I understand that the disease is appearing in other parts of the state and in other parts of Australia.

How can the government assist in working with other researchers in the field, such as Adelaide University and local communities that have gathered a lot of information on dealing with these exotic diseases, to ensure that the diseases do not travel across species; and, when research programs are put in place with the cooperation of primary producers and government departments, that the interests of primary producers and rural communities are maintained at all times?

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

RIVERLAND AIR SERVICES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about air services to the Riverland.

Leave granted.

The Hon. J.S.L. DAWKINS: I am aware of a report today that O'Connor Airlines is pulling out of its Riverland service just five weeks after it began operating between Adelaide and Renmark. This was the first service into the Riverland for two years, but I understand that the managing director of the company has been reported as saying that insufficient support has resulted in the airline running at a loss in its twice daily return service during that five weeks. In addition, I will outline some of the history of airline services to the Riverland in recent times.

Southern Australia Airlines serviced Renmark as part of its Adelaide-Mildura service, but that service was withdrawn in October 1998. Apparently Qantas (with which Southern Australia was affiliated) offered the service to O'Connor Airlines, but in those days O'Connor preferred to operate an Adelaide-Mildura service only without stopping at Renmark. Early in 1999, Southern Sky Airlines operated an Adelaide-Renmark service for a short period. My questions are:

1. Is the minister aware of the accuracy or otherwise of today's report?

2. If it is accurate, can the minister indicate whether the decision was made purely on an economic basis and whether the period of the trial was considered to be long enough?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the honourable member for his questions and for his efforts over some years to encourage airline operators to go to and from the Riverland area. I was most concerned to learn today that the airline had cancelled future services, although I had been alerted over some weeks to the fact that it had encountered considerable difficulties in attracting passenger numbers, which was so critical for the continuation of this trial.

I am disappointed that the trial that was projected for four months lasted only five weeks, but that must be an indication of the losses that the airline was experiencing. Advice that I received two weeks ago indicated that, to break even, the service must average five passengers per flight (120 per week), but that it had been averaging two passengers per flight for that time and, therefore, fell well short in both the numbers and the dollars to maintain a viable service.

It is true that transport is a very competitive market, and I note that the Premier Stateline Bus Service, which runs two return trips per day, costs $33.70 one way for an adult fare or $16.85 one way for a pensioner, senior student or child, whereas the O'Connor Airline fares ranged from $143 one way full economy to $115.50 for an advance purchase ticket or $88 for a Saturday or Sunday only, non-refundable service.

So, it was well above the bus service. If one takes into account just the petrol costs in a car, not the general running and add-on costs, the fuel would have amounted to about $18 (people generally do not take into account all the other registration and depreciation charges associated with a motor vehicle). It has proven hard for O'Connor to attract passengers, notwithstanding a pretty good level of public advertising undertaken to promote passenger numbers.

However, the Riverland will be without a regular service and whether, because of the history that the honourable member has outlined, any other airline is prepared to take the step in future must be questionable, without any of the efforts made by several airlines over several years to attract sufficient patronage to remain a viable service.

ELECTRICITY, PRICING

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question about electricity prices in South Australia.

Leave granted.

The Hon. SANDRA KANCK: A short time ago in this chamber the Hon. Paul Holloway reminded members of an interview heard on 5AN this morning with Jeff Donahue, AGL's government and public affairs manager. He told listeners that grace period electricity customers in South Australia becoming contestable on 1 July this year face

staggering price hikes of up to 80 percent and that the average price rise will be of the order of 30 per cent.

For the 3 000 medium-sized electricity consumers caught in the financial wildfire of this government's bungled electricity privatisation, this is a savage blow. It is no wonder that the Treasurer is now known as the 'Prince of Darkness'. My questions to the Treasurer are:

1. Will he answer the question that I asked him as a supplementary a short time ago, that is, what is the government's estimated cost of the total increase in electricity for the 3 000 electricity consumers who will become contestable from 1 July this year?

2. What is the estimated total increase in annual electricity costs for the 300 state government entities that will become contestable from 1 July this year?

3. What assistance has the state government provided to the private businesses currently attempting to negotiate electricity contracts with electricity retailers?

The Hon. R.I. LUCAS (Treasurer): The honourable member has already answered the question about the reality in relation to the business customers who are coming up for contract now. It is not a question of what the government's estimate is: it is what is actually happening out there. All we know is what the honourable member knows, that is, statements similar to the statements that AGL has made today whereby the average price increase for customers is in the order of 30 per cent. It ranges from small reductions in price for some—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, the honourable member's question was actually—

The Hon. P. Holloway: 'Total cost', she said.

The Hon. R.I. LUCAS: I am not in a position to do a calculation of the total cost. I do not know the individual contracts of 3 000 customers. This is a private business. There is a private retailer—

An honourable member: You should know what every customer—

The Hon. R.I. LUCAS: What every customer knows. Obviously, I am meant to know the electricity demand needs of 3 000 customers that are private businesses with a private retailer or a number of private retailers. It is not just AGL—there are six or seven private retailers. It is a bizarre question to expect anyone to know the private and commercial electricity demand details for 3 000 customers who are confidentially negotiating with six or seven private businesses. I know the Hon. Sandra Kanck is Deputy Leader of the Australian Democrats, but even for an Australian Democrat this is a bizarre question, with due respect—or with as much respect as I can provide—to the Deputy Leader of the Australian Democrats. Even for the Australian Democrats this is a bizarre question.

Members interjecting:

The Hon. R.I. LUCAS: The Treasurer—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order, the Hon. Mr Elliott!

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Michael Elliott will come to order.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order, the Hon. Mr Elliott!

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order, the Hon. Mr Cameron! I have called for order.

The Hon. R.I. LUCAS: There is a touch of sensitivity from the Democrats after the recent loss of their—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! I warn the Hon. Mr Elliott.

The Hon. R.I. LUCAS: Hear, hear! Throw him out. It is very disrespectful. I apologise and humbly confess that I do not know the confidential commercial details of 3 000 private businesses in South Australia; I also apologise and humbly confess that I do not know the commercial details of seven or eight private electricity retailers in South Australia; and I also apologise for not knowing the current negotiations going on between those seven or eight retailers and the 3 000 customers. In some cases—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —one customer might be negotiating with three or four retailers. It is not just 3 000 commercial negotiations going on; there may be 5 000 or 6 000 commercial negotiations going on. I apologise to the Deputy Leader of the Australian Democrats for not knowing the details of all those discussions. We actually have a private market where negotiations are going on between private retailers and—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Mr Roberts!

The Hon. R.I. LUCAS: —and private businesses in South Australia. It is impossible for anyone to be able to say with any accuracy at all what the total dollar quantum will be in relation to these issues. It is also impossible for anyone other than the retailers to know what they have offered. In the end AGL does not know whether TXU or Citipower have offered a different price—and in some cases we know they have—to the private businesses. Until 3 000 businesses sign up on contracts with either AGL or one of the competitive retailers in South Australia, it is impossible for anyone to say not only what the aggregate sum will be but also what the average will be.

Clearly, the person or the company best placed to put an indicator on the public record as to what the result is likely to be is AGL, because it is the dominant retailer at least for the next couple of years, and it has said that the average price increase is about 30 per cent—it ranges from small reductions for some, up to an 80 per cent increase for others, but it is an average of 30 per cent. I cannot offer anything more definitive in terms of the likely estimated impact other than the 30 per cent figure.

I indicated earlier to the Hon. Mr Holloway that it suits the political purposes of the opposition and the Democrats to pretend that this is all to do with privatisation, and I challenge the Hon. Sandra Kanck to explain why BHP Newcastle in New South Wales, under a non-privatised system, under government ownership and under a Labor government, is now facing a 50 per cent price increase for electricity at Newcastle.

The Hon. SANDRA KANCK: Sir, I have a supplementary question. As the Treasurer is preparing a state budget—

The PRESIDENT: Order! The honourable member will come straight to the question.

The Hon. SANDRA KANCK: —what is the estimated total increase in annual electricity costs for the 300 state government entities that will become contestable from 1 July this year?

The Hon. R.I. LUCAS: We will have a better feel for that when my colleague the Hon. Robert Lawson receives some preliminary results from the current negotiations and

discussions that are taking place with retailers in South Australia for those businesses.

DOMESTIC VIOLENCE

The Hon. A.J. REDFORD: In the light of the first anniversary of the NDV pilot program (End Domestic Violence program), can the Attorney-General advise the Council:

1. Are there any preliminary outcomes from the project showing the effect of NDV on police call-outs to incidents of domestic violence?

2. What steps have been taken by the state government to ensure that the program is fully evaluated?

3. Has the program been well received by the range of agencies taking part?

4. Have the procedures involved in NDV yet been taken up in any other SA Police local service areas?

The Hon. K.T. GRIFFIN (Attorney-General): The answer to the last question is that the End Domestic Violence project has been extended. One of the police superintendents in charge of the Port Adelaide local service area, where this project has been running, moved to the Sturt local service area and has taken a number of the important features of the NDV project across to the Sturt local service area. I suspect that there will be other extensions of the service and the project in the future.

The End Domestic Violence project is one which is a pilot in the South Coast police local service area and the Port Adelaide police local service area. It has been running for one year. I have agreed that we should continue to fund both projects to a total of an extra $80 000 for the next six months to enable a proper evaluation to be made.

The whole object of the End Domestic Violence project is to increase pressure upon the perpetrator of domestic violence, but to do that through police when police are called out to a domestic violence incident. At the first police call-out, the victim and the perpetrator are both given an information kit and are called on or visited by the police Child and Family Investigation Unit.

If there is a second call-out, a personal visit is made by the investigator to the perpetrator and the victim, offering to establish a neighbourhood support system, restraining orders are discussed and advice is offered on personal security measures.

If there happens to be a third call-out to the same parties, an investigator again visits the victim and the perpetrator to focus upon the seriousness of the repeated actions. A restraining order is sought in court against the perpetrator, who will continue to be subject to directed police patrols. An arrest will be made if there is evidence of a criminal offence, even without the victim's consent. A neighbourhood support system is established or extended for the victim, and in some circumstances a duress alarm is made available to the victim. The victim also meets with local agencies to identify further solutions. So, it is a staged program related very much to police call-outs.

The project appears to have resulted in a reduced number of repeat victimisations, an increase in the number of single rather than multiple police call-outs, a longer time interval between call-outs, the identification of chronic offenders and the active encouragement of victims to seek assistance. We have some preliminary information which has to be subject to final evaluation. However, the average weekly number of call-outs by police has fallen from 20 per week at the start of the pilot program to about 12 in the Port Adelaide local service area, and from 15 to 11 per week in the South Coast local service area. There have been a total of 1 681 interventions during the project so far, 855 of those in South Coast and 826 in Port Adelaide; 174 interventions have been second call-outs; and there have been 52 third call-outs. One hundred and thirty-one call-outs did not form part of the pilot program because they could not be fitted into any particular category.

So far the project has shown that targeted intervention making people accountable for their actions works to reduce domestic violence. It also appears to have resulted in a reduced number of repeat victimisations, an increase in the number of single rather than multiple police call-outs, a longer time interval between call-outs, the identification of chronic offenders and the active encouragement of victims to seek assistance. The other important feature of this is that local community service agencies are working together with police. Patrol officers have been trained to deal with call-outs, and all of the feedback coming from police is that this is a much more satisfying way of dealing with domestic violence incidents than merely attending to a report and dealing with it from a criminal perspective. So there are pluses all around, and one would hope that when the evaluation is finally made it will identify quite clearly that this project ought to continue and ought to be embraced across not just the SA Police but other service providers who at local community level work with police to deal with domestic violence prevention.

The Hon. CARMEL ZOLLO: By way of a supplementary question, is the minister aware of the recent report prepared by the Migrant Women's Lobby Group in relation to domestic violence, and are any statistics collected in relation to victims from diverse cultural backgrounds?

The Hon. K.T. GRIFFIN: I do not know whether the cultural background of the perpetrator and the victim is being collected in the context of this project, but I will have some inquiries made, and I will bring back a reply in relation to that. There are a number of reports in relation to domestic violence. A number of these are picked up through the ministerial forum for the prevention of domestic violence which I chair, and the Minister for the Status of Women is a member of that. The Ministers for Human Services, Education, Police and Aboriginal Affairs are all involved in trying to give as high a priority as possible to preventing domestic violence and to working with non-government agencies which are also represented on the forum. There are people there from a wide range of different backgrounds. The whole object is to try to get a higher level of coordination across the whole community in preventing domestic violence, not just dealing with the aftermath.

Whether that relates to migrant women, non-migrant women, Aboriginal women or non-Aboriginal women—or males (who, in some instances, are victims as much as women), we recognise that different issues may impinge, but ultimately it is about prevention, and that is the primary goal of the ministerial forum and the government in trying to ensure that both victimisation and revictimisation are reduced.

HAMPSTEAD REHABILITATION CENTRE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Disability Services questions about respite care at the Spinal Injury Unit.

Leave granted.

The Hon. T.G. CAMERON: I have received a letter from Mr Richard Durek regarding the lack of respite care for spinal injured people at the Hampstead Rehabilitation Centre. The Spinal Injury Unit at the Hampstead Rehabilitation Centre has for many years provided a booked respite care service in ward 2A of the Orthopaedic and Amputee Rehabilitation Unit. However, due to changes in and high demand for rehabilitation services, this is no longer the case. Hampstead is now available only when there is a major crisis, such as family illness, and where community respite is not available. Currently, people looking for respite care are required to contact their options coordinator for help, and domiciliary care clients are required to contact their case manager. I am informed, however, that this is more suitable for people with brain injuries and not for people who are quadriplegic. Respite care is now almost impossible to book in advance.

