

LEGISLATIVE COUNCIL

Thursday 28 September 1995

The **PRESIDENT (Hon. Peter Dunn)** took the Chair at 2.15 p.m. and read prayers.

NORTHERN ADELAIDE DEVELOPMENT BOARD

The **PRESIDENT**: I lay upon the table a report of the Auditor-General, pursuant to section 32 of the Public Finance and Audit Act 1987, on the Northern Adelaide Development Board.

PAPERS TABLED

The following papers were laid on the table:

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

Criminal Law (Undercover Operations) Act 1995—
Report, 1994-95.

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

South Australian Ports Corporation—Report, 1994-95.
Highways Act 1926—Report on Lease Properties,
1994-95.

Department of Environment and Natural Resources—State
Water Plan.

ROBINSON, NIKKI

The **Hon. DIANA LAIDLAW (Minister for Transport)**: I seek leave to table a ministerial statement made by the Minister for Health in another place today in relation to the Coroner's report on the death of Nikki Robinson.

Leave granted.

QUESTION TIME

GARIBALDI CORONIAL INQUIRY

The **Hon. CAROLYN PICKLES**: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Garibaldi Smallgoods coronial inquiry.

Leave granted.

The **Hon. CAROLYN PICKLES**: As the Minister would well remember, he was acting Minister for Health for most of January this year—indeed, up to 25 January 1995. He was therefore acting Minister when smallgoods produced by the Garibaldi Smallgoods company were first linked with a serious HUS outbreak at the beginning of this year. Among the victims of that outbreak was young Nikki Robinson, whose death resulted in a coronial inquiry, the findings of which were handed down this morning.

In relation to the product recall process, the Coroner noted on page 115 of his findings that the Acting Minister for Health, quite properly, held a press conference at about 3 p.m. on the day that Garibaldi mettwurst was linked with the HUS outbreak. The Coroner specifically pointed out that:

Most importantly, the Minister identified Garibaldi garlic mettwurst with a use-by date of 12 March 1995 as being the sample which had shown the presence of the toxin.

On page 116 of his findings, the Coroner stated:

During these initial stages nobody from the South Australian Health Commission set out to establish that the reference to a

particular use-by date was an effective method of identifying a contaminated batch. The other problem was that the South Australian Health Commission had no information as to whether or not any other products produced by the company, for example, salami, may have been equally contaminated. Knowledge of the way these other products were made and of Garibaldi's methods would have told them that this was indeed likely. As a result of the fact that the announcement was confined to Garibaldi garlic mettwurst with a particular use-by date, a number of people consumed contaminated products after 23 January 1995 on the basis of a decision that the particular product being eaten was not covered by the Minister's warning.

My question to the Minister is: on about 23 January 1995, did the Minister and the Health Commission overlook the possibility that, if Garibaldi garlic mettwurst with a use-by date of 12 March 1995 showed the presence of the toxin, Garibaldi mettwurst with other use-by dates or other Garibaldi meat products could quite probably also be contaminated? If the Minister did not overlook this link which was later verified, why did he not direct the Health Commission to promptly test other Garibaldi meat products advertised?

The **Hon. R.I. LUCAS**: I have not had an opportunity to read all the findings, but I note from the ministerial statement made by the Minister for Health that he says:

In the event the Coroner found that the connection—

that is, the connection between this particular batch of Garibaldi garlic mettwurst and the HUS illness—

was not confirmed until Monday 23 January 1995 by the microbiological investigation. The Coroner has found that this occurred at about noon that day.

The Minister for Health then says:

Within three hours, at 3 p.m. on 23 January, the Acting Minister for Health—

myself—

acting on the advice of the Health Commission, made a public statement announcing the connection and the product recall.

I can recall those events fairly clearly because obviously it was the most momentous—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. R.I. LUCAS: I wasn't asked.

The Hon. Carolyn Pickles: Did you offer?

The Hon. R.I. LUCAS: I wasn't asked. I would have been very happy to do so if someone had asked me. It was clearly the most important issue for me, as acting Minister for Health, that arose during that period of January. So, within two and a half to three hours, having satisfied myself and Health Commission officers in effect having informed me, based on their expert advice (I freely acknowledge that I am not an expert microbiologist or epidemiologist, which were the two disciplines evidently important in this recall or identification tracking of the particular virus or bacteria), I agreed with the action that was recommended, based on the expert advice provided to me.

I acted quickly—expeditiously—to ensure that, based on the expert advice provided to me, I did as I had been advised. No other advice was provided to me. The evidence which the expert Health Commission officers provided linked it only to a particular batch. They advised me of the terms and nature of the public statement that needed to be made, and I made that statement within three hours.

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and

Children's Services a question on the subject of the Garibaldi Smallgoods coronial inquiry.

Leave granted.

The Hon. R.R. ROBERTS: This has been a sad incident in the history of South Australia, and I note that the Minister for Health has issued a statement which I am advised is a very generous interpretation of the inquiry's findings—generous in respect of the responsibilities of the Government in this matter. We do need to get on with the job and see that it does not occur again.

In the Robinson inquest findings, which were delivered by the Coroner this morning, the Health Commission received severe criticism. The Minister for Education was acting Minister for Health and therefore responsible for the operations of the Health Commission up until 25 January 1995. In this place the Opposition criticised the Minister for Education earlier this year for failing to use his powers under section 25 of the Food Act to prohibit the sale of food. On pages 123 and 124 of his findings, the Coroner stated:

The Health Commission had powers under section 25 (to prohibit sale, movement or disposal of food and to require the destruction of such food), and 27 (to issue warnings to the public where there is a substantial risk that food sold is unfit for human consumption) which were available to them. In my view, the mere indication that those powers might have been used would [have] engendered cooperation from Garibaldi. If not, then they should have been resorted to on that day in order to ascertain the information required to assess the recall.

The date to which the Coroner refers in the quotation is 23 January 1995. In light of the Coroner's conclusions about the powers available to the Minister under the Food Act and the part those powers could have played in restricting the sale of contaminated meat, does the Minister now regret that he did not do everything that he could have done while acting as Minister in the health portfolio; and, secondly, what action will he recommend to avoid a recurrence of such a tragedy by a future acting Minister's failure to do everything that was possible?

The Hon. R.I. LUCAS: As I indicated in answer to the Leader of the Opposition's first question, I was quite appropriately guided by the expert advice that was provided to me on the 23rd—within three days. I was acting Minister for another two or 1½ days, depending on when on the 25th I concluded my acting Ministership. During all that period I was guided on this particularly difficult set of circumstances by the expert advice from within the Health Commission in the areas of microbiology and epidemiology and the other expert areas from within the commission. All actions and decisions that I took were guided by the expert advice. In relation to how acting Ministers should operate at present or in future, I believe that in large part acting Ministers have to rely on the expert advice of the senior officers of the relevant department. They must satisfy themselves that the advice is reasonable.

Acting Ministers cannot be relied upon to be experts in all the portfolio areas in which they act from day one. In difficult areas they must rely on the expert advice of the senior officers within that department. I did so and, as the Coroner has indicated, I took the actions within three hours. I must confess I have not read all the findings. The honourable member might have done so or, if he has not, whoever wrote his question might have, but I have not seen in there that the Coroner said that on Tuesday 24th I should have used the powers as acting Minister under the Food Act to recall those products. I will seek advice from the Minister for Health's office and others to determine whether the Coroner has

suggested that, as the honourable member has implied by way of his question. If there is any need for me to respond in greater detail I will do so. All I can say in response to his question, as I did with the Leader of the Opposition, is that I quite appropriately followed the expert advice of senior officers of the Health Commission.

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Garibaldi small-goods coronial inquiry.

Leave granted.

The Hon. T.G. ROBERTS: Following the press conference held by the acting Minister for Health on the afternoon of 23 January 1995, it quickly became obvious that the HUS toxin was present in more than just a single batch of Garibaldi garlic mettwurst, to which the Minister had referred at that press conference. Garibaldi itself published recall notices in the *Advertiser* newspaper on Thursday 26 and Friday 27 January 1995 which extended the recall from Garibaldi garlic mettwurst with use by dates of 12 March 1995 to include all forms of mettwurst with use by dates between 26 January and 12 April 1995. As the Coroner noted on page 125 of his findings:

At no stage did the Minister extend his announcement or make any further public announcements about the recall process. Having become involved to the extent that he did on the 23rd, in my view it would have been prudent for a further ministerial announcement to have taken place, either on Tuesday 24th or Wednesday 25th, to extend the announcement that he had made on 23rd once it became clear that it was too narrow.

My questions are:

1. Why did the acting Minister of Health not act prudently on Tuesday 24 January and Wednesday 25 January by calling a further press conference to announce that the source of the contamination was more widespread than initially perceived?
2. How many acting portfolios was the Minister responsible for at that time?

The Hon. R.I. LUCAS: Whoever drafted the question has done the honourable member a disservice because they have deliberately excluded a sentence from the Coroner's findings (it must have been someone from the Centre Left or Labor Unity who set you up). The quote from the Coroner's findings that the honourable member has been given includes this sentence that was left out of what he read:

Although there is no evidence that this would have changed anything, it may have given added emphasis to the widening of the recall.

The Coroner says that that is his view, which the honourable member quoted, but he does not then quote the Coroner's finding:

Although there is no evidence—
no evidence at all—
that this would have changed anything. . .

I wonder why that was deliberately excluded from the honourable member's question. I will not attack the honourable member personally: I give him credit that he did not draft the question because he was struggling to read some parts of it, as was the Hon. Ron Roberts. I do not intend to attack the Hon. Terry Roberts personally, but somebody over there or somebody working with the Labor Party has done the honourable member a grave disservice because they have left him high and dry by not including a most important part of the Coroner's finding. This has been a deliberate attempt by

the Labor Party to try to make political capital out of that question on this issue. As the Coroner said, and I say it again:

Although there is no evidence that this would have changed anything. . .

There is no evidence at all. I can only repeat what I said in reply to the earlier two questions, that I took the actions on the Monday, Tuesday and Wednesday because of the expert advice provided to me by senior officers of the Health Commission. Full stop. That is the end of the story.