Carers looking for respite have told me that all they want is to be able to book respite care in advance so that they can plan their lives and know when they are going to have some time to recuperate, therefore avoiding waiting until they reach crisis point when they cannot cope any more. My question to the minister is: carers of quadriplegics do a fantastic job, mostly without recognition, and need time off to rest. Why cannot a bed or beds be kept for regularly booked respite in the spinal unit in Hampstead hospital, where all the appropriate facilities are located?

The Hon. R.D. LAWSON (Minister for Disability Services): I certainly agree with the proposition that carers of persons with paraplegia do a wonderful job, and I am certainly in favour (as is the government) of providing as much respite as possible to not only carers of people with paraplegia but also the individuals themselves.

The Hampstead Rehabilitation Centre is a centre which is an extension of the Royal Adelaide Hospital and has provided a number of services primarily around rehabilitation. It is not a dedicated respite service or service provider. Matters concerning ward 2A are something with which I am not familiar. I am indebted to the honourable member for his information. I will make further inquiries about what changes appear to have occurred, and I will provide him with further details of any reasons for those changes.

Options coordination, and also the domiciliary care services, provide extensive respite programs. Those programs are available not only for the frail elderly but also for people with a variety of disabilities, including intellectual and physical disabilities. The options coordination agency with specific responsibility for those with paraplegia or spinal injury is the APN (Adult Physical and Neurological) Disability Options Coordination. It is a service which has had demands upon it increased substantially over the last 18 months. Many people, prior to the establishment of options coordination, were accessing respite and other services through programs provided principally by the Paraplegic and Quadriplegic Association. I am glad to say that that association is still heavily involved in the provision of services to this group of people with disabilities. Options and domiciliary care are the most appropriate avenues for respite. Specifically, I will take on board the honourable member's questions and bring back a more detailed response.

WORKERS' COMPENSATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question on the progress of changes to the Workers Compensation and Rehabilitation Act.

Leave granted.

The Hon. R.K. SNEATH: Last week I spoke on the case of WorkCover Corporation v. Smith. The judgment that was made in that case was disastrous for the widow of the deceased worker because she got no workers' compensation or continuous average weekly earnings. I mentioned that normally she would have received over $100 000 in lump sum and continuous average weekly earnings until age 60.

An honourable member: What do you mean by 'normal'?

The Hon. R.K. SNEATH: If her husband had been deemed to be a resident of South Australia she would have got exactly that, because every other aspect of the claim was fine and accepted by WorkCover. It was disastrous. Clause 6 has continued to remain the same, even after the recommendation of one of the judges on the Full Bench that parliament immediately look at it. Has the minister started investigations with the intention of changing clause 6 and any other relevant clauses to make sure that no other interstate or itinerant worker suffers loss of income from being refused compensation?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I am indebted to the honourable member for his question and also because he directed my attention to the decision of the Full Court of South Australia in the case of the WorkCover Corporation against Smith. I notice that in delivering the judgment of the court Justice Lander noted that the result in the particular case was, to use his words, 'unfair and unjust', and I certainly agree with that proposition. The honourable member's questions and the decision itself have highlighted a deficiency in our legislation. However, I am advised that it is a deficiency that is common to all workers' compensation legislation throughout Australia. This matter has been the subject of some considerable discussion at a national level to achieve an outcome and legislative amendment which would be effective. Obviously there is little point in curing the South Australian ill if it also creates anomalies elsewhere, because the next case may be a driver from New South Wales who is resident in South Australia, and unless the New South Wales legislation is amended this problem will arise.

I am surprised by the complexity of this. Two bills have been considered at national level by workplace relations ministers—prior to my appointment, I might say. One of those was proposed by South Australia and the other by New South Wales. I understand that, as a result of the most recent meeting of the heads of workers' compensation authorities in Australia, it has been decided to proceed nationally with the proposed South Australian legislation as the model. However, other states have suggested some amendments to our proposed bill. Those amendments are presently being drafted by South Australian parliamentary counsel, and the matter will be returned to a meeting of workplace relations ministers in May this year. I am keen to ensure that this matter is progressed quickly and resolved at the very earliest opportunity. I will be pursuing that issue at the meeting to take place in May and will provide the honourable member with further progress reports as the matter develops.

The Hon. R.K. SNEATH: Is there any chance of that being made retrospective to help out the widow of the truck driver who was killed at Pinnaroo?

The Hon. R.D. LAWSON: I have every sympathy for the widow in this particular case. I will take up this matter with

the Hon. Michael Armitage who, as Minister for Government Enterprises, has ministerial responsibility for the WorkCover Corporation.

ELECTRICITY, SUPPLY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question about electricity costs.

Leave granted.

The Hon. M.J. ELLIOTT: In response to an earlier question asked by the Hon. Sandra Kanck, the Treasurer indicated that the Minister for Administrative and Information Services is currently involved in negotiations in relation to the cost of electricity for 300 contestable government bodies. I ask the minister:

1. How many megawatts of power are consumed by these 300 contestable customers?

2. What is the current cost of electricity for these 300 customers?

3. What is the peak demand of these customers at any one time?

4. Will the minister also indicate—he might need to refer this to another minister—whether the education department or individual schools are included; and, if so, will they be compensated for any increased costs that might arise?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I will take the honourable member's questions on notice and bring back a reply.

ADELAIDE CASINO

The Hon. NICK XENOPHON: My questions to the Treasurer are—

Members interjecting:

The PRESIDENT: Order! The Hon. Nick Xenophon has been called to his feet.

The Hon. NICK XENOPHON: My questions to the Treasurer are as follows:

1. Are there plans to, within the next 12 months, withdraw the entire number of on-site Liquor and Gaming Commission inspectors at the Adelaide Casino—a figure which, I understand, includes four senior inspectors—who, currently, are on-site at all times of the Casino's operations?

2. Was not the policy rationale for the introduction of on-site inspectors at the Casino (in the first place, a number of years ago) to assure the public that probity concerns were satisfied and to provide assistance for patrons of the Casino with complaints to be dealt with expeditiously?

3. What level of public consultation is taking place over any planned removal of the Casino inspectors, including consultation with groups concerned with the impact of problem gambling?

4. What alternative proposals are being considered to monitor the operations of the Casino (including from the patron's perspective) in the absence of on-site inspectors?

5. What is the approximate annual cost of having on-site inspectors at the Casino, and what are the proposed savings to be made?

6. Does the Treasurer concede that the absence of permanent on-site Casino inspectors will disadvantage Casino patrons and potentially weaken the enforcement of a regulatory regime at the Casino?

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS (Treasurer): Yes, I can, but not for as long.

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

The Hon. R.I. LUCAS: Yes. I will need to take advice on the honourable member's questions. If there are to be any changes, I assure the honourable member that it would be the government's view—and, I am sure, the view of the regulators who are involved in relation to the probity operations of the Casino—to ensure that an appropriate level of probity oversight would continue in the future under whatever arrangements might exist for the Casino. I will need to take advice on what, if any, plans are being considered in relation to this issue. I will bring back an answer as soon as I can.

ALZHEIMER'S DISEASE

In reply to **Hon. T.G. CAMERON** (16 November 2000).

The Hon. R.D. LAWSON: In addition to the answers given on 16 November 2000, the following information is furnished:

The 'Safe Return' program was developed by the Alzheimer's Association out of concern for the welfare of those people with dementia who may wander from the safety of familiar surroundings.

In 1996, the program received a $20 000 from Community Benefit SA to undertake a feasibility study. Over the following four years the Alzheimer's Association' staff were involved in refining the concept of the 'Safe Return' project and coordinating with SA Police.

In July 1999, a further grant of $25 000 to establish the pilot project was received from 'Hotels Care', an Australian Hotel's Association community grant. This money was primarily spent on promotion of the program through community service announcements, a video and brochures, which, together with establishment of the project.

Participants in 'Safe Return' pay an initial fee of $30.00 to cover the cost of administration and purchase of the bracelet, with an annual renewal fee of $15.00. These fees sustain the user's individual ongoing costs.

The Alzheimer's Association estimates that recurrent funding of $50 000 would sustain this project but has made no formal request to the South Australian Government for continued funding. Typically, funding may be sought through the Home and Community Care (HACC) Program.

The Alzheimer's Association did make several applications to the HACC funding round that closed on 22 December, 2000, however I am advised that the Association did not apply for funding for this specific program.

ABORIGINES, AGED CARE

In reply to **Hon. T.G. ROBERTS** (12 October 2000).

The Hon. R.D. LAWSON: In addition to the answer given on 12 October 2000, the following information is furnished:

The following services are available to frail elderly people and people with disabilities in the Coober Pedy district:

1. Recurrent funding through the Home and Community Care (HACC) Program to the Coober Pedy Hospital amounts to $158 750 and a further $104 800 is provided to the Umoona Aged Care Aboriginal Corporation for community services in Coober Pedy. In addition, Umoona Aged Care was granted $61 000 in one-off funds from the 1999-2000 HACC funding round to provide additional services.

2. The Commonwealth Department of Health and Aged Care funds 20 Community Aged Care Packages (CACPs) in Coober Pedy for indigenous and non-indigenous older people. These packages are managed by the Coober Pedy Hospital. In addition, funding equivalent to another 15 packages has been provided by the commonwealth to Umoona Aged Care ($149 850), while the proposed aged care facility is being developed.

3. Respite funding is provided by the commonwealth through the Commonwealth Respite Centre for services across the north west country region including indigenous and non-indigenous people in Coober Pedy.

A proposal has been developed for further aged care services to be provided through a facility adjacent to the Coober Pedy Hospital. This has involved joint planning and cooperation between Coober Pedy Hospital, Umoona Aged Care and commonwealth and state

governments. Both levels of government will contribute capital funding to upgrade the hospital to accommodate the new services.

The commonwealth has approved recurrent funding to Umoona Aged Care (which in turn has contracted with Coober Pedy Hospital) to provide for 6 high care places and 7.5 low care places attached to the hospital. Funding for the equivalent of 1.5 CACPs will be made available as part of the package provided under flexible care funding provisions.

The commonwealth and state funding has been approved and an architect appointed to undertake detailed design, prior to the tendering of the construction work.

The new facility will significantly enhance the options available to Aboriginal people living in Coober Pedy, reducing the need for older people to seek services in Port Augusta.

WELFARE SERVICES

In reply to **Hon. CARMEL ZOLLO:** (4 October 2000).

The Hon. R.D. LAWSON: In addition to the answer given on 5 October 2000 the following information is provided:

The level of funding through the HACC Program to organisations and programs which specifically cater for the needs of Australians of Italian origin is higher than for any other similar group in South Australia.

Funding has been provided to the Italian National Association of Families and Emigrants (ANFE) and the Coordinating Italian Committee (CIC) since 1998-99 for the frail aged and their carers. Multicultural Aged Care (MAC) and Port Adelaide Central Mission Ethnic Link Services ('Ethnic Link') have significant involvement with communities supporting frail elderly Australians of Italian background and with consumers from that background.

The following table provides details regarding HACC funding for these organisations over the period 1998-99 to 2000-01. Some one-off grant funding may also have been provided to these and other organisations for the benefit of frail elderly Australians of Italian background through programs such as Grants for Seniors and Community Benefit SA.

1998-99	
ANFE	$101 435
CIC	$ 49 500
MAC	$291 200
Ethnic Link	$692 100
Total	$1 134 235
1999-2000	
ANFE	$121 882
CIC	$ 49 800
MAC	$292 400
Ethnic Link	$702 500
Total	$1 166 582
2000-01	
ANFE	$122 767
CIC	$ 50 100
MAC	$197 000
Ethnic Link	$713 000
Total	$1 082 867

Note—This does not include new projects to be approved in the 2000-01 Round.

Quantifying the level of funding for so-called ethno-specific services to consumers from agencies such as Domiciliary Care services, the Royal District Nursing Service and carer support and respite organisations is very complex. Such agencies do seek to match workers who provide services such as personal care with the specific needs languages and cultural needs of particular clients.

DOMESTIC VIOLENCE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question on the provision of domestic violence services in country South Australia.

Leave granted.

The Hon. R.R. ROBERTS: I was heartened to hear today the Attorney's answers in relation to the End Domestic Violence programs operating in Port Adelaide and in the south of Adelaide. I remind the minister that there is a real world outside the metropolitan area, and yesterday I attended a conference at Clare on this very subject where a group of very concerned citizens, including the mayor and Women's Health Advisory Group, and many others, expressed concern about the lack of provision of facilities for people suffering the effects of domestic violence in, specifically, the Mid North area surrounding Clare. I understand that the Women's Health Advisory Coordinator and their group look after Riverton, as far away as Burra, across to Crystal Brook and in the hinterland in the centre of South Australia. It is disconcerting to find that there are no services based in Clare for the provision of housing, in particular, safe refuge, for people suffering the effects of domestic violence.

I was interested to hear today of the program that the minister is running in Port Adelaide and in the south. Two of the speakers at the conference were two officers from the Elizabeth division of the South Australian police force, and they spoke on the services located there for this problem. They talked about domestic violence officers, who turn up after the first instance of a report from someone in the community that a domestic violence incident is taking place. These people follow up and they also have child-care officers attached to that station. I understand they have some 14 personnel, including four detectives, for the follow-up of this service. One sees an adjunct between the program that the minister is running in Port Adelaide and on the South Coast. My questions to the minister are:

1. Is it possible for the programs running in Port Adelaide and on the South Coast to be extended to a country area, because I am advised that in the two month period over December and January there were some 20-odd incidents of reported domestic violence in and around Clare? It would be sensible to provide that program if we are to get a true picture of all of South Australia. The program operating in the metropolitan area could be tried at Clare.