The Hon. CAROLYN PICKLES: As a supplementary question, on page 125 of the transcript, the report—

The PRESIDENT: The honourable member cannot ask a new question.

The Hon. CAROLYN PICKLES: How can the Minister then answer the statement of the Coroner that, in his view, it would have been prudent for a further ministerial announcement to have taken place either on Tuesday 24 January or Wednesday 25 January to extend the announcement that the Minister had made on 23 January, once it became clear that it was too narrow?

The Hon. R.I. LUCAS: I have already answered that by saying, first, that on Tuesday 24 January the story of my announcement was still being broadcast on radio, had been published in the *Advertiser* of 24 January and was still a topic of public debate and discussion in the media as a result of the ministerial statement issued on Monday afternoon. As I said to the first three questions, and I say again to the supplementary, the actions that I took were as a result of the expert advice provided by senior officers within the Health Commission, and no advice was provided to me during that period—to use the Coroner's words—'once it became clear that it was too narrow'.

No advice was provided to me by senior officers or, indeed, anybody during that period when it became clear that it was too narrow. As the Coroner indicated, there is no evidence that this would have changed anything at all. That might disappoint the Leader of the Opposition and members of the Opposition, but the Coroner found no evidence that this would have changed anything at all. You cannot move away from that sentence of the Coroner's finding.

SCHOOL MUSIC TEACHERS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school music teachers.

Leave granted.

The Hon. M.J. ELLIOTT: Last Monday, I watched a performance in the Festival Theatre which my son took part in as part of a choir and which as I recall had about 300 voices. In the previous two years I have had the opportunity to watch my daughter in similar performances. These performances have been run by the South Australian Public Primary Schools Music Society for some 104 years. They involve 185 schools and 5 000 children. It has been touted as the best choral music education program in Australia for primary school children. The concert was made up of a choir which represented about 14 schools (members can imagine how many nights must have been involved in all of this) and an orchestra of mainly secondary students with, for the first time, primary school students—something of which they were very proud. Interspersed through the evening there were also performances from a number of primary and secondary students from the State school system.

As a parent and as a South Australian I felt very proud of what the children had achieved and of what the school system had achieved for these children. There has been a clear raising of standards over the years. In the June budget the Minister for Education and Children's Services announced that there would be a cut of 100 teachers and last week he announced precisely where those cuts would be made. I understand that 23.9 of those salaries are to be music instrumental teachers out of about 100 from our primary and secondary schools. When I arrived home yesterday my daughter handed me a letter sent by the School Council Chairman of Blackwood High School. The letter was an urgent request for help and stated:

As you are no doubt aware, we have a very viable and dynamic Music Department at Blackwood High with some 200 students involved in the program. The success of the program depends very largely on the quality of staff instruction, the motivation of students and the support of parents. Taking music by comparison with some other subjects incurs extra costs in terms of time, instrumental instruction and instrumental purchase or hire. There are, however, many benefits as students gain confidence in skill acquisition, discover their talent and the joy of achieving personal success and being part of an ensemble or larger group of players. The benefits to the school are also significant as the public performances showcase the achievements of our students.

I had an opportunity to visit some of those and, indeed, the children get a great deal of pride from it. The letter continued:

In the past there has been significant support for instrumental instruction of students through the program provided by the Government. For students starting their instrumental lessons it has been financially beneficial to parents to have access to relatively inexpensive hire instruments and for instrumental lessons to be provided whilst the student learns the basics and grows in confidence and motivation to continue on. Recent reductions in staffing have made it more difficult to provide this relatively inexpensive service. Currently, parents are asked to pay \$40 for students in the junior years as a contribution to instrumental upkeep and to subsidise the cost of employing more instrumental teachers than are provided by the Government. Students who hire instruments pay additional fees for this facility and senior school students pay the full fee for private tuition. An active public performance program subsidises the scheme through box office receipts, and support from the local community such as Blackwood Rotary Club has also assisted in keeping fees low.

The latest staff reductions will almost certainly increase the costs to parents. We will need to charge parents to cover the cost of privately sourced instrumental music instruction for junior as well as senior students. Until the exact extent of staff reductions in instrumental music tuition are known, it is difficult to be more precise. However, it is important that parents are aware of the likely changes for next year and can plan accordingly.

I have seen a letter from the South Australian Public Primary Schools Music Society, which states, 'Music education is in danger of being so limited as to be almost ineffective.' With the Minister's cuts, salaries allocated to the music festival are at risk, music teachers' salaries are to be cut, 23.9 of the instrumental music teacher positions are to go, there will be four fewer special interest music classroom teachers, there will be less instrumental tuition in schools, and music ensembles will be placed at risk. I ask the Minister:

1. Does he concede that, for parents who wish their children to continue learning music at school, it will mean increased costs, and has he made any estimates of what those costs are likely to be?

2. Does he also concede that, because of those costs, many students will opt not to learn music and that this will tend to fall unevenly on poorer families?

3. Is the Minister happy to be known as the man who killed music in public schools?

The Hon. R.I. LUCAS: I thank the honourable member for his question. I, too, attended one of the public performances of the Primary School Music Festival, as I have done in recent years as shadow Minister and Minister, and I agree with that part of the honourable member's explanation that it was a performance of excellence. There were 450 students—not 300—on stage for each performance over 10 evenings, so 4 500 to 5 000 students from Government schools across South Australia were involved. It is testimony to the strength of the primary school singing program and, contrary to the rumours that are being circulated, the festival will continue with the full support of the Government. It is a program of excellence and the department will be working with schools to ensure the continuation of that program of excellence for primary school students. I do not know whether the honourable member has any more children who may participate in the festival but, if next year or the year after his son or daughter is deemed proficient enough at his school to perform, he or she—

The Hon. M.J. Elliott: What about instrumental classes?

The Hon. R.I. LUCAS: Yes, instrumental music will continue to be part of the music festival program, and I give the honourable member that assurance. I also give him an assurance that a quality program will continue to be delivered by the Department for Education and Children's Services. Almost 80 instrumental music teachers will continue to operate within our Government schools in South Australia after the planned reductions for next year. As with all the other reductions in the tier 2 and tier 3 or the above-formula salaries, as we have referred to them, the Government and I as Minister have not enjoyed taking those decisions. However, the budgetary circumstances confronting South Australia are such that, against our wishes, we are forced to take these very difficult decisions. All Ministers—

The Hon. M.J. Elliott: Even Kennett is not cutting as far as this and he has a bigger debt.

The Hon. R.I. LUCAS: The Hon. Mr Elliott is now saying that he wants Mr Kennett's policies to be implemented. Last year, he was the one in this Chamber who railed against Mr Kennett in closing down hundreds of schools, sacking teachers left, right and centre, and getting rid of the award system so there is no fall-back position; yet now the honourable member is saying that we should adopt the policies of Mr Kennett.

Last year, however, he was saying that Mr Kennett was closing hundreds of schools, sacking thousands of teachers and getting rid of the award system. The Hon. Mr Elliott cannot have it both ways. The instrumental music program will continue. It will continue to be a program of excellence. I can assure members that the music festival program will also continue for students, both country and metropolitan, to enable them to continue to display their magnificent talents and the magnificent talents of their teachers and staff who assist them in the preparation and presentation of their 10 public performances.

FIELD CROPS

The Hon. T. CROTHERS: I seek leave to make a precised statement before asking the Attorney-General, representing the Minister for Primary Industries, a series of questions about field and pulse crops, which South Australian farmers grow or have the potential to grow.

Leave granted.

The Hon. T. CROTHERS: Some 25 years ago the bulk of South Australia's field crops were exported to Great Britain. These crops were grown, in the main, to meet the demand of the United Kingdom market, but with the advent of that nation opting to join the European Common Market it was obvious that the days of the United Kingdom being the major area for our agricultural products went into serious decline. Whilst it is apparent that there is still a considerable market for these two major field crops, that is, wheat and barley, it is apparent that the market is not as stable, both as to price and demand, as was formerly the case 20 years ago.

South Australia is the major barley growing area of Australia, and tribute must be paid to our maltsters for their operations here, both as to value adding and securing an export market of very considerable volume for South Australian malted barley. The same can be said for the South Australian Wheat Board in finding alternative markets for our export wheat in recent years. In recent years, again, the South Australian farmer has endeavoured to diversify the field crops grown. Canola, other oil seeds, chick peas and other legumes have had considerable success here when grown for both domestic and export sale.

Recently, however, our South Australian based scientific agronomists have produced a new strain of lentil which they say is ideally suited for South Australia's, in the main, dry farming areas. It is said that from India alone there is a requirement for some 4 000 tonnes per year of imported lentils to that nation. The price per tonne for that product is, I am led to believe, in the order of \$2 500.

Given that unemployment is very high in our rural areas and that in the past two weeks some 300 manufacturing jobs have been lost to metropolitan Adelaide, including the closure of Texas Instruments—the loss of which instrument maker, it has been said, is a body blow to South Australia—and given the pursuit by the South Australian Government to put South Australia and South Australians at the leading edge of new technologies (and I am not criticising that, by the way), it is said that perhaps some of the millions of dollars of support being offered as an inducement for some of these high-tech overseas companies to be established here could best be spent so as to assist, where needed, some companies that are already established. With those few comments as backdrop, I now direct the following questions to the Minister:

1. How much money has the Minister allocated in this year's budget for research and development work in the area of field crops and legumes?

2. How many new field crop and legume research and development projects has the Department of Primary Industries funded or started into research and development for new field and legume crops which could be grown here and for which there are export markets with our near Asian neighbours?

3. How much research and development has his Government initiated in the value adding to farm produce for which there are readily available export markets, and does he agree with me that the potential for successful research into such value adding is enormous in respect of dealing with the totally unacceptable high levels of unemployment, particularly in our rural areas?

The Hon. K.T. GRIFFIN: I will refer those questions to my colleague the Minister for Primary Industries in another place and bring back a reply.

DISTINGUISHED VISITORS

The PRESIDENT: Order! I notice in the Gallery distinguished visitors, members of a visiting United Kingdom parliamentary delegation, and I extend to them a very cordial welcome to this Chamber and to South Australia. I invite the Rt. Hon. Dame Angela Rumbold, leader of the delegation, to take a seat on the floor of the Council. I ask the Minister for Education and the Leader of the Opposition if they would escort Dame Angela to the chair and accommodate her with a seat on the floor of the Council.