2. Is it possible for the minister to have some discussions with his colleague, the Minister for Police, to provide domestic violence officers and child-care officers to be located to supplement the Clare officers who are trying to deal with this increasing problem at Clare in country South Australia?

The Hon. K.T. GRIFFIN (Attorney-General): There are services in country South Australia which address the issue of domestic violence. We must remember that there are two areas: one is supporting victims and the other is preventing victimisation. So far as the government is concerned, each is equally important, although in the longer term prevention of domestic violence is the direction which provides us with the best likelihood of ensuring that the number of victims is kept to a minimum. We would like to eliminate it.

In relation to support services, I will have to take that question on notice in respect of Clare. I am not aware of what services are provided through the Department of Human Services and non-government agencies, but I will take it on notice and bring back a reply. Ms Alison Whish, the Director of the Port Pirie Central Mission, is a member of the government's ministerial forum for the prevention of domestic violence. She is a particularly enterprising Director of the Port Pirie Central Mission and plays a very important role, along with other representatives of non-government organisations, in the strategies that we have developed to deal with the prevention of domestic violence.

In the policing context, the two pilot programs which we are running on the South Coast and at Port Adelaide required that patrol officers should be trained to deal with incidents of domestic violence in conjunction with representatives of the child exploitation unit. Also, we had to mobilise all of the

persons who were working in the regional services to actually ensure that the best level of service was provided.

Only a few days ago I was down at Noarlunga, and amongst those involved in the South Coast local service area program are the Southern Vales Community Health Centre, Noarlunga Health Service, Southern Domestic Violence Service, Southern Women's Community Health Centre, Noarlunga Health Village, Department of Human Services, Crime Prevention Unit and SA Police. The good thing about that is that we have been able to bring together a range of resources and coordinate those resources in the provision of domestic violence prevention services.

In terms of Clare, it may be possible at some time in the future, once we have done an evaluation and looked at the resourcing issues, to determine that the way in which police have been operating this particular program could be extended right across the state, but it will depend upon evaluation and on resources. However, it may be, as has happened with the Sturt local service area, that the characteristics of the NDV project are being incorporated within day-to-day policing by the superintendent who has moved from Port Adelaide to Sturt.

The other point I need to make is that domestic violence is a crime. Those who are victims of that crime are entitled to support through the Victim Support Service. Only a couple of weeks ago I announced that we will be establishing regional victim support services in five regional locations—one was Port Pirie—and that, too, should assist in the provision of support. If I can take the rest of the issues on notice, I will bring back a reply.

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill to vest property of the Free Presbyterian Church and for other purposes. Read a first time.

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

That this bill be now read a second time.

Notwithstanding that the honourable Leader of the Opposition proposes to speak on the bill this afternoon, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This is a bill for an act to distribute the property of the now defunct Free Presbyterian Church of South Australia.

The Free Presbyterian Church of South Australia (the Free Church) did not join the amalgamation of Presbyterian churches which took place in the 1890s. Nevertheless, when the Free Church disbanded in the first half of this century, the care and financial responsibility for all of its land was undertaken by the Presbyterian Church that was created by the amalgamation in the 1890s.

In the 1970s the Presbyterian Church divided to create the continuing Presbyterian Church and the new Uniting Church. While most of the former Presbyterian Church's properties were divided between the continuing Presbyterian Church and the new Uniting Church, the Free Church's properties were not included in the division. Part of the reason for not dealing with the former Free Church land appears to be that some of the properties were vested in trustees for the benefit of the Free Church, who had since died. As a result, the properties could not be disposed of by conventional means.

The properties have now become a financial burden on the churches, which have financial responsibility for the properties. The negotiations regarding the distribution of these properties extend back to the 1960s. Agreement has now been reached between the relevant parties as to the distribution of the various properties once belonging to the Free Church.

The division of the Free Church properties must occur through an act of parliament because these properties cannot be dealt with through traditional methods of property transfer. An act of parliament is required to extinguish existing trusts and to vest each property in a body that will, either, assume care and control of that piece of land, or will dispose of the land and deal with the proceeds of such sales as agreed by the relevant parties.

While two land parcels are to vest in councils, the majority of the properties are to be vested in a body which will be responsible for the sale of the properties. On 1 April 1999, such a body was created under the Associations Incorporation Act by the churches. The 'Free Church Negotiators Incorporated' has been vested with the power to receive and hold property vested in it by parliament, to sell the properties vested in it and other related powers.

The properties dealt with in the bill are as follows:

William Street, Morphett Vale—Allotment 500 of Filed Plan No. 42504

This is the site of the John Knox Church and School. The property was held by trustees pursuant to an Indenture upon trust 'for the several members of the religious domination known by the name of the Free Presbyterian Church who assemble for worship at Morphett Vale…'

Following negotiations between the Free Church Negotiators and the Anglican Church, which currently uses a portion of this property, an agreement has now been reached between the relevant parties that will allow for distribution of this property to proceed without controversy.

The Bill discharges all trusts and encumbrances existing over the William Street property prior to the commencement of the bill and vests the land in the Free Church Negotiators Inc., which will organise the disposal of the property as agreed between the parties.

Morphett Vale—Limited Certificate of Title Volume 5696 Folio 444

A limited certificate of title was issued in 1979 in relation to this property under the Real Property (Registration of Titles) Act, 1945. The registered proprietors named in the certificate were the trustees of the property, now all deceased, Peter Anderson, Alexander Brodie and Henry Smith.

This was the site of the so-called 'Brodies Church' which was established in 1850-1851 'for Presbyterians of all denominations'. However, Brodie's Church fell into disuse when the congregation decided to establish its own church (the John Knox Church), and it was burnt out in 1858. The site is still actively used as a cemetery. The cemetery has been in the de facto care and control of the Noarlunga Council (now known as the City of Onkaparinga) since around 1977. The Council has assumed control of providing curator services, maintaining register books, making new lease arrangements, and undertaking general maintenance of the site.

The City of Onkaparinga and the Churches agree that this property will be vested in the City of Onkaparinga as community land.

Myponga—Certificate of Title Volume 5747 Folio 454

This was the site of a Free Presbyterian Church built in 1870, now in ruin. Since April 1977, the Presbyterian Trust Corporation has been the registered proprietor of this land. However, due to limitations in its powers, it has been unable to sell the property and deal with the proceeds of a sale as the churches have agreed.

Therefore, any trusts existing over the property are extinguished and the property vested in the Free Church Negotiators Inc. for sale and distribution of proceeds.

Ryans Road, Aldinga—Limited Certificate of Title Volume 5696 Folio 439

This land is comprised in a limited Certificate of Title issued to the trustees (now deceased) of the Free Church erected on the land in 1856. Some years ago a transfer of the land to the Presbyterian Trusts Corporation was lodged, but because of unsatisfied requisitions, it has not been registered.

James Benny laid the foundation stone of the Church, which was last used in 1882. The Church is now in ruin.

The Presbyterian Church of South Australia, and more recently the Presbyterian Church and Uniting Church, have paid the rates in respect of the land, and there is not a situation of adverse possession by the adjoining occupier.

The bill extinguishes the trust existing over the Aldinga property and vests the property in the Free Church Negotiators Incorporated for the purpose of organising the sale of the land.

Yankalilla—Certificate of Title Volume 5837 Folio 344
This land is presently vested in the Presbyterian Property Committee Incorporated and the Presbyterian Special Holding Committee Incorporated. Although the land (which is on the Normanville Road, within the township of Yankalilla) is now vacant, a church was opened on it in 1858.

This site is the subject of a 'full' certificate of title, and held in trust for the Free Church by the two incorporated committees. The bill provides for the trust to be extinguished and the land to be vested in the Free Church Negotiators Inc, which will organise the sale of the land.

Spalding—Certificate of Title Volume 5829 Folio 507
This was the site of a Gaelic Church taken by James Benny under his care. The Church was opened in 1879, last used in 1900 and demolished in about 1924. A Gaelic cemetery is also on the site, which is under the de facto control and management of the District Council of Spalding (now known as the Northern Areas Council). According to council records, there have been no burials on the site since the council assumed control of the property. The extent of the council's involvement with the property has been to generally maintain the grounds, fence, gate and erected signs. The monuments existing on the site will remain for historic reasons; pioneers of the district are buried at the cemetery. No other use is intended for the land.

The registered proprietors of the land are Alexander McLeod, Malcolm McLeod and John Benny as the Elders of the Spalding Church, who hold the land in trust for the benefit of the Free Church.

The Northern Areas Council and the Churches have agreed that the property be vested in the Northern Areas Council as a cemetery. Therefore, the trust is extinguished and the land is vested in the Northern Areas Council.

Lucindale—Certificate of Title Volume 249 Folio 241
Although this was originally a Free Presbyterian Church, it was used by other denominations since 1890. The current registered proprietors are five trustees (all deceased) to whom the property was transferred in 1883. It was leased by the Presbyterian Church of South Australia early in the century and is still in use as a Presbyterian Church.

The property was awarded to the Presbyterian Church by determination of the Supreme Court (Cox J, 10 March 1984). However, for various reasons, an application to vest this land in the Presbyterian Trusts Corporation has not been lodged.

It is now proposed that the trust be extinguished, and the land vested in the Presbyterian Trust Corporation for the benefit of the Presbyterian Church.

This bill will facilitate the distribution of the property of the Free Presbyterian Church.

I commend this bill to the House.

Explanation of clauses

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
This clause provides for the measure to commence on a day or days to be fixed by proclamation.

Clause 3: Interpretation
This clause is an interpretation provision that defines a number of the bodies in which land is vested under the bill.

Clause 4: Vesting of land in Free Church Negotiators Incorporated
This clause vests four specified pieces of land in the Free Church Negotiators Incorporated, an association incorporated under the *Associations Incorporation Act 1985*. Each piece of land is vested for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand, other than any existing statutory or other easement over the land.

Clause 5: Vesting of land in The Presbyterian Trusts Corporation
This clause vests a specified piece of land in The Presbyterian Trusts Corporation, a corporate body of trustees incorporated under the *Presbyterian Trusts Act 1971*. The land is vested for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand, other than any existing statutory or other easement over the land.

Clause 6: Vesting of land in Northern Areas Council
This clause vests a specified piece of land in the Northern Areas Council for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand, other than an existing statutory or other easement or burial right over the land or any part of the land.

The land will, on vesting, be taken to have been classified as community land for the purposes of Chapter 11 of the *Local Government Act 1999* (but that classification can subsequently be revoked under that Chapter).

Clause 7: Vesting of land in City of Onkaparinga
This clause vests a specified piece of land in the City of Onkaparinga for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand, other than an existing statutory or other easement or burial right over the land or any part of the land.

The land will, on vesting, be taken to have been classified as community land for the purposes of Chapter 11 of the *Local Government Act 1999* (but that classification can subsequently be revoked under that Chapter).

Clause 8: Duty of Registrar-General
This clause sets out the duties of the Registrar-General in respect of the land vested by the bill. The Registrar-General is required, on application by a body in which land is vested by the bill, to make such entries on existing certificates of title or other records and issue such new certificates of title as the Registrar-General considers appropriate for giving full effect to each vesting.

Any land not subject to the provisions of the *Real Property Act 1886* must be brought under that Act. In giving effect to a vesting, the Registrar-General is not required to make any further investigation of title or public advertisement or require the production of duplicate certificates or other documents of title. No fee is payable in respect of an application, or any action by the Registrar-General, under this clause.

Clause 9: Exemption from stamp duty
This clause provides that where land vests by virtue of this bill, no stamp duty is payable. Nor do the requirements of the *Stamp Duties Act 1923* to lodge statements or returns apply to a vesting under this bill.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the intent of this bill. We sighted it only today but I understand that it is a bill that will need to be referred to a select committee. It seeks to divest the property of the Free Presbyterian Church, which I understand is the now defunct Presbyterian Church of South Australia. I understand that the properties owned by this defunct church have become a financial burden on the Uniting Church and other churches which have financial responsibility for the properties. As it is the type of bill that will need to be referred to a select committee, and despite the fact that this bill has not gone to the Labor Party's party room, I support the bill being referred to a select committee where it can be examined in more detail.

The Hon. R.D. LAWSON (Minister for Disability Services): I welcome this measure. As a legal practitioner I represented the Uniting Church during negotiations for the resolution of a property dispute and I believe that some years ago now the Attorney, in his legal capacity, represented the Presbyterian Church in that effort.

It was a very complex issue. Many of the titles of property to the various churches that ultimately comprised the Uniting Church and the continuing Presbyterian Church were not under the Real Property Act, and others were vested in registered proprietors and trustees who had died many years before. It was an issue of quite some complexity and I know that on that occasion the issue of the various properties of the former Free Presbyterian Church of South Australia were left to one side. I commend the Attorney for introducing this measure to resolve outstanding issues and, hopefully, to enable these properties to be used for an appropriate purpose for the benefit of either the church or the community. I support the second reading.

The Hon. J.F. STEFANI secured the adjournment of the debate.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 March. Page 1077.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading of this bill. We support some aspects of the bill but we have a number of amendments, which I do not believe are on file as yet. We have asked for the amendments to be put on file but as yet I do not think that has happened but it should happen later this afternoon. This bill incorporates a number of recommendations made by the Electoral Commissioner.

The first recommendation will require that all public sector agencies provide information to the Electoral Commissioner for the purpose of maintaining and revising the electoral role. I appreciate that this is designed to cover officers who are not strictly defined as public servants but who work for public sector agencies. Will the Attorney indicate the nature of the information we are dealing with and what might be a typical request? The opposition also supports the proposal to increase the penalties under the act. As the commissioner rightly points out, the existing penalties may not be incentive enough when one considers the potential commercial and financial gain to be made from disclosure of confidential material.

It is therefore proposed that the penalties under section 27 of the act be increased from $1 250 to $10 000, which is consistent with penalties in similar acts. In relation to section 113 (the making of misleading statements in electoral advertising), the bill also proposes increased penalties from $1 250 for a natural person and $10 000 for a body corporate, to $5 000 and $25 000 respectively, which is also supported. The proposed amendment to section 30, which is designed to ensure consistency between state and federal roles, is an area where the opposition may have some concerns.

I can certainly appreciate the need to prevent fraud and maintain integrity. It is my view that perhaps the provisions in the proposed bill will act as an enrolment disincentive to new citizens. If the Attorney is determined to proceed with this aspect of the bill, it is in the public interest that these amendments are done not by regulation but by a more transparent method, if that is at all possible. I understand that my colleague in another place the shadow Attorney-General has telephoned and spoken with if not the Attorney directly then certainly someone in the Attorney's office to indicate that this clause should go no further than the commonwealth requirements.

In fact, I understand that some amendments were moved in the commonwealth parliament that were not entirely supported in the Senate. As long as these mirror them and, to that end, as I was not able to obtain the commonwealth regulations, perhaps the Attorney could table those amendments so that we can see that they are consistent. The Attorney's bill also proposes a change of registration requirements for political parties. Presently, a political party must have 150 members or have a member who is a member of the House of Assembly or the Legislative Council. The government's proposal is to increase the membership to 300 members, and that is supported and is seen as reflecting the size of our population base.

I do not believe that any public disadvantage is caused by this amendment and I certainly support it. It also cracks down on artificially inflating a political party's membership. For instance, there is a concern that the same people can appear on membership lists of different parties. As the Attorney points out, this provision does not prevent a person from being a member of more than one political party. What it does is to prevent a person being used more than once to satisfy registration requirements. It is also proposed that the Electoral Commission be provided with an annual return or a party's membership for the purpose of satisfying the 300 member requirement.

In relation to the description of 'independent candidates', the opposition proposes to file an amendment that will prevent a candidate on a candidate form describing themselves as 'Independent Labor/Liberal' etc. There is currently a lot of confusion, which is perhaps what it is designed to achieve, when electors front up to the ballot box and are faced with candidates of a similar name. This amendment would hopefully clarify the current situation. The opposition supports the government's proposed amendments in relation to declaration voters. This is a practical measure designed to reflect long-term care situations, which do not alter between elections.

Under the new provisions of the bill these people will now be automatically sent postal ballots. I also note the concerns of the Electoral Commissioner with regard to the expeditious forwarding of postal vote applications. I suppose that a worse case scenario might occur where a political candidate, either through incompetence or malice, does not forward the postal vote and, in doing so, denies the elector a vote. While there is no evidence of such behaviour, I believe that such an amendment is worthy of support. The bill also proposes that votes will be counted as informal for those candidates who fail to lodge a voting ticket. This is a situation where the Electoral Commissioner is left guessing as to how to distribute preferences. I agree with the commissioner that there is no other choice but to render such votes informal.

The bill also deals with the issue of bogus how-to-vote cards by requiring the inclusion of the name of the party or candidate on whose behalf the how-to-vote cards are authorised. I welcome such a move. The bill will amend the act to protect the Electoral Commissioner and any other persons working in the administration of the act from personal liability, and this move is also supported. I understand that my proposed amendments have now been put on file, and I will discuss those further in the committee stage of the bill. I support the second reading.

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

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 27 March. Page 1110.)

Clause 1.

The Hon. A.J. REDFORD: I think it is fully incumbent upon me to mention a couple of matters relating to this bill in the light of the report of the Legislative Review Committee tabled in this place in November last year concerning a proposal to create a public interest advocate in relation to listening devices. The inquiry resulted from a difference of opinion between the government, on the one hand, and the Democrats, supported by the opposition, on the other, about

proposed amendments to the government's Listening Devices (Miscellaneous) Amendment Bill introduced in 1999.

The bill provided for, among other matters, the police to obtain a warrant from a Supreme Court judge to install a video surveillance or tracking device on property, vehicles, or other objects, where the consent of the owner/occupier had not been obtained. It is lawful for the police to use visual surveillance or tracking devices on private property without permission. However, there are limits to such use. One example is that it may well be unlawful or improper to enter private property without the lawful authority for the purpose of installing such a device.

The bill also provided for a warrant for the installation of devices to monitor and record the conversation of specific people on any premises. During the course of the debate, the Hon. Trevor Griffin referred the issue to the Legislative Review Committee, which went through the usual process that is adopted by parliamentary committees in relation to these matters.

The proposal put by the Hon. Ian Gilfillan was set out in *Hansard* in some detail. He basically proposed that we establish an office of public interest advocate, similar to that in Queensland. That advocate's functions include appearing at a hearing of an application for a warrant for listening or surveillance devices. He argued that where a covert surveillance warrant on private property is granted that warrant should be carefully scrutinised by an independent person. He said that the very existence of a watchdog with sufficient powers to monitor the use of warrants and compliance with the act provided some guarantee that the rights of the public to privacy would not be unduly infringed upon.

The Attorney-General has set out previously—and I know he will again during the committee stage of this debate—the arguments against that process. The committee went through the existing Listening Devices Act and considered the police procedures, and other matters, associated with the obtaining of listening devices under the current legislation. Most particularly, evidence was given by Superintendent Eaton, who is the head of the Investigation Support Branch, which, from a police perspective, deals with all applications for a warrant. He went through in some detail the lengthy and careful process that the police adopt before approaching the Crown Solicitor with a view to making an application. In particular, he referred to section 6 of the existing act.

Detective Superintendent Eaton indicated that he was acutely aware of privacy issues because listening devices were the gravest invasion of people's privacy and SAPOL took an extremely responsible attitude on privacy matters. I must say, if I can make an assessment of his evidence, that he certainly convinced me that he was genuine in that effect, and I have no doubt that the Hon. Ian Gilfillan would not suggest that he was anything other than that. I suspect that the Hon. Ian Gilfillan is not moving his amendments in the light of anything improper or anything that the police currently do which would cause concern, and I respect the viewpoint of the Hon. Ian Gilfillan on this issue.

The Crown Solicitor's Office set out in some detail the procedures that it adopted. Firstly, an appointment is made with an officer in the Crown Solicitor's office. The Crown Solicitor's office has two officers designated to review the warrants and they are at arm's length to the police process. For people who do not understand how the process of the criminal justice system works, it is important to explain that most of the work done in the criminal justice arena is carried out either by the police or the Director of Public Prosecutions, or both government agencies in conjunction with each other. The Crown Solicitor's Office very rarely gets involved in matters of a criminal nature, particularly the sort of matters that would cause a listening device application to be made, and therefore it could be argued—and I will go into this in more detail—that they provide an arm's length approach to this issue.

In any event, the application is made with the Crown Solicitor's Office to a judge in chambers, and a judge is in a position to probe and question officers on the application. Superintendent Eaton noted that extensive notes are made at the time of the making of the application and of directions made by the judge. The reporting requirements after the application were also considered in our inquiry. Three months after the warrant ceases to be in force the police must report to the Attorney-General about the use of any information obtained under the warrant, in addition to the communication to persons who are not SAPOL members. Further, the Commissioner of Police must supply information to enable the preparation of an annual report detailing information specified by the act. That report must be tabled on or before 31 October each year, and within 12 sitting days of receiving the report copies must be laid before both houses of parliament.

We also looked at the situation in other jurisdictions. Indeed, it is interesting to note that the ACT, Victoria and Western Australia do not require a public interest advocate. Queensland was the first state to establish the Office of Public Interest Monitor. In Queensland, the functions of the public interest monitor are to:

- Monitor police compliance in applications for surveillance and covert search warrants
- Appear at hearings for surveillance and covert search warrants to test the validity of the application
- Gather relevant statistical information
- Report to the Police Commissioner in respect of non-compliance
- Provide an annual report to parliament on the use of surveillance and covert search warrants
- Maintain secrecy in relation to information obtained in the position of Public Interest Monitor.

The Queensland Public Interest Monitor noted in his second annual report that the issuer of a warrant under the Queensland act is empowered to impose any condition that the issuer considers necessary in the public interest. The issuer was empowered (but not required) to impose a condition requiring regular reporting to the issuer. The approach that the Supreme Court judges who had issued the warrant had taken was to require the applicant to provide an affidavit to the Monitor within seven days after the removal of the relevant device, dealing with the following:

1. Compliance with the conditions of the warrant.
2. A summary of the information obtained.
3. The proposals of the applicant, including reasons for the retention or otherwise of the information obtained.
4. The identity of every person to whom relevant information had been disclosed.

In his second reading contribution the Hon. Ian Gilfillan set out his view of the role of the Public Interest Monitor in basically putting forward concerns about the public interest in maintaining privacy and ensuring that the executive arm of government does not overstep the mark. I apologise to the Hon. Ian Gilfillan if I have unduly represented his position.

The committee also looked at resource issues, and in that respect I refer members to page 11 of the report. The arguments of the Attorney-General in relation to his opposition to the establishment of the office are various. First, in his submission to the committee he stated that the police underwent organisational restructuring in the late 1980s and that the important part of that restructuring was the formation of the Intelligence Branch of SAPOL. That branch had sole responsibility for managing all processes relevant to using all forms of electronic surveillance.

The creation of the section ensured that the responsibility for electronic surveillance was centralised and controlled by officers independent of the investigation. In other words, they have a single purpose to ensure that, first, surveillance is adopted only in accordance with policies set out within the legislation and, secondly, that they are not unduly influenced by the heat of the chase that can from time to time occur in relation to an ongoing investigation. Detective Superintendent Eaton stated in his evidence to the committee:

> There is a section within my branch that has responsibility for conducting the actual installations and we have a group of technicians in that area. At the time of the warrant application, the judge will nominate who the warrant holder is, and that will be a couple of people, including myself, although it nominates only one person. One or two others and I assist at times to make applications. It empowers us to authorise a specific number of police officers to do the installation. Before the installation occurs, I ensure that the technician actually views the warrant so they know that I am acting under a lawful warrant, and they sign an acknowledgment of my giving them approval at that time to do the installation or any maintenance or any withdrawals.

He further stated that a draft affidavit is prepared by the investigating officer and submitted to the Crown Solicitor's Office. One of the important matters that Superintendent Eaton raised was the obligation to make full disclosure. In that respect, he said in his evidence:

> In fact, that disclosure requires even the nomination of informants. Generally, this issue is never raised, although there might be applications in the courts for the disclosure of informants. We believe that there is a responsibility for us to ensure that full disclosure is made to the judge at the time of the application.

That gives me great confidence. As a practitioner in courts over the years, I know that the police have jealously guarded the names and addresses of their informants for public policy reasons. Generally speaking, unless there is a very good reason to the contrary, the courts have sought to protect that confidentiality, particularly in the context of a criminal trial. It is pleasing to see that, in the context of an application for a listening device, they do disclose the name of the informant, and that is on the record in case something goes awry in a subsequent process. I suspect that would not be likely to occur in the event that there is a public interest monitor involved in this.

In relation to the Crown Solicitor's evidence, we were told by Mr Hinton from the Crown Solicitor's Office that there were three internal checks. First, the application is made by an investigating officer to Mr Eaton's branch; secondly, that application goes to the Crown Solicitor's Office and the Crown Solicitor's Office has a practice of vetting the application twice before putting the matter to the judges. Before the matter goes to a judge, it is vetted on three separate occasions. We also heard evidence about emergency applications.

In the absence of anything to the contrary, the Attorney-General gave the committee evidence to the effect that the judges had shown zeal in questioning the applicant and the legal practitioner, that is, from the Crown, to ensure all information was available to allow the judge to balance the public interest in law enforcement against the rights of persons to be protected from unjustified police intrusion. He also stated that it was important to note that the legal practitioner from the office took the view that the application was made on behalf of the community and that to discharge his or her duties as a practitioner and crown prosecutor he or she must ensure that matters that both support and do not support the application are disclosed.

It is important that all members understand that there is a duty on the part of a legal practitioner that transcends his or her duty to their client; that is a duty to the court and a duty to uphold the law. Indeed, a lawyer from the Crown Solicitor's Office who failed to do either of those two things would subject themselves to a risk of being dealt with by a professional conduct body.

The arguments in favour of an advocate were also put by the shadow Attorney-General, Michael Atkinson. When this bill was debated in the House of Assembly on a previous occasion, he said:

> . . . we have agreed with the Australian Democrats that it should be subject to a condition that a Public Interest Advocate appear at each hearing where there is an application for a warrant. The opposition thinks that the granting of warrants authorising covert video surveillance on private property is something that should be scrutinised carefully with a representative there on behalf of the public with a view to protecting our rights of privacy.