AUDIT OVERVIEW

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Leader of the Government in this place, representing the Treasurer, a question about the Audit Overview.

Leave granted.

The Hon. T.G. CAMERON: In the Audit Overview on pages 46-50, the Auditor-General has been very critical of the Government's accountability to Parliament. On page 50 of that report he makes a number of statements in his conclusions about unsatisfactory features of the current arrangements and raises a number of issues. In the Premier's ministerial statement regarding the Auditor-General's Report the Premier stated that the Government recognises the need to put in place new processes to substitute for the checks and balances made redundant by a fundamental change in the nature of public administration. He went on to say that we are developing a prudential management function.

It is interesting to note that, in the ministerial statement concerning the Auditor-General's Department, the Premier makes very little reference to a number of strong criticisms peppered throughout the Auditor-General's report. My questions are:

1. Will the Minister provide further details to the Parliament on just what this prudential management function is and when it will be introduced?

2. Further, will he give an undertaking that the transactions—

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Further, will he give an undertaking that the transactions referred to—which have been reversed—will not occur again?

3. What steps does he propose to take to ensure that the unsatisfactory issues referred to on pages 46-50 are to be rectified and when?

The Hon. R.I. LUCAS: I will be happy to refer the honourable member's questions to the Premier, and indeed to the Treasurer as well, and bring back a reply as soon as I can.

WORKING WOMEN'S CRECHE

The Hon. ANNE LEVY: I seek leave to make an explanation before asking the Minister for the Status of Women a question regarding the Working Women's Creche.

Leave granted.

The Hon. ANNE LEVY: There is the remnant of a building at 15 Gouger Street, Adelaide, which initially was the Working Women's Creche, a building of enormous historic importance to women and children in this State. It has been there for well over 100 years and is one of the very few

historic buildings which relate to women and children in this State. Currently, the Working Women's Creche is on the State heritage register but application has been made to remove it therefrom. The Heritage Committee is inviting submissions from interested parties, which submissions must be received by tomorrow if they are to be considered.

As I have stated, the history of women and children in this State is certainly not well represented on the State heritage register. Many people consider that the fact that women's and children's history has not been well served in the construction of the present State heritage listings certainly adds weight to community calls for retention of the Working Women's Creche on the State heritage register. Has the Minister or her office made representations to the group considering whether or not this building should remain on the State heritage register, given the important significance of this building to women's history in this State? If she has done so, what was the tenor of the submissions and, if she has not, why not?

The Hon. DIANA LAIDLAW: The simple answer is 'Yes.' The Acting Director of the Office of Status of Women, Judy Baker, and I have discussed this matter at some length. She sought on behalf of the office to make a submission, and she wanted to discuss the wording of that submission with me. I gave approval first to the initiative and also to the wording. That submission was sent either late yesterday or it will be sent today.

The Hon. Anne Levy: What does it say?

The Hon. DIANA LAIDLAW: It strongly supports the retention of the facade on the State heritage register.

GARIBALDI CORONIAL INQUIRY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the HUS epidemic and the Coroner's report.

Leave granted.

The Hon. P. HOLLOWAY: In the conclusion to his report, the Coroner said:

One danger of a voluntary recall process is that it places the manufacturer in a position where a conflict of interests exists. There is a natural tendency to minimise the economic damage to the manufacturer which may be incurred by the recall process. That is particularly the case where, as here, the entire future of the company was at stake. In those circumstances, it is my view that the Health Commission should have been more proactive in the recall process and exercised a far greater degree of supervision over the company, particularly in determining the width of the recall. The SAHC clearly had the legal power to do so. Ironically, some of the Garibaldi officers were surprised that the Health Commission did not take a more directive role.

Does the Minister now believe that he was properly and adequately advised by the Health Commission? Secondly, as the Minister stated earlier that his memory was perfectly clear and that he acted on the advice of experts in the Health Commission, did he request advice from the Health Commission on his powers and those of the Health Commission to recall the contaminated food? If so, what was that advice and why did he not direct the Health Commission to take the action suggested by the Coroner? If he did not request advice from the Health Commission, why not?

The Hon. R.I. LUCAS: As I indicated, at that particular meeting at noon on Monday 23 January, the advice provided to me was clear and explicit: that an epidemiological link had been established between that particular batch of Garibaldi mettwurst and the HUS virus, and that the recommendation from the Health Commission was that the appropriate course

of action was to ask for the recall of that batch of Garibaldi mettwurst. That was the action recommended. There was discussion at the time about how that would occur, what the process should be and what the appropriate action and response of the acting Minister for Health ought to be at that time. I do not recall exactly how long the meeting went, but I guess it was of the order of half an hour to an hour or so, from recollection. A number of issues were discussed at that time.

The advice given to me was exactly of the nature of the final statement that I made. I indicated that I believed certain matters ought to be checked, whether or not there had been any discussion with Garibaldi, what advice in terms of the process that needed to be followed from that Monday afternoon, and when the statement should be made, because that Monday afternoon was a Cabinet afternoon. A number of options were explored. Clearly we were not in a position within half an hour to have drafted the statement and released it prior to the Cabinet meeting. The view was we should not leave it until after Cabinet, which was about 5 or 6 o'clock that evening, because we would miss the evening television news. I actually came out of Cabinet mid-afternoon at about 3 p.m. to issue what had been an approved statement from the senior officers of the Health Commission.

I will check my recollection of the particular meeting to see whether there is anything else that I can usefully add to my reply to the honourable member's question, but to the best of my knowledge that is a description of my recall of the events of that particular Monday, 23 January. I can only repeat, as I have said to a number of earlier questions: I acted following the expert advice of the senior officers of the Health Commission and did so promptly, within three hours of having been first advised by those officers.

TAXIS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport a question about the regulation of the taxi industry in South Australia.

Leave granted.

The Hon. SANDRA KANCK: During the winter recess, a number of people from the taxi industry approached me about their concerns over what they see as ineffective policing of the taxi industry. They pointed to myriad problems within the industry, including continued smoking in cabs by drivers, failure to wear uniforms, rank jumping and others, as well as hire car companies operating from hotel car parks and unroadworthy vehicles, to name just a few.

As well as pointing to the problems of the industry, they also came up with a number of constructive suggestions including the greater use of bus stops as ranks at night and the better positioning of car parking spaces on city streets. My questions to the Minister are:

1. How many Passenger Transport Board inspectors are currently in active service policing the taxi industry?
2. Does the Minister believe that the provisions and regulations of the Passenger Transport Act, as they relate to the taxi industry, are currently being adequately enforced? Does the Minister consider that having at least one inspector on the road at all times might be a minimum requirement for policing the Act?
3. Does the Minister have any plans to increase the use of bus stops as taxi ranks during off-peak periods?

The Hon. DIANA LAIDLAW: There have been suggestions from time to time that bus stops be used as taxi ranks, and the honourable member would be aware that in evenings, particularly around the Casino area of North Terrace, the queue of taxis does interfere with other traffic flow in the area. The use of bus stops in that context has been considered by the Passenger Transport Board and the Taxi Industry Advisory Committee.

Representations to the Adelaide City Council have also been made to increase the number and length of taxi stops within the CBD. With respect to the number of inspectors, I understand that the full complement of inspectors, which is three or four, is diligently enforcing regulations. We do not have the same number of inspectors as were employed in the past, because under the Passenger Transport Act, rather than the Metropolitan Taxicab Act, which was repealed 18 months ago, there is more responsibility on the taxi companies themselves to regulate the industry and to take greater interest in the presentation of their company name by the performance of the drivers. Generally, that has worked well. As the honourable member would know, we have implemented a taxi audit system, whereby a number of unidentified individuals are engaged in riding taxis at any time of the day or night in various areas of Adelaide. In a systematic way they report their impressions of the taxi industry back to the Passenger Transport Board. That has been an extremely good initiative, and it has prompted passengers generally to take a greater interest in the condition of the taxis and also to report their impressions through the compliments and complaints hot-line that was established by the Passenger Transport Board.

As for the uniform regulation which was introduced in January but which has been enforced more strictly since July, I am aware that a number of drivers have been fined for not wearing the uniform. Independent drivers not associated with a radio cab company are not required to wear the uniform, so a number of those drivers are on the road. Certainly, in winter it was more difficult to get compliance from taxi drivers, because in the cold weather and at night the uniform had generally been restricted to a shirt or jacket. Many drivers chose to wear heavier clothing, so it was not obvious that they were wearing a uniform. From time to time I was bemused to be told by drivers that their uniform was always in the wash. We must have the cleanest drivers (or at least their shirts) in all Australia, if not the world. I am also aware that with summer coming on it will be more obvious that drivers are wearing their uniforms without additional clothes.

The smoking issue is one that the companies are seeking to enforce. We have more casual drivers in the evening, so the enforcement of these regulations is more difficult at that time.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Yes, but, in answer to the Hon. Ms Pickles's interjection, I do think it is important that if you note that there is smoke in a taxicab you help us regulate the system by taking the number of that cab and reporting back to the complaints and compliments hot-line. In that way, the taxi companies themselves will start taking greater responsibility for their industry. That is a very important initiative, rather than assuming that Government and Government inspectors will enforce standards within the industry.

I am sorry that I do not have them at hand, but in the past week I have received two letters, one from a journalist from the United States and one from a regular business traveller from Melbourne. Both have been in Adelaide and have

remarked on the high standard, cleanliness and maintenance of our taxis, the fact that uniforms were worn, and the fact that the personalities were so polite and courteous. They gave examples from around the world where they have not experienced such behaviour. I also noted that in his letter the businessman said that, in his 30 years experience in business, only in Adelaide had the taxi driver offered to carry his bags from the car into the hotel. So, there are more and more good things—

Members interjecting:

The Hon. DIANA LAIDLAW: Well, it happened in Adelaide. What is so great is that this gentleman saw fit to convey to me not only his surprise but also his pleasure, and I have circulated that letter throughout the taxi industry. Now, with the benefit of sponsorship from the Adelaide Casino, we have an award each month for the taxi driver of the month. The prizes are generous, offering a choice of holidays around Australia. Again, that incentive program is positive reinforcement for good behaviour rather than always seeking to enforce these regulations through inspectors and the penalty system.