He went on to give other reasons, similar to those advanced by the Hon. Ian Gilfillan when the bill was first introduced. One of the arguments put by the Hon. Ian Gilfillan was that a public interest monitor would create more public confidence; and he also suggested that the judges in Queensland were positive about it. One of the issues that the committee did look at, which was not either within the Attorney-General's or the Hon. Ian Gilfillan's point of view, was an argument that was put by Mr Rozenes QC in a submission to the Senate Standing Committee for the Scrutiny of Bills. In that case they were dealing with the issue of search warrants and what was required there. Mr Michael Rozenes said, in relation to search warrants, that there could be another alternative approach. He said:

> . . . [The Search Warrants Act of New South Wales] requires a person to whom such a search warrant is issued, within 10 days of the execution or expiry of that warrant, to 'furnish a report in writing' to the authorised justice who issued the warrant stating whether or not the warrant was executed, setting out the result of the execution (including a brief description of anything seized and whether or not an occupier's notice was served) or setting out the reasons why the warrant was not served.

Mr Rozenes went on and said, in relation to such a process:

> It would be nice to have a mechanism where the person who issued the warrant is accountable for the execution of it. At the moment, the issuer of the warrant signs a piece of paper and to all intents and purposes that is the end of it. There is no check . . . to see if the warrant has been properly executed.

Indeed, his suggestion was noted with some approval by the presiding officer of that Senate committee. The Attorney-General responded and indicated (and, again, I issue the same apology to the Attorney for being so brief in my summary of his submission) that, first, the Chief Justice believed that a judge was not the best person to receive such a report and that the Chief Justice and the police were reluctant to accept such a suggestion.

The recommendation of the majority of the committee (and the committee divided along party lines; therefore, whilst the majority comprised three members, it was only the majority because, as chair, I had both a deliberative and a

casting vote) was to accept the Crown Solicitor's submission. The majority position is set out at page 20, as follows:

> The majority also takes into account all other evidence concerning the safeguards initiated in an application for surveillance in South Australia detailed in this report. It also notes that when the Crown Solicitor's Office is satisfied with the documentation it is delivered to a miscellaneous judge for a period, the judge has ample time to review the application with the affidavits prior to the police making it—see evidence of Detective Superintendent Eaton. . .
>
> The committee majority believes that judges who consider and reject or approve an application are the proper persons to do so. They also believe judges are the proper persons to act in the interest of public. However, despite the observations of the Chief Justice that 'reporting back' procedures were inappropriate, the majority believes that the Attorney-General should give serious consideration to implementing such procedures as an addition to the present system.

The minority report was set out in some detail and, again, I am sure that the Hon. Ian Gilfillan will more adequately set out the minority report. However, to be fair, I think I should quote the final two paragraphs, as follows:

> The minority reiterates that they believe the appointment of a public interest monitor would provide the public with its say in any application and act in the public interest on matters of privacy. In addition such a monitor would become experienced in dealing with these applications and since he or she was acting purely in the public interest would be more likely to see the weakness in any application.
>
> The minority would also like to see the appointment of a public interest monitor with the responsibility to produce an annual report as does the Public Interest Monitor in Queensland. The members believe the material in the reports provided by the Queensland Public Interest Monitor would have been of considerable assistance to the Queensland parliament. Similarly such a report by a South Australian monitor would greatly assist the South Australian parliament.

It seems to me that, when one looks at the position of a judge in the South Australian context and compares that with the position of a public interest monitor in the Queensland situation, it is difficult to distinguish between the two. I accept that a position of some specialty might develop with the creation of an office of public interest monitor. However, I point out that, in the annual report under the Listening Devices Act, which was prepared in August last year and tabled on 28 November, it reveals that only 13 applications were made for listening devices in the past 12 months.

When one looks at that in the context of some 66 000 offences reported in that same period, one sees that to establish an office for such a small number of applications is unnecessary, particularly when one considers what the Crown Solicitor's Office and the internal police procedures put such applications through. If one compares the number of applications made for these sorts of warrants in South Australia over the last few years compared to the numbers made in Queensland, one sees that South Australia has significantly fewer applications than does Queensland. There is a real risk that, with the establishment of a public interest monitor and a lack of internal procedures within SAPOL or within the Crown Solicitor's Office, there may well be a substantial increase in such applications.

Indeed, one might suggest that the creation of such an office may well lead to the internal procedures currently adopted by SAPOL and by the Crown Solicitor's Office diminishing, on the basis that an attitude might develop that the public interest monitor is in the best place to vet these things. That would be risky in the sense that I find it hard to imagine that the public interest monitor would be put into the same position in terms of the amount of information disclosed in so far as an investigation is concerned, as are the checking bodies within the police and also the Crown Solicitor's Office. In other words, it is more likely that full disclosure will be made under the current regime than would be the case under the regime which would lead to the establishment of a public interest monitor.

In closing, I thank all members of my committee. We all approached the matter with an open mind, and it was an interesting and useful exercise. I would also like to thank the committee staff. I understand where the Hon. Ian Gilfillan is coming from, and I also understand his arguments. With the greatest of respect, and with a fine line, I think the current regime is probably better at this stage than the one he proposes. That is not to say that, if there is actual disquiet with the current process that bubbles to the surface at some stage in the future, the parliament should not revisit the issue.

The Hon. K.T. GRIFFIN: I wish to make a few comments, but I suggest that I should make those comments on clause 7, which is really the key clause on which amendments are likely to be relevant and debated.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. IAN GILFILLAN: I move:

> Page 5, Line 25—Leave out 'section is substituted' and insert: 'sections are substituted'.

I will regard this as a test amendment. I know it does not look particularly significant as it reads. The subsections that are substituted go on to outline the implementation of public interest advocate. This stands not in direct conflict with but in some contrast to the amendment that the Attorney-General has on file.

As I understand a reading of the letter that the Attorney sent, the Attorney intends to appoint the Director for Public Prosecutions as the person who would fulfil, in part, the role that had in my mind been intended for the public interest advocate. It is a worthy try and I appreciate the Attorney's effort, but it does not win me over. If we are to have a public interest advocate, that person and that office must be seen to be totally independent of any entity which may have a motive, however remote, which would incline towards the use of intrusive surveillance equipment with the expectation that that could be more rewarding for achieving successful prosecutions. I want to make that comment quite clearly and simply so there is no misunderstanding by the committee or the Attorney that I do not see that the DPP, in any way, can replace the intention of the role of public interest advocate.

I refer to the earlier debate not so much in detail but for those who want to check in *Hansard* the arguments that I put on Wednesday 3 March 1999 and Thursday 4 March 1999 in my second reading contribution; I also made extensive contributions in the committee stage. I certainly do not think it is to the advantage of the time of this committee for me to revisit those arguments, other than that they might crop up in discussion in the committee. Suffice to say that I have not changed my mind. The process of having the Legislative Review Committee look at the issue is satisfactory. I appreciate the measured way in which the chair of the committee, the Hon. Angus Redford, summed up the position as he saw it, and I have no quarrel with him: I think his representation of my position and, to a large extent, the view of the minority, was fair. It boiled down to a division of opinion which left us with a majority and a minority report, which probably, in essence, is not the most satisfactory situation: it would be more convenient if we had a unanimous view. I think the evidence we heard and the discussion in the committee largely reflected concern—emphasised, again, by

some of the comments that the chair, Angus Redford, made in his contribution—that it is a vulnerable area. The abuse of the powers of surveillance, with increasingly more sophisticated technology, is a serious risk to civil rights and to privacy in a community which prides itself on protecting and fighting for the rights of individuals. I think that harks back to the main argument that came forward when we were proposing the public interest advocate.

Of interest, I think, but not directly impacting on what we are discussing, is the fact that my colleague, Senator Andrew Murray, last year raised in federal parliament what he believed to be quite a huge increase in Australian police and intelligence services apparently secretly tapping an increasing number of citizens. It is alleged that, amongst those citizens, are judges and MPs. It is with that sense of unease that I feel that we cannot glibly pass this off on the basis that we have Supreme Court judges of integrity, that the numbers of applications are small and therefore we have nothing to worry about. We must act before we have something to worry about. For that reason, if successful, I will continue to move this series of amendments to establish a public interest advocate.

The imposition of cost on the current structures is minimal. The Hon. Angus Redford indicated the small numbers which occur in Queensland and the still smaller numbers which one can expect in South Australia. The system in Queensland, which is a per hour or a pro rata charge system, means that, in relative terms, the cost will be inconsequential. However, for security and the public's peace of mind that this system is not being misused, over used or inappropriately used by over diligent or over enthusiastic police who are keen to use the technologies in situations which do not justify them, and for the sake of police, those who care about it and the public, we need a safeguard to ensure that this increasingly more intrusive and sophisticated equipment is used responsibly.

As I said in 1999, we support the police having the opportunity to use this increasingly sophisticated and effective surveillance equipment where it is justified, but we cannot rest assured that it is being used properly in all cases unless we have a public interest advocate in place. I will move this amendment and treat it as a test case. If it is successful I will certainly proceed with the amendments seeking to establish a public interest advocate, but if I lose it I will accept that the committee is not supportive of the public interest advocate.

The Hon. K.T. GRIFFIN: We all know that this bill has been around for a long time. Part of that time was taken up with an examination by the Legislative Review Committee and, having read the report, I commend the members of that committee for the work they have done and thank them for the report. As the Hon. Mr Gilfillan says, it is a pity the report was not unanimous, but that is sometimes the way these things go. It accurately reflects the views which I presented in a submission to the committee and, as the Hon. Mr Gilfillan has said, also represents his views accurately. As a result of that report, my officers and I did some further thinking about what the alternatives would be. We did not want the bill to lapse—we think it is an important piece of legislation—but it would have been laid aside if we had ended up with a public interest advocate, whose function was effectively to duplicate that of the Supreme Court judge, other than the power to actually make the order. That power is reserved to the Supreme Court judge.

The alternative which I will propose in my amendment is to bring the independent Director of Public Prosecutions into the loop and require the director to be satisfied that the warrant is reasonably required and approve the making of the application in writing, in so far as it relates to an application by a member of the South Australia Police. As I have already indicated in a letter which I have circulated to members, currently applications other than urgent telephone applications, which are dealt with by a different provision, are handled before the judge by an officer from the Crown Solicitor's Office, with the applicant police officer being available to give evidence if necessary. I suggest that each application other than urgent applications be scrutinised and approved by the Director of Public Prosecutions before going to the judge. The Director of Public Prosecutions is an independent statutory office. He has an interest in seeing that listening device warrants are legal and will result in the collection of admissible evidence.

In addition, this solution has the advantage of enabling the DPP to be more aware of ongoing investigations which may result in complex prosecutions. Listening devices cases can be long and complex because of the volume of the material in accordance with the recommendations of a number of bodies concerned with the effect of the efficient management of criminal trials. As members will be aware, the DPP reports to parliament. My proposal includes the enactment of a requirement that the report include information on warrants.

This is intended as an alternative in a spirit of compromise. As I have said, a public interest advocate is an unworkable proposition. The Office of the Director of Public Prosecutions is intimately involved with the prosecution of indictable offences, in particular, and also has a keen interest in ensuring that the evidence is legally admissible. In those circumstances, there is real work for the director to do even though, currently, it might duplicate what is being done by the Crown Solicitor who, I would argue, is equally strongly independent.

I think we will achieve a similar objective with a different mechanism which will actually work, not one which, with respect to the Hon. Mr Gilfillan, is something of a hollow office. So, I will oppose the Hon. Mr Gilfillan's amendment and, when we come to clause 8, I will move my amendment which I believe is an appropriate effective alternative.

The Hon. CAROLYN PICKLES: The opposition has decided to support the amendment to be moved by the Attorney-General. However, as we are debating this test clause, I will confine my remarks to that. It is difficult when the other house is not sitting and my colleague in another place, the shadow Attorney-General, is not present. He has indicated to me—

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: We are here, and we are making the decisions today.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: I listen all the time. This bill has been debated for two years. I am not criticising that, because I think this has been a very productive way of dealing with it, certainly sending it to the Legislative Review Committee—and I welcome the report of that committee. This chamber inserted a clause relating to the public interest advocate, which was moved by the Hon. Ian Gilfillan and supported by the opposition at that time. The clause was removed by the House of Assembly and, as I understand it, the Attorney-General then set the bill aside.

It was subsequently reintroduced and referred to the Legislative Review Committee, which brought down a divided report. Opposition members continued to support the

Hon. Ian Gilfillan's position because, at that time, the Attorney insisted on his original position. The bill is now before us again and, as a compromise, the Attorney-General has circulated an amendment which the opposition supports. The opposition will oppose the continuation of the Hon. Ian Gilfillan's amendment. The Attorney's amendment provides an alternative to having the Director of Public Prosecutions deal with this issue.

Whilst we do not think that this is the best solution—we would have preferred the Hon. Ian Gilfillan's amendment—it is my view that it is important to get the other sections of this bill through and the Attorney's amendment would probably have been the likely outcome had the bill gone to a conference of both houses. I am sure that my colleague in the other place would have supported this amendment at a conference. Perhaps this is what we should have done in the first place. It has taken the Attorney a very long time to reach a compromise, which is what I think this chamber is about.

The report provided by the Legislative Review Committee was very valuable, and I certainly thank all members involved in that. My understanding is that there is a clause in the amendment bill and in the principal act that provides for the commissioner and the minister to bring down a report to parliament containing details of the operation of the act every 12 months. The Attorney is nodding. I guess that is some kind of safeguard whereby we can look at the operation of the legislation. The annual report, which is tabled in parliament, provides a certain level of safeguard so that when we look at this kind of amendment we can ensure that its operation is fair and above board. I guess if at some future point the opposition is not satisfied with that we will indicate that and may revisit it. Having debated this for two years, and having recognised the realities of the numbers in another place, we will clearly have to reach a compromise or set aside the bill again. Therefore, I indicate that when the Attorney moves his amendment we will support it.