CLASSIFICATIONS (PUBLICATIONS, FILMS AND COMPUTER GAMES) BILL

The Hon. K.T. GRIFFIN (Attorney-General): Yesterday I introduced the Classifications (Publications, Films and Computer Games) Bill 1995. Relevant to that is the National Classification Code and the guidelines relating to publications, films and computer games. For the interest of members, I table a copy of that classification code and the guidelines.

STATE THEATRE COMPANY AND STATE OPERA

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for the Arts a question about opera and theatre companies.

Leave granted.

The Hon. R.D. LAWSON: Volume 2, part B, of the Auditor-General's Report for the year ended 30 June 1995 contains production statistics for the State Theatre Company and the State Opera. Those statistics will be of interest. The number of State Theatre Company seats sold for 1995 was 48 000, which was substantially down from 89 000 in 1992-93, and the subsidy per seat sold rose from \$23 in 1992-93 to \$45 per seat sold in 1994-95. The State Opera Theatre had a decline in the number of seats sold over the same period from 23 300 to 19 100; and the State Government subsidy per seat sold rose from \$41 in 1992-93 to \$50 per seat sold in the current year. My questions are:

1. Does the Minister share the concern of theatre and opera lovers at the declining attendances at performances of the State Theatre and the State Opera?

2. Is the increasing level of State Government subsidy for seats sold a matter of concern?

3. If the answer to either question is 'Yes', does the Minister consider that any action can be taken by the Government to arrest these unsatisfactory trends?

The Hon. DIANA LAIDLAW: The honourable member would be aware that, because of our smaller population base, there has always been a high subsidy per seat for performances in South Australia, whether they be for the State Opera or the State Theatre Company. It is of interest that, with difficult economic times in this State during recent years, the subsidy per seat has increased. It is true that the State Theatre

Company's revenue fell by \$1 million last year, through a fall in both sponsorship and box office receipts. That, of course, saw the subsidy per seat increase. There have been a number of discussions between the Chair and the Executive Director of the State Theatre Company, and myself and the Department for the Arts and Cultural Development, and there will be some interesting programming initiatives announced shortly in terms of the new season—I think that they will be announced in mid October.

I fully endorse the initiatives that have been taken by the Executive Director and the board in this regard. Ms Janet Grieve, a new chair of the company, will commence her responsibilities in mid October. She will be replacing Ms Robyn Layton, who is retiring because of her work commitments. In the meantime, the board has been strengthened by a number of people with strong financial backgrounds from the private and Government sectors in South Australia. I think that their presence on the board will help it focus on some of the issues that the honourable member has raised.

In my view it is the responsibility of the board to address issues such as programming and financial outcomes. I have made it very clear to the board that eating further into reserves is not good management practice, and I do not have any wish to see nor do I expect in any way to be informed that there is a crisis in either management or financial terms. If some of these issues such as attendance and increased receipts are not addressed satisfactorily, reserves at the current rate at which they are required will be depleted in two or three years, and that is not in the interests of the State Theatre Company or the arts generally in this State.

In terms of State Opera, the honourable member would be aware that exciting developments have happened with the South Australian State Opera Company winning the right to stage Wagner's Ring in 1998. That is a coup for opera. It will be the first time the Ring will be staged in the southern hemisphere and it will generate more interest in opera and greater attendance from South Australia and other States.

I am confident that, with regard to the programming initiatives that are soon to be announced by the State Theatre Company, with the success that State Opera has realised in recent times with its seasons, the reintroduction of outdoor concerts and performances, and with Hansel and Gretel and the reintroduction of the school touring program, State Opera will appeal to a wider audience in this State. That is important in terms of reducing the subsidy per seat. It appears high, but, in many senses, is value for money.

TELECOMMUNICATIONS (INTERCEPTION) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Telecommunications Interception Act 1988. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to make amendments to the Telecommunications (Interception) Act 1988 (the State Act) as a result of amendments made to the Commonwealth Telecommunications (Interception) Act 1979 (the Federal Act).

The State Act was enacted to enable the South Australian Police to apply for the issue of warrants authorising the interception of telecommunications pursuant to the Federal Act. The Federal Act provides that the power to obtain interception warrants is available only to State agencies which have been 'declared' by the Federal Minister on the basis that the Federal Minister is satisfied that the State concerned has legislation making satisfactory provisions regarding matters set out in section 35 of the Federal Act. These matters essentially consist of reporting procedures, whereby the police are required to keep records and to report to the Attorney-General on the numbers of warrants applied for and the use to which information obtained is put as a result of the interception.

The consequential amendments to the State Act include the following:

- amendments to the definitions;
- additional reporting responsibilities which will require the Commissioner of Police to provide the Attorney-General with details of the number of occasions on which communications have been intercepted pursuant to two newly created grounds for obtaining an interception warrant;
- additional reporting responsibilities which will require the Commissioner of Police to provide the Attorney-General with details of the total expenditure incurred by the Police Force in connection with the execution of warrants during the year to which the report relates;
- power for the Police Complaints Authority to give information to the Commonwealth Ombudsman if the Police Complaints Authority is satisfied that the information is relevant to the performance of the Commonwealth Ombudsman's functions under the Federal Act.

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

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 3—Interpretation

This clause amends section 3 of the principal Act to—

- alter the definition of 'class 2 offence' to include trafficking in prescribed substances rather than just narcotic drugs;
- include a definition of 'prescribed substance';

Note: *I.e.*, a substance that is a narcotic drug or psychotropic substance for the purposes of the Cth. *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*.

- alter the definition of 'prescribed offence' to bring it into line with that in the Commonwealth Act;
- redefine 'restricted record' so that it no longer includes a record obtained pursuant to section 11 or 11A of the Commonwealth Act or Part IV of that Act.

Note: *I.e.*, so that it does not include records of interceptions of telegrams and other telecommunications by ASIO pursuant to warrant (ss. 11 & 11A) and interceptions of telegrams by the Aust. Federal Police pursuant to warrant (Part IV).

Clause 3: Amendment of s. 4—Commissioner to keep certain records

This clause amends section 4 of the principal Act—

- to require the Commissioner of Police to retain a copy of an approval given under section 55(3) of the Commonwealth Act by him or her or an approving officer;

Note: S. 55(3) of the Cth. Act empowers the Commissioner or an approving officer (a member of the police force appointed by the Commissioner under section 55(4)) to approve in writing other members of the police force, or classes of members of the police force, to exercise the authority conferred by warrants or classes of warrants.

- to require the Commissioner of Police retain the originals, rather than true copies, of warrants issued to the police force, instruments revoking such warrants and authorisations given by the Commissioner under section 66(2) of the Commonwealth Act.

Note: *I.e.*, authorisations to members of the police force to receive information obtained by interceptions under warrants issued to the police force.

Clause 4: Amendment of s. 6—Commissioner to report, etc., to Attorney-General

This clause amends section 6 of the principal Act to require the Commissioner to include in his or her annual report to the Attorney-General—

- the number of occasions on which members of the police force intercepted communications in reliance on section 7(4) or (5) of the Commonwealth Act;

Note: These provisions allow police to intercept a communication without a warrant in urgent cases where there are reasonable grounds for suspecting that a party to the communication has done an act that has resulted, or may result, in loss of life or serious personal injury, or has threatened to kill himself or herself or another person or seriously endanger himself or herself or another person, or seriously damage property.

- the total expenditure (including that of a capital nature) incurred by the police force in connection with the execution of warrants during the year to which the report relates.

Clause 5: Insertion of s. 9A—Exchange of information between Police Complaints Authority and Commonwealth Ombudsman

This proposed section authorises the Police Complaints Authority to give information obtained under section 9 of the Act to the Commonwealth Ombudsman if the Authority is satisfied that the giving of the information is relevant to the performance of the Commonwealth Ombudsman's functions under the Commonwealth Act.

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

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this Bill be now read a second time.

This Bill amends the appeal provisions in the Criminal Law Consolidation Act 1935 in three important ways as well as making minor tidying-up amendments.

The provisions of the Bill clarify the rights of appeal by the Director of Public Prosecutions and defendants when applications are made for stay of proceedings on the basis that they constitute an abuse of process. They also clarify the right of a court to reserve a question of law before or during a trial for consideration and determination by the Full Court. A trial court may stay a trial, either permanently or until the happening of some event, on the ground that the proceedings are an abuse of the process of the court.

A permanent stay of proceedings puts an end, in effect, to criminal proceedings. A permanent stay is commonly granted on grounds of policy often associated with the conduct of the prosecuting authorities or the prospects of a fair trial. The effect may be to bring to an end a prosecution which the Director of Public Prosecutions considers to be important. The Director of Public Prosecutions has no right to appeal against a stay of proceedings. It is unsatisfactory that the unappealable decision of a single judge may constitute an insuperable obstacle to further proceedings. The need to confer a right of appeal on the Director of Public Prosecutions against a stay of proceedings has assumed major importance

since the decision of the High Court in *Dietrich v. R* (1993) 67 ALJR 1. In that case the High Court held that, in the absence of exceptional circumstances, a trial should be stayed where an indigent accused charged with a serious offence is denied legal representation at public expense where he or she is, through no fault of his or her own, unable to meet the cost of representation.

Clause 4 of the Bill amends section 350 of the Act to empower a court of trial to reserve for the consideration and determination by the Full court any question of law on an issue antecedent to trial. The term 'issue antecedent to trial' is defined to mean a question as to whether proceedings should be stayed on the ground that they are an abuse of process.

Clause 6 gives the Director of Public Prosecutions a right of appeal against a decision of a judge on an issue antecedent to trial on questions of law alone. In addition, the Director of Public Prosecutions may seek leave to appeal on any other ground. The defendant's right of appeal against a decision on an issue antecedent to the trial is also set out in clause 6. A defendant may obtain leave to appeal against a decision on an issue antecedent to trial. Leave can only be granted if there are special reasons why it would be in the interests of the administration of justice to have the appeal determined before the commencement or completion of the trial.

There are differences in the rights of appeal of the Director of Public Prosecutions and the defendant because of the different effect a refusal to stay proceedings has on the Director of Public Prosecutions and the defendant. A decision adverse to the Director of Public Prosecutions puts an end to the prosecution. Whereas if an accused claims that the trial judge has wrongly refused a stay he or she can appeal against any conviction on the grounds that the trial should not have proceeded. The appeal provisions recognise that it may be inconvenient to force the defendant to wait until the trial is completed but also recognise that appeals by defendants might be used as a means of delaying the trial. Section 350 has also been amended to allow a case to be stated to the Full Court on questions of law which arise before or during a trial. At present a case can only be stated after conviction.

This new power should be used rarely as it is disruptive for a jury to be empanelled and then for the trial not to proceed pending a decision of the Full Court or for the trial to be interrupted while matters are referred to the Full Court for decision. However, there are times when it would be economical of time and money for a reference to be made to the Full Court before the trial commences or before any verdict is given by the jury. Sometimes questions of law of some importance arise, which if resolved in one way, may determine the outcome of proceedings without embarking upon a full trial. Equally, a trial judge may give a ruling on a question of law during a trial which has the effect of putting an end to the Director of Public Prosecutions' case. This new provision will enable the Full Court to rule on these questions before or during the trial.

Two other amendments of substance have been made. Section 352(1)(d) now provides that a person may, with leave of the Full Court, appeal against sentence. The Full Court in *R v. Prendegast* 147 LSJS 486 said that the court can only grant leave in relation to all the grounds of appeal against sentence. The Supreme Court Judges in their annual report have argued that leave should not be granted in relation to grounds of appeal which have no merit, only in relation to those which have merit. Hearings can be shortened by

disposing of grounds which have no merit without oral hearing. This is provided for in new section 352(1)(a)(iii).

In accordance with the Government's Law and the People Policy, new section 352(1)(b) gives the Director of Public Prosecutions a right to appeal against an acquittal in cases heard by a judge sitting alone. The Crown has no right of appeal against an acquittal of an accused person whether the acquittal is by judge or jury. In Magistrates Courts where the decision to acquit is made by one person, the Magistrate, the Crown has a right of appeal. When a person elects to be tried by judge alone, no matter how wrong an acquittal may be on the evidence, a decision by one person means that an accused person goes free. To provide the Crown with a right of appeal against a decision by a judge to acquit an offender would provide an important check on the judge's decision. The court on hearing an appeal against an acquittal by judge alone can dismiss the appeal or allow the appeal and order a new trial.

Three minor amendments are also made to the Act. Firstly, section 357 which deals with the time for giving notice of an appeal and the manner in which the case is presented is recast to provide that these matters are to be governed by Rules of Court. This is in accordance with modern drafting practice.

Section 358 is repealed. This section requires the trial judge to furnish the appellate court with notes of the trial and a report giving his or her opinion on the case or on any point arising in the case. Now that shorthand transcripts are available judges no longer take or provide notes and rule 12 of the Supreme Court Criminal Appeals Rules provides for the provision of reports by the trial judge. Section 368 is also repealed. This section provides for the making of rules of court. There is provision for the making of rules of court in the Supreme Court and District Court Acts and this section is not needed.

Finally, the transitional provisions make it clear that the new provisions do not apply to where an information was laid before the amendments came into operation. I commend the Bill to honourable members and I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 348—Interpretation

This clause amends section 348 of the principal Act by inserting a number of definitions of terms used in the proposed new provisions.

Clause 4: Amendment of s. 350—Questions of law may be reserved

This clause amends section 350 of the principal Act by replacing subsection (1) and making consequential amendments to subsections (1a) and (3). Proposed new subsection (1) provides that the court hearing a charge of an indictable offence may, at any stage of the proceedings or before proceedings are commenced, reserve a question of law for determination by the Full Court on an issue antecedent to trial (ie. an application for a stay of proceedings based on an abuse of process argument) or relevant to the trial or sentencing, and the court may stay the proceedings until the question has been determined. Currently the subsection only allows for reservation of a question following conviction.

Subsection (1a) is consequentially amended to refer to questions arising 'at or before' the trial (where currently the subsection refers only to questions arising at the trial).

Subsection (3) is replaced so that it is worded consistently with new subsection (1).

Clause 5: Amendment of s. 351—Case to be stated by trial judge and powers of Full Court

This makes a number of consequential amendments to section 351 of the principal Act. The only substantive changes made to the section are the insertion of paragraph (ab) and the amendment to

paragraph (b), both of which were necessitated by the proposed amendments to section 350 relating to the reservation of questions of law on an issue antecedent to trial and the need to give the Full Court appropriate powers to make orders following determination of the question reserved.

Clause 6: Substitution of s. 352

This clause proposes replacing section 352 of the principal Act with a new section dealing with appeal rights as follows:

352. Right of appeal in criminal cases

Subsection (1) provides that appeals lie to the Full Court as follows:

- if a person is convicted on information—
 - the person may appeal against the conviction as of right on a question of law alone or, with the leave of the Full Court or the certificate of the trial court, may appeal on any other ground;
 - the person or the DPP may appeal against sentence passed on conviction (other than a sentence fixed by law) on any ground with the leave of the Full Court;
- if a person is tried on information and acquitted and the trial was by a judge sitting alone, the DPP may appeal against the acquittal on any ground with the leave of the Full Court;
- if a court makes a decision on an issue antecedent to trial that is adverse to the prosecution, the DPP may appeal against the decision as of right, on a question of law alone or on any other ground with the leave of the Full Court;
- if a court makes a decision on an issue antecedent to trial that is adverse to the defendant—
 - the defendant may, with the leave of the trial court, appeal against the decision prior to the completion of the trial, but leave will only be granted if there are special reasons why it would be in the interests of the administration of justice to have the appeal determined before completion of the trial;
 - if convicted, the defendant may appeal against the conviction on the basis that the decision on the issue antecedent to trial was wrong.

Subsection (2) provides that if an appeal or an application for leave to appeal is made to the Full Court under this section, the Full Court may require the trial court to state a case on the questions raised and the matter will then be dealt with in the same way as if the questions had been reserved.

Clause 7: Amendment of s. 353—Determination of appeals in ordinary cases

This clause amends section 353 of the principal Act to deal with the additional appeal subjects included in new section 352 (ie. appeals against acquittal brought by the DPP and appeals against a decision on an issue antecedent to trial).

New subsection (2a) provides that on an appeal against acquittal brought by the DPP, the Full Court may dismiss the appeal or allow the appeal and direct a new trial and may make any necessary consequential or ancillary orders.

New subsection (3a) provides that on an appeal against a decision on an issue antecedent to trial, the Full Court may confirm, vary or reverse the decision and may make any necessary consequential or ancillary orders.

Clause 8: Substitution of s. 357

This clause substitutes a new section 357 in the principal Act. New section 357 provides that appeals to the Full Court must be made in accordance with the rules of court.

Clause 9: Repeal of s. 358

This clause repeals section 358 of the principal Act.

Clause 10: Repeal of s. 368

This clause repeals section 368 of the principal Act.

Clause 11: Transitional provision

This clause provides that the amendments effected by this Act do not apply to proceedings founded on an information laid in the Supreme or District Courts before its commencement but do apply to proceedings founded on an information laid in the Supreme or District Courts on or after its commencement.

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

**CRIMINAL LAW (SENTENCING)
(MISCELLANEOUS) AMENDMENT BILL**

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

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

That this Bill be now read a second time.

The Bill makes miscellaneous amendments to the Criminal Law (Sentencing) Act 1988. Some practical difficulties are being encountered in the operation of the Act and while those are being attended to the opportunity has been taken to make other amendments which will improve the operation of the Act. Section 18A was put in the Act in 1992. It allows a court to impose a single sentence for more than one count in an information. The section is amended to allow a single sentence to be imposed for more than one count in the information, but not necessarily for all of the counts in the information for which a defendant is convicted. Sometimes there will be good reason for a cumulative sentence to be imposed on one count whereas there should be concurrent sentences on the other counts. Section 19 of the Act sets out the limits on the sentencing power of Magistrates Courts. The section has been re-cast and substantially changed.

Section 19(1) currently provides that a court of summary jurisdiction cannot impose a sentence of imprisonment for a term exceeding seven days unless the court is constituted of a magistrate. The Australian Law Reform Commission in its Report on Aboriginal Customary Law recommended that justices of the peace should no longer have the power to imprison. In practice, justices of the peace do not impose sentences of imprisonment in South Australia. The Chief Magistrate ensures that justices of the peace only hear matters where there is no penalty of imprisonment. The new section 19(1) reflects this reality and provides that a Magistrates Court does not have the power to imprison unless it is constituted of a magistrate.

Section 19(3) now provides that a court of summary jurisdiction, in sentencing a defendant convicted of a minor indictable offence, does not have the power to impose a sentence of imprisonment or a fine that exceeds Division 5, that is, imprisonment for two years or a fine of \$8 000. This creates anomalies. The limitation on sentencing only applies to minor indictable offences and a Magistrates Court when imposing a sentence for a summary offence has unlimited sentencing power.

For example, a Magistrates Court when imposing a sentence for a forgery, which is a summary offence, could impose a sentence of life imprisonment. Further, under section 5 of the *Summary Procedure Act 1921* offences for which the maximum fine does not exceed twice a division 1 fine, that is, \$120 000, are classified as summary offences. Thus it is anomalous that a Magistrates Court cannot impose a fine of more than \$8 000 when the offence is a minor indictable offence. New section 19(3) accordingly provides that the Magistrates Court does not have the power to impose a sentence of imprisonment that exceeds division 5 or a fine that exceeds twice the amount of a division 1 fine. These limits apply regardless of whether the offence is a summary offence or a minor indictable offence and reflect the level of sentence that Parliament considered appropriate for Magistrates Courts when the classification of offences was rationalised in the *Summary Procedure Act* in 1991.

As under the old section 19, if the court considers that a sentence should be imposed which exceeds the limits

prescribed, it may remand the defendant to appear for sentence before the District Court. Equally, if the court constituted by justices of the peace is of the opinion that a sentence of imprisonment should be imposed, the court can remand the defendant to appear before a magistrate for sentencing.