The Hon. R.R. ROBERTS: I was also on the committee that looked into listening devices. I was convinced during discussion at the second reading stage of this bill in this chamber that the Hon. Ian Gilfillan's proposal was sensible. We looked at these matters during the deliberations of the committee and nothing I heard there dissuaded me in regard to the proposition that we have a public interest advocate. He summed it up reasonably well in his contribution today, which would have added all the things I believe the Attorney-General is providing but in a more independent way to ensure that those things would have happened. Personally I would not have been convinced by the fact that the commissioner will give a report every 12 months.

The commissioner is in charge of the force that will be undertaking these operations and he will give a report every 12 months. The public advocate could give a report at any stage saying that there was a disturbing trend in the number of these applications and probably in his view they might have been going too far. As my colleague the Hon. Carolyn Pickles has pointed out, politics is the art of the possible and the art of the compromise. Whilst I was convinced—as my signature on the dissenting report will attest—that the proposition that the public advocate was a sensible safeguard for the community, it would be cost effective. As pointed out today, the number of these things is very few and the amount of time that would have been expended on it would have been negligible.

We had the ability under the Ian Gilfillan proposal of independence and regular reporting. I reported that back to our Caucus and we had some discussions. It was our view that we would pursue the amendments presented by the Hon. Ian Gilfillan. My colleague the shadow Attorney-General has been in discussion with the Attorney-General and a number of other people and it has been decided on the balance of probabilities and on the balance of fact that, if this is defeated in this chamber and goes to the other place, it will probably get up with the support of others in that place and we would be forced to go to a conference. Given that the Attorney-General in his usual way of trying to resolve the issue—and it has been going on for some time—has come up with a compromise, which goes part of the way towards the situation I favoured, and given that the shadow Attorney-General is convinced that it will suffice in all the circumstances, the caucus of the Labor Party has decided to support the Attorney-General's amendment rather than that of the Hon. Ian Gilfillan, and that is my position.

The Hon. T.G. CAMERON: First, I offer my congratulations to the members of the Legislative Review Committee who prepared the report into the public interest advocate. It was an exceptionally comprehensive report. The committee went along party lines, so to speak, and opposed the amendment standing in the name of the Hon. Ian Gilfillan for a public interest advocate, or, as it is sometimes referred to, a public interest monitor.

I have been waxing and waning on this issue. I do appreciate that there is a need for the police to have access to the latest technology in relation to listening devices, tracking devices, etc. I think members of this Council would be somewhat astonished if they were aware of just what kind of equipment is available these days, from hand-held directional listening devices to fountain pens which can be just slipped into one's top pocket. You will be pleased to know that I do not use a fountain pen, but I have a very close look at fountain pens now when I see them sitting in the top left-hand corner of someone's suit coat pocket.

An honourable member interjecting:

The Hon. T.G. CAMERON: Let me tell you that they work extremely well, and they will pick up every sound uttered in someone's office. But, whilst the police do need to have these powers, they need to be balanced against the individual rights of ordinary citizens who sometimes unfortunately can become the victims of police action rather than be aided or assisted by it.

From personal experience, I am aware of the grief and pain that can be foisted upon an individual or his or her family if the police just turn up at your house and conduct a raid, wave around guns, threaten to shoot your dog, etc. I am afraid that it leaves a lasting and very nasty impression with the individual involved.

So, in my opinion, it requires a balance between making sure that we protect individuals' rights and providing the police with every means at their disposal to try to bring to book the ever-growing and ever-present threat that organised crime presents to our society. Just because the ordinary citizen never comes across organised crime does not mean that it is not present. It is always present, and people have become a hell of a lot more sophisticated and clever with the way that they can pick up and avoid what would be regarded as the normal techniques that the police might use for surveillance.

When I spoke during the second reading debate, I was concerned at the likely cost impact that a public monitor might have here in South Australia. I am not one for creating unnecessary bureaucracies, but I was somewhat comforted

by the Legislative Review Committee's report which pointed out that, as I understand it, there are approximately 10 cases a week in Queensland, and a barrister or solicitor has been appointed as the public interest advocate. Those 10 cases consume approximately five hours per week at a cost of $250 per hour. So, we can see that we are not talking here about an enormous cost.

I also read somewhere in one of the reports on this matter that there may be only 20 applications per year in South Australia. I do not understand that. I do not understand how a state such as Queensland, which is probably one and a half times larger than South Australia, can have 500 applications a year but in South Australia we will get 20 applications. Either there are a hell of a lot of criminals running around up there in Queensland, or the police are overusing this equipment; or there are no criminals in South Australia or the police are not doing very much about trying to catch them if we do have them.

It comes as somewhat of a surprise to me that there might be 500 cases a year in Queensland but only 20 cases a year in South Australia. To me, those figures just do not correlate and I would be pleased if someone could advise me whether the South Australian figure is wrong or whether the Queensland figure is wrong. If the Queensland figure is correct, we will get a hell of a lot more than 20 applications a year in South Australia. By my calculations, it will mean that we will get somewhere between 250 and 300 applications per year unless, of course, there is a situation occurring in Queensland where there is unwarranted use of these applications. And if there is unwarranted use of the applications, what has the public interest advocate done about it? I would be interested to hear from both the Attorney and the mover of the amendment.

I have become persuaded of the view that there is a need for some checks on the police. I note the report and I note the advice from the Crown Solicitor's Office when it states that there are already three checks: when they lodge the application and there is the investigating officer's report which goes to the Crown Solicitor and it is then vetted twice. So there is an application with three checks. In reading the report, while members indicated that they felt that those checks were sufficient, as far as I am concerned there was no ring of confidence. I thank the Hon. Angus Redford for insisting that I read the report before I got up to speak; I thank him for that advice he gave to me this morning.

On the evidence that I have seen, it seems to me that there should be some kind of a check and, having come to that conclusion, I am persuaded that the application standing in the name of the Hon. Ian Gilfillan is a more preferable course of action than the amendment standing in the name of the Attorney-General, which is now being supported by the Australian Labor Party. I think there are some problems with the amendments being sought by the Attorney and I caution those who are readily going to support the amendment. I believe that it is a compromise with which even the Attorney does not really agree. However, he is between a rock and a hard place on this one and perhaps he is scrambling for the best option possible at the eleventh hour in the day. I am not sure on an issue such as this that we should be walking down that path.

I note the comments made by the Hon. Carolyn Pickles and I will not comment on what the Hon. Ron Roberts has said, but I can read between the lines. Looking at the comments made by the Hon. Carolyn Pickles, I am not satisfied that we are going to get a report back on how this works with the DPP. I confess that I am quite surprised as to why the Labor Party and the shadow Attorney-General—knowing him personally as I do—would be walking down this path.

I would have thought that handing the matter for a last final check to the DPP could, down the track, perhaps raise questions of possible conflicts of interest. Could a situation arise where the DPP goes ahead and authorises electronic surveillance when, down the track, he may well have to consider whether or not there is a problem with a police case, etc., perhaps even involving electronic surveillance in which he was involved? I do not pretend to be a lawyer, and this is not something about which I have a working knowledge, but I am concerned about this compromise that this Council is now so readily going to grasp when it appears to me that we are now intending to have a fourth and final check. It is not as if we can now argue that there will be an additional cost to the government or that it is going to be an addition to bureaucracy, etc.

As I understand it, the amendment standing in the name of the Attorney will mean that this fourth check will occur. One would assume that if the DPP were undertaking his task properly and efficiently it would be very similar, in terms of time, etc., to a task that a private lawyer or barrister would undertake. I am concerned about the conflict of interest. When weighing up all the factors, I do believe that, if there were a decision that we did not need this fourth and final check, we would have been better off doing nothing at this stage and rejecting the Hon. Ian Gilfillan's amendment.

We now have the Liberal Party and the Labor Party agreeing that there should be this fourth and final check and that it will now be undertaken by the DPP. Wiser members than I in relation to the law, and more experienced in it, will be able to advise the Council as to whether or not some of my fears in relation to the matter being handed over to the DPP are valid. However, I indicate to the Council that I will be supporting the amendment standing in the name of the Hon. Ian Gilfillan.

The Hon. T. CROTHERS: I have an appointment to contact my doctor in a couple of minutes and the last speaker was fairly loquacious in what he had to say so I will have to keep my comments brief. I support the amendments standing in the name of the Attorney-General. Unlike my colleague the junior TC, let me now, without wishing to railroad him, point him in the right direction in respect of the analogies that he tried to draw between Queensland and South Australia. What one can compare is the sister-in-law of the listening device—the phone tap. I understand that not many phone taps occur in South Australia per year—perhaps 20 (I think was the last report).

The Hon. K.T. Griffin: There are more telephone taps.

The Hon. T. CROTHERS: Yes, but there are not many; that is the point I am making—and that is the sister-in-law of the listening device. But if we wish to delay this matter and hamstring our police even further in respect of dealing with modern-day criminality, then on their heads be it who would wish to do it. I certainly do not want to do it.

The Hon. T.G. Cameron: I never said to do that. I said, 'Pass the bill.' You were not listening again. I said, 'Pass the bill or support his amendment.'

The Hon. T. CROTHERS: Okay. The honourable member would not have obtained support to pass the bill if there had not been an amendment; that is the point I am making. The honourable member cannot count as well as think. The position is that I am supporting the Attorney's

amendment. Queensland not only has more than double our population but it also is a place that is conducive to growing marijuana in the open; not that I personally consider that to be a crime, but there would be those people who consider that it is and who might require some listening devices.

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: It is a pity that you have turned yours off, TC. The other position is that it is well known to our Federal Police that Australia is now being used as a drug distribution centre. A lot of those drugs are coming in over the Northern Territory coastline and down the Queensland coastline.

We have only to look at some of the estoppels that have been applied to drugs and some of the drug seizures that have been made in recent times to understand that we must have a great rapport with the counterparts of the police in South-East Asia because for sure other listening and tracking devices have been planted in some ships so that, when they land in remote areas of the coast, they are immediately set upon but, for every one we get, one or two would get through.

We need to arm the police in the immediacy with all the latest electronic gadgetry and wizardry that the human race now has at its disposal. We cannot afford to wait, so I applaud the Attorney's amendments in an effort to get this bill through in a meaningful way so that our police are armed. Everyone saw the recent raids by 330 police on the bikies, and I think that they were pretty successful when one looks at the armaments, cash and all the sorts of things that were found. It surprised me because I thought the bikies were much better organised than that, but apparently not, so the police took away a great haul.

It would be a sin and a disgrace and it would lead to a furtherance of crime if we were not to arm the police in the immediacy with listening devices, particularly through the Listening Devices Act as amended by the Attorney-General. How much it would cost us as citizens of this state in additional crime should we decide not to arm our police with this measure is beyond my belief. I commend the government and I commend the Labor Party, something I have not been prone to do lately, for the manner in which they have combined to ensure that this measure gets through this chamber. I have great pleasure in supporting the Attorney—and now I must be excused so I can ring my doctor.

The Hon. NICK XENOPHON: I continue to support the position of the Hon. Ian Gilfillan in relation to these amendments. I understand that there has been an improvement in the current position in respect of the Attorney's amendments and that the opposition has agreed with them, but I prefer the Hon. Mr Gilfillan's amendments. I think that there are some important privacy issues and civil liberty concerns that ought to be heeded, and I would have thought that the preferable option was to take the course adopted by the Hon. Ian Gilfillan, but it seems as usual that the numbers are against me in relation to these amendments. I indicate that I do not resile from my earlier position in support of the Hon. Ian Gilfillan.

The Hon. K.T. GRIFFIN: The Hon. Carolyn Pickles raised the question of reporting, and the act already provides for a report to be tabled by the minister each year within 12 sitting days of receiving the report prepared under section 6b(3) and, in fact, the bill seeks to broaden the scope of the information that is required to be reported. In addition, I point out that my amendment also requires the DPP to include in his report details of listening device applications.

The Hon. Terry Cameron said that he had some concerns about the DPP's involvement. With respect, I disagree. The DPP is a statutory office holder who can only be directed by the Attorney-General by notice in writing published in the *Gazette* and, I think, laid before both houses of parliament. The office has independent statutory responsibilities. In my view, involving the DPP facilitates the application for warrants but also ensures an even greater level of scrutiny.

The Hon. Terry Cameron raised questions about Queensland and South Australia and the number of applications. The number of telecommunication interception applications for warrants in 1999 in South Australia was about 50; I do not have the 1999 report for listening devices, but my recollection is that the number is about 50, so it is not a large number. I suspect that, as the police evidence to the Legislative Review Committee indicated, there is a reluctance to apply for warrants for telecommunications interceptions and listening devices unless they are absolutely necessary in the course of conducting an investigation.

I have no idea what the reason for the large difference between Queensland and South Australia might be. I do not have the number of applications for telecommunications interception warrants in Queensland, but I will endeavour to find out whether there is any rationale for it and, after the bill passes—if that is convenient to the honourable member—try to provide some information. However, I may not be successful in obtaining that information.

The Hon. T.G. Cameron: Life will go on, anyway.

The Hon. K.T. GRIFFIN: It will go on, yes, but hopefully with a greater level of scrutiny in relation to listening devices. I thank honourable members for their contributions on this clause.

The committee divided on the amendment:

AYES (3)

Cameron, T. G.	Elliott, M. J.
Gilfillan, I. (teller)	

NOES (13)

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

PAIR(S)

Xenophon, N.	Lucas, R. I.
Kanck, S. M.	Schaefer, C. V.