Prior to the enactment of the *Criminal Law (Sentencing) Act 1988* courts could release an offender under a common law bond. The power to impose a bond at common law did not authorise the imposition of a condition to come up for sentence at some future time. Common law bonds were done away with by the *Criminal Law (Sentencing) Act* and section 39(1) of the Act provides that it is a condition of every bond that the defendant appear before the court for sentence, or conviction and sentence, if the defendant fails during the term of the bond to comply with a condition of the bond.

The Supreme Court judges, in their 1993 annual report, recommended that section 39(1) be amended to make the condition to appear for sentence, or conviction and sentence, optional. A person who entered into a bond which did not contain this condition would be liable to forfeit the whole or part of the sum specified in the bond in the event of non-compliance with a condition of the bond. Such an amendment would, in effect, authorise the imposition of 'a suspended fine' and thereby increase the sentencing options available. Amendments to section 42 make it clear that a court can only impose a bond without any condition that the defendant appear for sentence, or conviction if the court does not impose any other conditions under section 42 of the Act and a consequential amendment is made to section 58.

The Supreme Court judges, in their 1993 annual report, also recommended that section 42(3) be repealed. Section 42(3) provides that a court must not include a condition in a bond requiring performance of community service except where the bond is entered into as a pre-condition of the suspension of a sentence of imprisonment. The judges consider that in some circumstances it is appropriate to impose a community service order when releasing an offender on a bond. In the event of the offender breaching a condition of the bond, the court, in sentencing the offender, could take into account the community service order and the extent of compliance with the order.

Section 42(3) was included in the Act for resource reasons. It was not clear how much demand there would be for community service and this was one way of limiting the demand. Any increase in community service hours that will eventuate if section 42(3) is repealed can be handled by the Department for Correctional Services now.

Section 45 of the Act provides that a court must not sentence a defendant to community service, or include community service as a condition of a bond, unless the court is satisfied, on a report of an employee in the Department of Correctional Services, that there is, or will be within a reasonable time, a placement for the defendant at a community service centre reasonably accessible to the defendant. In two recent judgments the Supreme Court has held that a magistrate was in error in imposing an order for community service without first obtaining a report on the availability of a placement at a community service centre.

For many years magistrates have been informed by the Department for Correctional Services that placements are available for any persons sentenced in the metropolitan area and there is no need to obtain a report in each case. If a report is to be obtained the matter needs to be adjourned and the defendant, the court and the department are put to significant

expense even though the result of the report is known before it is asked for. The practice remains in remote country regions of magistrates obtaining information from the department as to the availability of service projects which are accessible to the defendant.

Given the way community service operates in practice, section 45 can be repealed. The practice of magistrates obtaining information from the department as to the availability of community service projects in the country will continue and the Chief Magistrate has agreed that a reminder to magistrates to check on the availability of community service work in country areas should be included in the magistrate's bench book.

Currently some 300 'special needs' category community service workers are placed in suitable work catering for a wide range of disabilities, however the occasion does arise where a person cannot be accommodated. Accordingly, new section 45 provides that, if the Chief Executive Officer of the Department for Correctional Services notifies the court that suitable community service work cannot be found for a defendant because of his or her physical or mental infirmity, the matter can be brought back before the court for further sentencing.

The operation of section 57(4) has caused problems. Section 57(4) originally provided that, where a person on a bond entered into pursuant to an order of a superior court is convicted of an offence in an inferior court, the inferior court must remand the offender to the superior court for sentence for the offence where any breach of the bond could be dealt with in conjunction with imposing a penalty for the offence found proven in the inferior court.

The effect of this provision was that even though a magistrate had had, for example, a three-day trial he or she could not sentence the offender for the offence. There was also the problem that a magistrate may not have been aware of the bond and sentenced an offender who should have been remanded to the superior court.

The section was amended in 1992 and section 57(4) now deals only with superior courts dealing with breaches of bonds entered into pursuant to an order of an inferior court. Where a person on a bond entered into pursuant to an order of a superior court is found guilty of an offence by an inferior court, separate proceedings for the estreatment of bonds must now be instituted in the superior court. The efficiency of an offender being remanded to the superior court to be dealt with for the breach of the bond has been lost.

New section 57(4) provides a solution which preserves the advantages and overcomes the difficulties of the original section 57(4). It provides that the inferior court can either sentence for the offence before it and remand the offender to the superior court to be dealt with for breach of a condition of the bond or it can remand the offender to the superior court for sentencing and to be dealt with for the breach of the bond. The amendments also recognise that the Environment, Resources and Development Court has a criminal jurisdiction. The matter of the criminal jurisdiction of that Court is under review, but this amendment is necessary for so long as it does have such a jurisdiction.

The Bill also seeks to clarify the way in which payment of a levy imposed under the *Criminal Injuries Compensation Act 1978* is enforced. At the moment, if a number of warrants of commitment are issued against a person for unpaid fines and criminal injuries compensation levies, although the Act provides that the imprisonment under the warrants is to be served cumulatively, it is not clear as to the order in which

they are to be so served. The amendment to section 61 makes it clear that the imprisonment under a warrant for an unpaid levy is to be served after all other terms have been served, thus maximising the opportunity to recover the levy from the prisoner's earnings while in prison.

Section 67 is amended to provide that community service is not an available option for 'working off' an unpaid levy.

The schedule to the Bill contains statute law revision amendments. I commend the Bill to the Council, and I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the Act by proclamation.

Clause 3: Amendment of s. 18A—Sentencing for multiple offences

This clause allows for the imposition of one sentence for all, or some, of the offences for which a defendant is convicted on the one complaint or information.

Clause 4: Substitution of s. 19

This clause re-casts section 19 of the Act which sets limitations on the sentences that can be imposed by the Magistrates Court. Only a Magistrate will be able to impose a sentence of imprisonment. The Court (however constituted) will not be able to impose a sentence of imprisonment that is greater than Division 5 (2 years) or a fine of more than \$120 000 (twice a division 1 fine). If greater sentences are warranted (and available) for any particular summary offence or minor indictable offence the matter will be referred to the District Court.

Clause 5: Amendment of s. 39—Discharge without sentence upon defendant entering into a bond

This clause provides that a defendant who enters into a bond in lieu of being sentenced will only have to appear before the court for sentencing for the original offence (in the event of breaching the bond) if the terms of the bond imposed by the court so stipulate.

Clause 6: Amendment of s. 42—Conditions of bond

This clause provides that further conditions (other than the condition to be of good behaviour) cannot be included in a bond where the defendant is not required to appear before the Court for sentencing for the original offence in the event of breaching the bond. The current restriction in subsection (3) that a community service condition cannot be included in a bond, except a bond imposed in connection with the suspension of a sentence of imprisonment, is removed.

Clause 7: Substitution of s. 45

This clause substitutes section 45. The old section required a court to find out whether a community service placement was available for a defendant before he or she could be required to perform community service. The new section simply obliges the CEO of the Department of Correctional Services to notify the sentencing court if a placement is not available because of the defendant's infirmity, in which case the court may require the defendant to appear before it for further sentencing.

Clause 8: Amendment of s. 57—Non-compliance with bond

This clause provides that where a probationer is found guilty of an offence by a court that is of an inferior jurisdiction to that of the probative court, the court of inferior jurisdiction has two options. Either it must sentence the defendant for the offence and remand him or her to the probative court to be dealt with for breach of bond, or it must remand the defendant to the probative to be both sentenced and dealt with for breach of bond. 'Court of an inferior jurisdiction' is defined. Both definitions in this section now recognise that the Environment, Resources and Development Court has a criminal jurisdiction.

Clause 9: Amendment of s. 58—Orders that court may make on breach of bond

This clause is a consequential amendment (see clause 5).

Clause 10: Amendment of s. 61—Imprisonment or detention in default of payment

This clause provides that the imprisonment to be served under a warrant issued for an unpaid levy under the *Criminal Injuries Compensation Act 1978* is to be served after all other terms of imprisonment to which the person is liable have been served.

Clause 11: Amendment of s. 67—Application to work off pecuniary sums by community service

This clause provides that section 67 does not apply to a levy payable under the *Criminal Injuries Compensation Act 1978*.

Clause 12: Statute law revision amendments

This clause refers to the further amendments contained in the schedule.

Schedule

The schedule contains sundry amendments of a statute revision nature that bring the language of the Act into line with modern drafting standards and remove or replace obsolete references. None of them effects substantive changes.

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

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 27 September. Page 59.)

The Hon. M.S. FELEPPA: I readily join the previous speakers, the Hon. Dr Pfitzner and the Hon. Jamie Irwin, in the expressions of goodwill that they extended to Her Excellency the Governor for the opening of this new session of Parliament. Also, I join Her Excellency in the tributes which she paid to the late Hon. Gordon Bruce, Jack Jennings and Mr Howard Venning for their contribution to this Parliament.

On a much happier note, I welcome the Hon. Paul Holloway as a new member of this Council. The honourable member has been a good friend of mine for a long time. I am confident that the Hon. Mr Holloway will offer a great contribution to this Council, as he has already done the same thing previously in the House of Assembly between November 1989 and December 1993.

I am not in the position today to welcome the new member of this Council—who has already been chosen by my Party—Mr Paolo Nocella, but I am sure that will be done by you, Mr Acting President, as well as by other honourable members of this Council. In particular, I would expect the same warm welcome to come from my colleague the Hon. Julian Stefani as I gave him when he first was elected to this Council. I did it because prior to entering Parliament I shared with him, to some degree, a lot of community work. I did it knowing that he was of different political persuasion and even though I knew that from the Opposition of the Liberal bench he could have criticised the Party in Government of which I was a member. I did it above all because I was convinced that my community would have expected it of me.

As honourable members would know, this is the last opportunity that I will have to participate in this Address in Reply debate, which for me has been a great honour and a great privilege for the past 13 years. In support of the motion for the adoption of the Address in Reply, I first speak about the International Year of Tolerance sponsored by the United Nations and apply it to the whole world. It does have a particular application to Australia because of the make-up of our community.