Majority of 10 for the noes.

Amendment thus negatived; clause passed.

Clause 8.

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

Page 6—

Line 8—Leave out this line and insert:

(a) by striking out subsections (1) to (4) (inclusive) and substituting the following subsections:

Line 15—Leave out this line and insert:

(2) An application for a warrant under subsection (1) may be made—

(a) where the Director for Public Prosecutions, being satisfied that the warrant is reasonably required, by written instrument approves the making of the application for the purposes of the investigation of a matter by the police—by a member of the police force; or

(b) where the warrant is required for the purposes of the investigation of a matter by the National Crime Authority, by—

(i) a member of the authority; or

(ii) a member of the staff of the authority who is a member of the Australian Federal Police or the police force of a state or territory of the commonwealth.

The amendments have already been the subject of debate. They introduce the Director of Public Prosecutions into the approval process.

The Hon. IAN GILFILLAN: A couple of explanatory comments might be helpful. In relation to the amendments moved by the Attorney, looking at the substance of the bill, and I assume the principal act, I am assuming it still requires a Supreme Court judge to make the determination—

The Hon. K.T. Griffin: Absolutely.

The Hon. IAN GILFILLAN: I notice that this is also to embrace the National Crime Authority, but I am informed that the federal Administrative Appeals Tribunal has the authority to empower the NCA to undertake phone tapping and surveillance operations. If the NCA has an authority from the AAT, does that obviate the need for a South Australian Supreme Court judge to be involved in determining whether or not it goes ahead?

The Hon. K.T. GRIFFIN: The structure is this: under the federal Telecommunications Interception Act the NCA can make its application to the federal Administrative Appeals Tribunal, or, as I understand it, it can make its application to the Supreme Court, because the Supreme Court is vested with federal jurisdiction. The scheme for federal telecommunications interception warrants is set out in federal legislation, so as a state we have no influence, except to the extent that the state Supreme Court, vested with federal jurisdiction, is a body to which an application can be made for a telecommunications interception warrant.

The Hon. IAN GILFILLAN: I am not sure whether I completely understood the Attorney's answer. Is he implying that the National Crime Authority, if authorised by the Administrative Appeals Tribunals to undertake surveillance work, is then free to institute that surveillance work in South Australia without any further approval from a Supreme Court judge in South Australia?

The Hon. K.T. GRIFFIN: If the NCA is using telecommunications interception we have no role as a state, because the commonwealth has covered the field with the federal Telecommunications (Interception) Act, but if it relates to a listening device, then the NCA comes to the state under state legislation for authority to install a listening device. That is why we have the distinction in my amendment between the state police on the one hand and the NCA on the other.

The CHAIRMAN: Does the Hon. Mr Gilfillan intend moving his amendment to clause 8, page 6, after line 14? Does he want to obtain advice?

The Hon. IAN GILFILLAN: I do not want any members to misunderstand the implication of any of my amendments. I believe that they are all linked to the institution of the Office of Public Interest Advocate, so there is no point in my moving any of them.

The CHAIRMAN: My advice is that they are not, necessarily. Would the honourable member like to obtain advice?

The Hon. IAN GILFILLAN: I must confess that I had not picked this up as being distinctly at odds with what I had been intending to move in the general body of the amendment. It would probably be useful for the committee if I asked the Attorney whether he views this amendment favourably, as I do not intend to take up the time of the committee by moving an amendment that has no support.

The Hon. K.T. GRIFFIN: I do not view this favourably and the government will very strongly oppose it because it seeks to link back to the government's definition of 'serious offence'. The second amendment is related to the Public Interest Advocate and is a consequential amendment that should not be moved, but the first amendment relates to 'serious offence' and my very strong view is that, if this amendment is carried, it will seriously hamper the ability of the police and the National Crime Authority effectively to investigate serious criminal activity.

If the amendment is moved and agreed with, the police and the NCA will be able to seek a warrant to use a listening device or a warrant to install a surveillance device only when the investigation relates to murder, kidnap or certain drug offences, and that is totally unacceptable to the government. We believe that listening devices should be available for things such as offences involving the possession of a machine gun and silencer—which is a recent case—offences of dishonesty, money laundering, complex fraud and bribery and corruption. If the amendment is passed, it will not allow listening devices to be used for those purposes.

The CHAIRMAN: The Hon. Mr Gilfillan will not proceed with that, so the committee has in front of it two amendments moved by the Attorney-General.

Amendments carried; clause as amended passed.

Clauses 9 to 12 passed.

Clause 13.

The Hon. IAN GILFILLAN: I have not picked up the significance of these latter amendments. I have taken the issue as concerning basically the debate between the DPP and the public interest advocate. With that admission, it is probably inappropriate for me to move amendments. I think that if there had been any of these amendments of which the Attorney-General approved I would have heard of it by now. It is not that I am necessarily kowtowing to his opinion, but I want to make the point that the substantial argument I put behind the battery of amendments we moved in 1999 still stands. However, I do not intend to take up the time of the committee by moving them in this debate.

The Hon. K.T. GRIFFIN: I offer the Hon. Mr Gilfillan some consolation. On the first occasion he moved a series of amendments which I thought had some merit. They were incorporated in this bill this time around. There are some amendments, as a result of which he has been able to influence the bill to a certain extent, but there are some amendments to which I was not prepared to agree. I appreciate his indication in relation to the subsequent amendments. I certainly do not support them.

Clause passed.

Clauses 14 to 16 passed.

The CHAIRMAN: I indicate a problem with intended new clause 17 to be moved by the Attorney-General. It is to another act and I think we have to seek an instruction, which is not yet prepared. Would the Attorney-General foreshadow the amendment?

The Hon. K.T. GRIFFIN: I can easily foreshadow the amendment. I am sorry that we have to go through that process, possibly because the amendment was not put on file until fairly late. I do not make criticism of anyone for that. This is an amendment to the Director of Public Prosecutions Act. It follows on the amendment which I moved successfully earlier and relates to the annual report of the DPP. The DPP reports to the parliament on the administration of his office

on an annual basis. This is merely to include a requirement that he also report on the number of applications for warrants under the Listening and Surveillance Devices Act 1972 that were considered and the number approved. It is giving him the authority and imposing the requirement that he actually report on his part in the administration of the listening devices legislation.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the committee.

A quorum having been formed:

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

That standing orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

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

That it be an instruction to the committee of the whole that it have power to consider a new clause and an amendment to the long title in relation to the Director of Public Prosecutions Act 1991.

Motion carried.

New clause 17.

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

Page 18, after line 23—Insert:

Related amendments to Director of Public Prosecutions Act 1991

17. The Director of Public Prosecutions Act 1991 is amended—

(a) by striking out from section 7(1)(h) 'by regulation' and substituting 'by any other act or by regulation under this act';

(b) by inserting after '30 June' in section 12(1)

', including the number of applications for warrants under the Listening and Surveillance Devices Act 1972 considered, and the number approved, by the Director'.

New clause inserted.

Schedule passed.

Long title.

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

After '1972' insert:

; and to make related amendments to the Director of Public Prosecutions Act 1991

Amendment carried; long title as amended passed.

Bill read a third time and passed.

MEMBER'S COMMENTS

The Hon. T. CROTHERS: I seek leave to make a personal explanation.

The PRESIDENT: On what issue?

The Hon. T. CROTHERS: On statements made by me in the Council on Thursday 5 April.

Leave granted.

The PRESIDENT: Order! I remind honourable members that the best time to make personal explanations is straight after question time.

The Hon. T. CROTHERS: I was involved with the police on another matter at that time—a matter important to the safety of some of the citizens of this state. At the close of play on Thursday 5 April, I was speaking against the prostitution bill. During a series of interlocutory exchanges between me and the Minister for Transport, I made certain assertions. I did not at that time mean to involve her. I talked about cabbalistic matters. We all know that the cabal was a secret enclave that operated in the time of Charles II and consisted of Clifford, Arlington, Buckingham, Ashley, Cooper and the Scot Lauderdale. It was so named for a secret cabal.

At no time did I mean that the Minister for Transport was involved in that. Indeed, she is a very honourable lady. She was in my office to try to see me but, unbeknown to her (and unbeknown to Susie O'Brien until I told her), I was in the hospital flat on my back, just as I was flat on my back at home two weeks before. We had kept the matter very tight for obvious reasons. It certainly was not intended. I have read the *Hansard*, and the honourable member is quite right that it could have been concluded that I was involving her. However, I was not involving the minister. To the best of my knowledge, she was not involved.

My secretary confirmed that she came to my office on two or three occasions when I was ill, because she did not know that I was in the hospital; in fact, not many did, otherwise I do not think that they would have done what they did with Susie O'Brien. However, that is another story. We know about that. We will square the ledger away some time down the track. Having said that, I apologise profusely to the Hon. Di Laidlaw, Minister for Transport, for anything in *Hansard* that appeared to include her. She was not involved in those cabbalistic activities to which I referred.

DENTAL PRACTICE BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 1283.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I acknowledge the contributions of the Hon. Paul Holloway, John Dawkins and Sandra Kanck. I have spoken with the Hon. Terry Cameron and he intimated that at this time he did not wish to contribute to the bill. Therefore, the bill can proceed to committee. I recognise from the contribution of the Hon. Sandra Kanck that she would like a few more weeks to pursue consultation on the bill, and that time can be accommodated.

The Hon. Paul Holloway has placed amendments on file, and I intend to do the same. The advice I have received from the office of the Minister for Human Services is that amendments will be filed in my name in relation to the composition of the board and the clarification of a further matter the details of which I do not have at this time. So, in the circumstances, if we go into committee and then conclude, we will at least have advanced the bill to that stage.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Progress reported; committee to sit again.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

In committee.

(Continued from 5 April. Page 1285.)

Clause 8.

The Hon. DIANA LAIDLAW: Mr Chairman, I draw your attention to the state of the committee.

A quorum having been formed:

The Hon. DIANA LAIDLAW: When we were last in committee a number of issues and new matters were raised by the Hons Angus Redford and Ron Roberts, and I have replies to those questions. I understand that the Hon. Angus

Redford has other pressures on his time at the moment, so I will go to his issues immediately. He queried clause 13 and said:

> It is a general query about clauses of this nature in the sense that it requires the approval of an apparatus by the Governor.

He continued:

> I am not sure what the rationale for that is. Why does the Governor need to approve it?

I am advised that it is established convention for legislation to stipulate that the Governor must approve certain matters, for example, statutory officers or, as in this case, the apparatus to be used for the purposes of the Road Traffic Act. The effect is that the approval must be given at a higher level than a single minister. The approval by the Governor also means that the matter must be submitted to Executive Council and therefore also to cabinet. The basis on which an approval may be given is essentially the technical and operating capability of the equipment, balanced by its cost. The equipment will need to meet certain basic standards—for example, conformity to applicable Australian standards, accuracy and repeatability—before it could be considered for use. The selection and/or eventual purchase of equipment may involve the tendering process whereby manufacturers are able to demonstrate the merits and cost efficiency of their equipment.

The Hon. Mr Redford raised another issue in relation to clause 16. He said:

> What is not abundantly clear to me is whether 100 millilitres of blood is equivalent to 110 litres of a person's breath.

The Hon. Mr Redford further said:

> The minister said in the second reading explanation it is quite feasible that improving technology might eventually disprove this approach.

My response is as follows. There is a scientifically established relationship between alcohol measured in the blood and alcohol measured in the breath. For the purposes of the Road Traffic Act, the relationship between 100 millilitres of blood and 210 litres of breath is that these two units of measurement will be stated as being equivalent. That will enable us to continue to refer to the familiar numeric concentrations of alcohol: that is, 0.05 and 0.08. That will be so irrespective of whether the alcohol is measured in the breath or in the blood. At present, breath analysis equipment measures the concentration of alcohol in the breath and then converts that reading to a concentration of alcohol in the blood.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Well, just let me finish. Ultimately, any conversion from one matrix to another introduces the possibility of inaccuracy. This bill seeks to remove that risk by enabling breath analysis results to be reported in terms of the matrix that was actually measured: that is, alcohol concentration in the exhaled breath.

The Hon. A.J. Redford: Are you saying that that volume of breath is equal to that volume of blood?

The Hon. DIANA LAIDLAW: For the purposes of the Road Traffic Act, the relationship between 100 millilitres of blood and 210 litres of breath is that these two units of measurement will be stated as being equivalent.

The Hon. A.J. Redford: Is there any scientific basis for that?

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order!

The Hon. DIANA LAIDLAW: My reference to improving technology during my second reading explanation did not mean to imply that the relationship between alcohol in the breath and alcohol in the blood would be completely disproved. However, technological improvement may lead to refinements of the methodology or ratio used to convert a reading from breath to blood.

I am also advised—and I intended to raise this issue in relation to an earlier question asked by the Hon. Carolyn Pickles—that, simultaneously, last year, transport and police agencies throughout Australia worked with the Australian Standards Commission to develop the new standard for breath analysis instruments which would comply with the International Organisation of Legal Metrology's standard for evidentiary breath analysers.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: I learnt only today that there is an International Organisation of Legal Metrology standard for evidentiary breath analysers. To each their own, I would say. It is desirable that the introduction of the alcohol measurement in 210 litres of breath be part of the same package of changes presented to the parliament. So, this advice from transport and police agencies and this international organisation is gaining momentum across Australia. At the same time, we were bringing that together with the Law Society; specifically, its Legal Police and Scientific Committee where all the advice was received in terms of this provision in the government's bill. The honourable member raised two more issues, and I think he will be happy with what I say in response.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: All right. The final issue relates to clause 19, which amends section 47I of the act. It relates to courts and how they treat compulsory tests. My advice is that the rationale for creating an evidentiary presumption for blood tests under section 47I is indeed to make the presumption applying to certain blood tests consistent with that applying to breath analysis. In both cases the presumption is designed to avoid the necessity of having to call expert witnesses to establish the actual concentration of blood at the time of the alleged offence.

The calling of expert witnesses is costly and time consuming. The act already contains such a presumption in section 47B(2). However, as indicated in the second reading report, that presumption has been found to be defective in that it has been held to mean that the presumed alcohol concentration at the time of the alleged offence would only refer to the prescribed concentration and not the actual concentration obtained by breath or blood analysis. This has led to a number of unintended complications; the need to call expert witnesses for every prosecution being one of them.

The final issue raised by the Hon. Angus Redford related to section 47G. I am advised that the amendment to section 47I will not affect a person's ability to use the results of a voluntary blood test to rebut the results of a breath analysis. Section 47G establishes a person's right to request a blood test kit and to use the results of that voluntary blood test to rebut the breath analysis. That section will remain unchanged. The evidentiary presumption inserted in clause 19 will only apply to compulsory blood tests on persons who attend hospital following an accident or crash and to persons who take a blood test under section 47F because they are unable to provide a blood sample for medical or physical reasons.

The Hon. Ron Roberts asked a number of questions, the first being whether the lower reading of the two tests be deemed to be the tested level, as happens in the United States and Europe. My advice is that, yes, the lower reading of the

two samples will be used. He also asked about a blood test being taken after an alcohol test and the regulations that previously provided that if one decided to have a blood test then one would then not be able to introduce evidence to support the claim of innocence on the alco test. I am advised that there has been no change to this arrangement. As mentioned a moment ago, section 47G(1)(a) of the act provides that the result of a breath analysis can only be rebutted by evidence of the concentration of alcohol in the blood of the defendant, as indicated by analysis of a sample of blood taken and dealt with in accordance with the regulations. Regulation 11 of the Road Traffic (Miscellaneous) Regulations sets out the procedures for voluntary blood tests. It is not proposed to change those regulations.

The Hon. Ron Roberts further asked about the situation that he understands prevails in Europe and in many states of the United States, whereby if one is stopped and an alco test is taken and the recording officer says that it is over the limit, there is provision for a second test on a different machine. I am advised that it is not proposed to introduce such a requirement in South Australia, that is, a second test on a different machine. This bill will introduce duplicate breath analysis tests. If there was any significant discrepancy between the two test results it would be evident to the police operators and action could be taken to ensure that the breath analysis instrument was functioning correctly.

In addition, drivers already have the right to request a blood test kit if they wish to dispute the breath analysis result. Police are required to ensure that a person with a breath analysis result above the prescribed limit is aware of their rights to a blood test. Finally, it has been suggested to me that it would not be practical in all circumstances to have two breath analysis instruments available at every test site. Of course, it would require the purchase of many more instruments which cost about $18 000 each, or we could effectively halve the number of sites which can provide a breath test at any given time. I do not think either outcome at this stage is the most desirable, but the circumstances as already outlined by the honourable member are already provided for but in a different form in South Australia.

The Hon. Carolyn Pickles asked several questions, and I advise that the report of the Legal Policing and Scientific Committee of the Drink Driving Reform Group reporting to the Law Society was prepared during the period between June 1998 and May 1999. The report was forwarded to the government early in May 1999. Mr David Peake, chair of the committee, wrote to me on 9 May 1999 enclosing a copy of the report. His letter also indicated that he had provided copies to the Attorney-General and to the opposition and Independent members of parliament at the same time.

It was believed, following receipt of this report, that the best way to advance the issues raised would be to establish an interdepartmental reference group to work through each of the recommendations; and as honourable members would appreciate, they are technical, difficult and very legalistic and require considerable thought. That group was formed late in 1999 and met and/or corresponded on several occasions before making further recommendations to me, through Transport SA, for changes to the Road Traffic Act. I received those recommendations late in 2000.

Simultaneously, as I mentioned in answer to the Hon. Angus Redford, there was this international organisation on legal metrology standards for evidentiary breath analysers, and that did not report until some time late in 2000. So everything came together late last year, and the bill was prepared for introduction as soon as parliament resumed in March this year.

Last but not least, the Hon. Carolyn Pickles asked, 'What do police do when they are faced with someone who does not speak English?' I am advised through SAPOL that, in the event that a driver does not speak English, the police will obtain the assistance of an interpreter. This may be a passenger in the vehicle or somebody nearby who speaks the driver's language and is able to interpret. If that is not possible, the services of an interpreter are obtained by contacting the duty officer at SAPOL or by accessing telephone interpreter services. In the event that such a driver is detected in a country area of South Australia, the police would contact the duty officer in Adelaide to get the services of an interpreter who would then talk to the person by radio or telephone.

The Hon. R.R. ROBERTS: I thank the minister for providing those answers. I am much more comfortable with the situation having the benefit of those answers. I do have a couple of questions to ask, but they are with respect to clause 16.

Clause passed.

Clauses 9 to 15 passed.

Clause 16.

The Hon. R.R. ROBERTS: This clause provides that where a person submits to an alcotest or a breath analysis, and the alcotest apparatus or the breath analysing instrument produces a reading in terms of a number of grams of alcohol in 210 litres of a person's breath, the reading will, for the purpose of the act or any other act, be taken to be the number of grams of alcohol in 100 millilitres of a person's blood.

Given that this now is written into the act, it is a presumption that the alcohol in the air inside the lung transmits to a blood alcohol reading of a particular level. If a person is advised of his statutory right for a blood test, it then means that there is an irrefutable presumption that the blood has to be at that level and, therefore, there can be no challenge to the veracity of the alcotest or the breath analysis.

In conclusion, I understand that the alcotest is the one that is conducted by the officers sticking it through the window when one pulls up, and it is generally used as an indicator that there is a problem, whereas the breath analysis is far more accurate, and I understand that it is done thereafter.

The alcotester is similar to the one in the pub and into which one puts one's money and which is excluded deliberately in the bill as being any defence at all. If in a country area, for example, the policeman has an alcotester only and it gives a reading, this clause provides that there is an irrebuttable situation where he cannot conduct a blood test because he is so isolated. However, the presumption then comes under section 47EA that his blood alcohol reads whatever that test says, despite the temperature at which the test is taken; it eliminates partition ratios; and, in fact, it also becomes the basis of an irrebuttable defence, as I said earlier.

The Hon. DIANA LAIDLAW: I am not sure that lawyers make life easier, but I have the best advice available—and clear advice, I hope. This clause is not designed to prevent the rebutting of evidence; that is provided for elsewhere in the act. This is a mechanism to provide an umbrella term of reference so that, every time there is a reference in the act to breath and blood, it will be taken to read the equivalent of grams per 100 millilitres of a person's blood being equivalent to 210 litres of a person's breath.

So, it is proposed that this clause is an umbrella clause to explain all the other equivalent references to such equivalents

through the act, rather than our amending every section of the act, which would mean that we would have pages of little technical bits. This is to eliminate that process. It is not designed to wipe out opportunities, as the honourable member has suggested. In the example given by the honourable member, in terms of a person picked up in a country area where only an alcotest is available and no blood test opportunity, that is not changed in any way by this measure.

The Hon. R.R. ROBERTS: I understand that this procedure creates the presumption that is to be used. I am worried about the presumption rather than that the presumption is going to be used. I thank the minister for the explanation. I am advised that the amount of alcohol being measured by a breath-analysing machine is remarkably small. In the case of the Dragar 712, which I understand is currently the machine used by the South Australian police department, the amount sought to be measured at a true reading of .1 grams of alcohol per 100 millilitres of blood is roughly equivalent to 200 millionths of an ounce of alcohol.

I am advised that this suggests that the opportunities for inaccuracies are very great. Is it true that we still use the Dragar 712 and what is the partition ratio factor of our machine? I understand that New Zealand calibrates them differently from South Australia and the United Kingdom. I am interested in the South Australian machine's factor. Is it 2000:1 as it used to be, is it 2000:100 as it is in the United Kingdom, or is it as it is in New Zealand?

The Hon. DIANA LAIDLAW: I am advised that the ratio used is 2000:100, which was the second example given by the honourable member. The issue of calibrations is particularly interesting. It is undertaken diligently by the police because, as I have said in this place previously, lawyers love the Road Traffic Act and many of them live off it, trying to make holes in both the act and also in taking drink driving matters to court and challenging police practices. The police try to eliminate whatever they can in terms of practices, such as machines that are inaccurate because they have not been calibrated regularly (and that is very specifically provided for in other sections of the act), because they would not expose themselves wittingly to such practices.

I should highlight, too, while the honourable member may question calibrations and accuracy, that Victoria's Minister for Transport this week announced that he intended to introduce, under the new Labor government, that the loss of licence will be at .05 and not .5 and above. He is bringing it back further and being even more technical in the application. South Australia is the only state, as I understand it (I think that Western Australia is involved, too), where between .05 and .08 provides for demerit points and not automatic loss of licence.

It is a mandatory offence—loss of licence—at .08. I was interested to see that the Victorian minister is bringing it back to say that at .05, not just above that point, there is automatic loss of licence as a mandatory offence for drink driving in Victoria. That is the proposal. They must be pretty confident of the accuracy and the calibration of their machines to propose such a move. This government intends to bring in a package of road safety measures shortly, but we are not following Victoria's example in terms of the .05 and above loss of licence for a drink driving offence.

The Hon. R.R. ROBERTS: That highlights the need for accurate calibration and different settings because if a driver was tested on a New Zealand machine it would be .02, on a British machine it would be .021, and on a South Australian machine it would be .023. Given the situation that the minister has identified in Victoria, if the calibration is slightly different, the result of the test can mean dramatic consequences for a driver. With the change in legislation last year, not only are there penalties for the driver but it also impinges on the right to workers' compensation and other insurance. As the minister knows, for many years I have been concerned about this matter and I have known of a number of cases, and that has drawn me to finalise some of these conclusions.

Has there been any thought to providing temperature gauges on the breath analysis testers that are used in South Australia? My advice is that there is an assumption that it is 34°, but that can be impeded by individual idiosyncrasy because one person may absorb alcohol far more quickly than another. At different temperatures there can be dramatic variations.

The Hon. Diana Laidlaw: What temperature?

The Hon. R.R. ROBERTS: I am talking about the temperature of the air that is being expired into the machine. I am advised that the variation can be quite dramatic. There is no doubt that 34° Celsius is generally reasonably close, but the fact remains that, if a person has a higher temperature due to a fever, physical exertion, etc., the reading is found in practice to be overestimated by about 8.5 per cent for every degree of variance. I am asking whether any thought has been given to a temperature gauge because, when someone is looking at the provision of evidence or someone is trying to create a defence, they might say, 'I have had a temperature and I have a doctor's certificate to say that my temperature was up, so therefore I was not .052; I was .049.' That creates a situation where that person is entitled to compensation in the event that there has been an accident. This clause deals with specific cases where testing needs to be done. Has the committee discussed at any length the provision of temperature gauges in testing devices?

The Hon. DIANA LAIDLAW: I have not been involved in any such discussion. The range of amendments before us comes from the Law Society's committee on legal policing and scientific matters related to drink driving reform. The matter that the honourable member raised was canvassed by that committee, but no amendment is required to the act because, as I explained in my reply to a question from the Hon. Angus Redford, the Governor simply approves the apparatus. We would need to get some work undertaken by SAPOL and the health authorities, and possibly some work is being done Australia-wide in this field to determine the background to the honourable member's information. I am prepared to request that the Minister for Human Services and the Minister for Emergency Services ask their officers to provide some more work on that matter.

The Hon. R.R. ROBERTS: I have one other point that I wish to raise. I will just skip ahead and save time. I refer to the amendment to section 47I. If the blood is taken, the presumption is that it is going to be the same for the two hours immediately preceding the taking of the sample. I now understand that the act is being changed to say that the test must be commenced within two hours, and the presumption—this is another presumption—is that the alcohol in the blood of the defendant through the period of two hours immediately preceding the taking of the sample is, indeed, that reading.

My advice is that that is a statutory fallacy. I am advised that, during the two hour period after drinking, the blood alcohol level will rise or fall but will remain constant for only a short period of time. I am advised that that is a scientific fact. I would like to put that on the record and ask whether that is the minister's understanding of the advice she was given, that the reading will vary, and depending also on whether it is at the inhalation or expiration stage of drinking; in other words, if a person has just drunk, the blood level will

be at one level and during the expiration phase it will be at a different level. I just put that on the record and ask for the minister's response.

The Hon. DIANA LAIDLAW: Yes, it could go up or down.

The Hon. R.R. ROBERTS: It is not stable for the two hours. Scientifically, it is a fact that it is not stable, but the presumption will be that it is.

The Hon. DIANA LAIDLAW: Yes, because it is based on the test at the time.

Clause passed.

Remaining clauses (17 to 21) and title passed.

Bill read a third time and passed.

YOUTH COURT (JUDICIAL TENURE) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

EXPIATION OF OFFENCES (TRIFLING OFFENCES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

SOFTWARE CENTRE INQUIRY (POWERS AND IMMUNITIES) BILL

The House of Assembly agreed to the Legislative Council's amendments.

ADJOURNMENT

At 6.09 p.m. the Council adjourned until Wednesday 11 April at 2.15 p.m.