The International Year of Tolerance is the last of three important years that have been celebrated in recent times. In 1993 there was the International Year of Indigenous People, when we paid attention to the plight and needs of the Aboriginal people. The year coincided with the debate of the Native Title Bill in the Federal Parliament, which proposed, to some extent, the establishment of the beginnings of an economic base from which the Aboriginal people can come to take a rightful place in the Australian community along with the rest of us. It is, however, not a complete solution to

the problems long suffered by the Aboriginal community: a lot of tolerance is needed.

In 1994 there was the International Year of the Family and the basis of our community and society received our complete attention. It was recognised that, if the structure of the family was to be undermined, the community structure would consequently collapse. Therefore, those measures that foster and try to improve the place and the state of the family in our society should be strengthened and broadened to ensure the survival of both family unity and our community of families. Tolerance and understanding are what is needed for the survival of our community of families. Now we have the International Year of Tolerance, which draws the two previous celebrations together and should result in great harmony and peace in the community.

Tolerance is not something that can be forced upon people by passing different laws; it has to spring from people's minds with heartfelt empathy and sympathy for others, whoever they might be. We can talk about tolerance for sure, but in reality it is something that should spring from the mind of our people and is abstracted from what one feels and what one does in everyday life. In itself, it is not something that is sufficiently concrete and observable. Tolerance is a practice, but even as a practice it does not exhibit itself but is simply a background against which we daily live our lives. Attempts have been made to lead us to great legal tolerance, such as racial discrimination laws, racial hatred laws, equal opportunity laws, sex discrimination laws and the human rights laws, just to name a few. All these simply point to the way in which we should lead our lives. It is for each of us, therefore, to choose whether or not we take the path of tolerance or bear the consequence finally.

The laws to which I refer may carry some criminal sanctions, but these are needed only where there is a stubborn and unrelenting resistance to tolerance as a social necessity. Intolerance is simply not the opposite of tolerance. Intolerance itself is a positive attitude that springs from stirred up emotions when one observes the differences in other people, or in other groups of people, and when one does not know how to cope honestly with these troublesome feelings. When one is confronted with this difference, the basic response automatically is fear: fear that this difference might have some real effect on oneself. This fear may arise from some prejudice that one tried to harbour, having formed opinions from ill-conceived impressions, stories that one heard or one's own experiences. These fears may have a hidden source finally in one's psyche, residing there and colouring all one's opinions about those who appear to be different. Fear may be clearly recognised where one sees oneself economically disadvantaged by the rights of others or by favourable treatment given to others who have special needs. Whatever the cause and the understanding of such fears, they can well lead to hostility, antagonism and even open conflict and hatred of individuals who are seen to be a threat to all of us.

The unfortunate effect of intolerance is that it is observable and unfortunately attracts some attention. Intolerance rather than tolerance tends unfortunately to attract media attention, and in media presentations intolerance may be slanted as a justified attitude, and this forms further intolerance and generates further media coverage. The seemingly justified intolerance coming from media can further infect the media and opinions of the public, and finally will possibly perpetuate that which should not be tolerated at all.

Looking at our community over the past years and decades, we have definitely become a multicultural nation.

Of necessity, there must be a wide range of differences amongst those who make up our community. We are a community of mixed languages. Those who do not have English as their first language, as in my case when I came to this country, very often speak two or several other languages which they have learnt out of necessity so that they can communicate or even survive.

We are also a community of different religions. One's religion is adopted from one's parents and one's country. That religion explains best the world in which one lives, the way one should live here and now, the way one copes with suffering in this world and, finally, the hopes one has for a future life. Religious beliefs are always open to change, of course, if one finds a better and more acceptable way of approaching and explaining the meaning of life. That is freedom of religion and should be the tolerant attitude of all religions.

We are a community of mixed culture, as I have already said. In whatever community one finds oneself, there are ways of living that try to determine daily practices, relationships with one another and the celebrations of important occasions. These go to make up the groundwork for living daily life and, when clearly established, become what is called the culture of the people. It includes how people best express themselves. Also, cultures differ from nation to nation, people to people, but each has in it some elements that are common to all and other elements that are distinct but worthwhile, and this has certainly occurred in this country. Our own culture has grown by accepting new kinds of food and dress, ways of thinking and celebrating.

The diversity of languages, religions and cultures should be encouraged, therefore, if one sees them contributing to the growth of our national culture. For that reason, I believe they should all be tolerated for the benefit of this country and for the benefit of us all. The solution to intolerance can become simple if one is prepared to make the effort, and I will perhaps come to that point a little later.

Concerning the last of the differences, we are a community of different races and different nationalities. The differences between races unfortunately are the most conspicuous of all the differences. Some differences can be observed at a glance: the colour of the skin, for example, the shape of the face, facial features, the head of hair, the height or the way one walks. Each of these can be easily noticeable, even before a person speaks or lets their thoughts be known. Appearances cannot change; they are static. Ageing may make some differences, but traces of earlier appearances will still remain.

It is on social appearance that people are judged so easily, and such judgments can so often be wrong. They can be thought to be sinister because they are different. They can be thought to be responsive if they fend off rebuffs by being reserved. Because of these factors, they are treated with intolerance which drives them further to retract from association with other people. They are then thought to be suspicious characters and probably treacherous and certainly inferior.

Finally, intolerance engenders the supposition that they are not one of us and therefore do not equate with our sense of fair go for all on which we Australians pride ourselves. So that intolerance can be overcome and a positive tolerance take its place, the values that can be found in the human rights and democracy should be encouraged so that there will be a civil peace stemming from tolerance. If human rights are extended to one of us, then in all fairness human rights should be

extended to all, no matter what is a person's race, creed, culture, language or religion.

Democracy for all always allows each and everyone equal contribution to the running of the country. Under a representative Government, each has the opportunity to choose by whom they wish to be represented. Each, in theory at least, may be chosen as a representative, and this is the basis of a tolerant democracy. To be otherwise is to be politically intolerant to start with. Progress in the community and throughout the country can be achieved if tolerance and peace go hand in hand.

What then is the solution to intolerance and the promotion of tolerance? In my view, there is education. By that, I mean that we need to learn to better understand that behind the facade of all these persons who seem to be different from me in appearance, language, dress, culture, habits and religious expression there is a person who is more like me than I am first prepared to admit. What differences we have are accidental and not fundamental. If I do not come to know them better, it does not follow that they are inferior to me. To presume my superiority may, in fact, hide some inferiority in me, and I would be inferior simply because I am intolerant. If I presume my superiority, I am doing myself a grave injustice and possibly a mental injury. I endure my personality by being intolerant. That injury would have to heal before I could become truly and honestly tolerant.

It is all very well to speak of education in tolerance, but what can motivate a person to be tolerant? A frank and honest admission that we try to harbour some degree of intolerance and a sincere desire to be tolerant should motivate us to find a solution. Unless we are prepared to meet those who are perceived to be different and meet them face to face, we never, unfortunately, overcome intolerance.

At this point, I think I should comment on a particular instance of intolerance that I found very disturbing indeed. A short article in the *Advertiser* of 19 June 1995 quotes the Anglican Archbishop of Perth, the Most Reverend Dr Peter Carnley, as saying that tolerance may not be a good thing.

The article reported him but fortunately the media do not support him, and I thank them for that. That tolerance may not be a good thing seems to be an extraordinary comment, especially when coming from Dr Carnley, representing the church community. He does admit that tolerance of religions is a good thing, but he goes on to reason that:

Tolerance in Australia could be a hindrance to reaching moral truths in the community.

His view turns on the point that:

We have a highly individual approach to life in Australia, in which the individual is left to work out his or her own destiny.

What Archbishop Carnley is saying here is that as individuals in this twentieth century we cannot be trusted to think for ourselves and arrive at a moral answer, prompted by our own consciences. He expects that we should accept without question what he and others in like positions say is the moral truth. That is admitting intolerance on the part of religions, and springs from a sense of religious superiority on the part of Archbishop Carnley. The intolerance springs also from the attitude that religions invented morality because all religions have an ethical dimension. I am of the impression that he is claiming that morality belongs to religions. The implication is that authority belongs to his religion as The Religion.

To convey an understanding of morality goes deeper than religion. As you would agree with me, Madam Acting President, morality is implanted in the human psyche and was

and is always there, prompting our judgment and decisions through our conscience. The truths are there and are common to all. Unfortunately, what can be said is that morality is fragile and influenced by the culture and society in which we live. Moral judgments can be bent and twisted, as it were, by seemingly rational arguments, as we have seen, for example, in the debate on abortion, prostitution and, more recently, euthanasia. The arguments are plausible, with such a strong but wrong emphasis that the moral aspect is lost from view. However, these twisted and bent arguments always lack a ringing and truly honest conviction. A lingering doubt always remains. It was the lingering doubts that defeated the euthanasia and prostitution Bills recently in this Parliament, and I am convinced that the same doubt should have defeated the abortion Bill.

In their ethical division religions have a duty to teach moral truths, warn the people and encourage right responses to the prompting of our conscience. I am afraid that Archbishop Carnley's attitude is a gross intolerance of most individuals' ability to make a valid and sound moral judgment. History has shown at times that religions have failed in their work of teaching morality. We should let an honest conscience be our guide in our daily life. Fortunately, morality is resilient. Eventually, moral judgments are given assent. Most people resist the twisted arguments and respond to the moral truth behind an issue, even if it means some cost to themselves. Fortunately, if the twisted moral judgment is tolerated for a time, in the end the response will be 'Enough is enough'. Where intolerance prevails we will come to say, 'For the sake of justice, peace and progress, we must be tolerant.'

A clear case in point concerning tolerance is the Mabo determination of the High Court of Australia. The moral judgment in that determination is that Aborigines have always had a claim to land. Native title recognises Aboriginal culture and gives something of a base from which Aborigines can develop a place in the community on just terms with the rest of the community. That is a moral judgment and should be tolerantly accepted. Resilient morality is at last prevailing. If native title is able to give Aborigines an economic base from which to progress, so much the better. Now it is for the public to adjust its response to the Mabo determination and the Native Title Act by waking the moral judgment that we know is the right judgment, if conscience is allowed its way. There should be a similar moral judgment on the part of the Aborigines. We all know that Australia has changed over the last 200 years, and we have to find a just solution so that all can progress together in harmony.

In conclusion, let me say that this International Year of Tolerance will not see the full solution to all the problems of intolerance. Having drawn attention to our lack of tolerance or limited tolerance, we can go on and grow from this starting point towards a state of heartfelt tolerance founded on a right moral judgment. Then, differences can be healed, conflicts avoided and similarities rather than differences emphasised. Fears of influence can be allayed if we meet one another and listen to one another's points of view. In conjunction with the ongoing influence over the years of the family and indigenous people, there will continue to be a flow from tolerance and harmony amongst people, peace in the community and progress for all.

At the end of my last contribution and before I resume my seat, it would be remiss of me on this last occasion if I did not acknowledge a number of people in this building. First, I wish to thank the Presiding Officer of this Council for the

assistance that he has offered me since he became President of this Council. I sincerely congratulate him on the unbiased manner in which he has conducted the proceedings of this Council, despite the uncharacteristic level of interjection which did occur sometimes. I wish to thank members of the Liberal Party, the comrades and friends from my Party on this side of the Chamber, particularly my Leader, the Hon. Carolyn Pickles, and pay one special compliment to my comrade, Trevor Crothers, to whom, because of his vast knowledge of vocabulary, I appealed often enough for the right spelling of words. I also thank both my friends from the Australian Democrats, particularly Sandra, with whom every day I tried to share a civil greeting before the sitting of the Council started.

Over the years I have established in general a harmonious working relationship with members from both sides of politics, especially those with whom I had the privilege to serve the Parliament on various committees. Of course, two people are still in my memory as good friends on the committees: the late John Burdett and the late Gordon Bruce.

I have had the pleasure of working under the Hon. Robert Lawson, the Chairman of the Legislative Review Committee, who is a humble, intelligent person and who is full of knowledge in the legal area. His humble attitude has struck me most. I am sure that he will be a good member in the Parliament, as are other members. It has been easy for me to make friendships with members of this Parliament. Perhaps I was encouraged in establishing friendship by a message that was given to me by a former member of this Council, the Hon. Boyd Dawkins who, on 21 July 1982, in his last Address in Reply, said:

... I wish to welcome the Hon. Mario Feleppa as a new member. I have no doubt, seeing that the honourable member sits opposite, that we will disagree strongly in debate, but the honourable member will soon realise, if indeed he has not done so, that it is possible to be friends, although being politically opposed. I wish him well.

That message inspired strongly in me the willingness to make friends in this place, despite the politics which I believe should be done only within the parameter of these walls. I wish to thank the Clerk, Mrs Jan Davis, and her good working team for their manners and help to me over the time that I have served in this Chamber. Particularly Mrs Davis, the Clerk, despite the pressure of her work load, has always welcomed all members with a smile for their queries. The *Hansard* staff—what can I say. They are very skilled and very patient people. For many years they have put up with my funny accent and broken English jointly together, but they have always been able to report my contribution in the debates in which I have had the privilege to participate. I thank them all.

I thank also the messengers for their distinct manners and politeness. I wish also to thank the Library staff for their prompt assistance over the years. Finally, I thank the entire staff of the refreshment room, the kitchen, the Blue Room, caretakers, particularly John Sibly and Elaine Grove.

In the end, what is left for me to say? It has been a great privilege to be associated with all members of this Council. The Leader, Mr Lucas, and my Leader have led us in daily debate, and I have learnt a lot even though I have not contributed in the same manner. I will miss all of you. The past 12 years of my working life have been the most interesting part of my life. Thank you, and God bless you.

Honourable members: Hear, hear!

The Hon. ANNE LEVY secured the adjournment of the debate.

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That the Council at its rising do adjourn until Tuesday 10 October 1995 at 2.15 p.m.

I use this adjournment motion as an opportunity for me and a number of other members briefly to pay tribute to a friend and colleague, Mario Feleppa, for a last formal occasion. Time will not permit every member to contribute, because a number of members have other commitments. But having spoken to members from all Parties—Liberal, Labor and Democrat—I know that just about everyone who was available wanted to convey their personal best wishes to you, even if they are not able to speak formally as part of this motion. Whilst it is an adjournment motion it is in effect a tribute motion to you for your service.

I use the words 'friend' and 'colleague' advisedly. Mario, whilst you are nominally a member of the opposing football team or netball team, or, in this arena, political Party, I can say without fear of being contradicted by any of my colleagues (and it is perhaps rare that I can say that) that you have been looked upon by all members in this Chamber—Labor, Liberal and Democrat—as a friend and a colleague. Speaking personally, I count it as a privilege to be able to refer to you as a friend and as a colleague. On behalf of Government members (and I know a number of other members will speak), I want formally to pay tribute to your friendship and work within the Legislative Council, but more particularly your work within the broader South Australian community.

As you know, Mario, I started my political career in the early 1980s. I think about 1984 was my first recollection of a very pleasant experience serving with you on one of the great strengths of the Legislative Council, its select committee system. In those days we did not go in for MAG reports or perhaps the big bang theory in terms of local government reform but we used to look at individual amalgamations. Mario, you and I, and I think Murray Hill (but I cannot remember the other members), served on the Kadina-Wallaroo-Moonta local government select committee. That was the first occasion on which I had an opportunity to participate in a local government select committee of the Legislative Council. I had heard a bit about them; the Port Pirie one I think had been memorable for some members.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Hon. Anne Levy chuckles. I have heard many versions of that select committee from my colleagues. However, 1984 was my first experience, and it was very interesting because we had dozens of people lining up to present evidence as to why this amalgamation would not work and why the people eight kilometres or so down the road were from another land and that they could not possibly live with them. It was memorable for me because it contained members from both political Parties, and it was the first time that I saw the value and importance of the Legislative Council select committee system.

It was when I first established a friendship with Mario, who brought along—I forget the Italian name for it—some delightful Italian biscuits and other goodies which were obviously home cooked and home produced. He used to produce these items from his briefcase, bag, pocket or

wherever he was hiding them. Whenever it became tedious or we needed a bit of a break Mario would produce his home produced goodies which he would share with everybody. It was a terrific experience not only in terms of the legislative work but in terms of meeting members of other political parties and living with them through a shared experience. The social associations and arrangements that occurred during meal breaks in that time were the start—for me anyway—of a tremendous admiration for the select committee system of the Legislative Council and also a personal friendship with Mario, in 1984.

I also remember Mario being on the select committee because at the time I was a little bit nervous, not because of the select committee but because my wife was back in Adelaide and bidding at a house auction, which was actually the house that we bought. I was feeling a little bit left out due to the fact that our house purchase was being conducted by one member of the partnership and I was not there to at least have a say in where we eventually ended up in terms of the bidding arrangements and, of course, I did not know whether we were successful in terms of the purchase of that property.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: As it turned out, that is very true, but I did not know that at the time. So, I remember the select committee well, Mario, and I give that as my earliest recollection and example of what I see from my viewpoint—and I hope yours—as being 13 years of warm friendship and association as friends and colleagues in the Legislative Council. Others in this Council and on the Opposition benches will have known you for much longer wearing a different hat to that of a member of Parliament and as an active member and worker for the community. I can only give testimony to 13 years of working together in this Council but, as you know, over those 13 years you have attended many thousands of functions (particularly ethnic functions) within the community. I cannot claim to have attended as many but, as you know, wearing my hat over the years, I have attended a good number as well.

You have always been unfailingly courteous and generous in terms of the time you have spent with members of the Opposition as we were then and as members of the Government as we are now at those community functions. You were never one to hide in a corner talking to friends and colleagues without introducing someone who might have felt a little bit like a fish out of water because they did not know many people at a particular function. Without exception, you were always unfailingly courteous to me and to my colleagues on a good number of occasions and generous in terms of your time and your introductions to prominent members of your community and friends within the respective communities. I can assure you that I have never forgotten and will never forget your generosity, courteousness and friendship in terms of all of those functions that we shared together over those 13 years.

Mario, I would love to say a lot more. I have many other shared experiences but I know that many other colleagues want to speak on this occasion and I do not intend to spend an inordinate amount of time. I congratulate you for all that you have done within the Chamber and within the community. I give you my best wishes for future years. I hope that you will—and I sure you will—maintain your association and friendship with all members in this Chamber in future years. We look forward to meeting you at the community functions that lie ahead and I am sure that on occasions you will visit us again to say 'Hello.' Thank you and best wishes.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I would like to second the motion. In doing so, Mario, I note that although you will no longer be with us in this Chamber you have made it very clear—and we are very pleased to hear so—that you will continue to take a very active part in the Australian Labor Party. So, Mario, you will not be leaving the real politic: you will actually be continuing. Recently, when the *Advertiser* paid a tribute to your career in the Parliament, they misquoted me. They said that Mario had never raised his voice in Parliament: what I did say was that he had never raised his voice in anger—certainly not that I can recollect. From the ten years I have been in this Chamber I think that is a remarkable achievement which shows the perfect gentlemen that Mario is and his very good manners. Even at times when he would have been sorely tested he managed to keep his temper and maintain the dignity that this place so sorely lacks on occasion.

We have all been guilty of this kind of misbehaviour which brings this place into ill repute. If more members could take a leaf out of Mario's book and behave like him then perhaps members of Parliament would have a higher credibility in the community. As a migrant, too, it is pleasing to see that someone who came to this country from the Italian community rose to the dizzy heights of being a member of the Legislative Council. The fact that Mario has held this position has been acknowledged in his own community. On the many occasions that I have gone with Mario to Italian functions I noted that he became a very different person when speaking his own language. At times, Mario should have been allowed to stand up in this place and speak in the beautiful language of Italy, because the hand motions that go with that language lend themselves well to this Chamber.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: *Hansard* might have had great difficulty with that but it might have added a little sense of occasion. We will all miss you, Mario. I would also like to pass on the good wishes from the former Leader (Hon. Chris Sumner) who I am sure shared many good occasions with you and certainly respected the work that you do, particularly in the community. As a member of Parliament you have always put the community first and your constituents first. As time goes by we will all realise that that is what we are here for: to represent the people. You have always done that and those of us who are left will remember the work that you have done. Mario, you have been a good friend to all of us. You have given us good counsel and good advice.

I can remember occasions when I have been rather exasperated by some of my colleagues and some of the members opposite and where you have often said to me, 'Calm down, take it easy.' That has been very good advice. I have not always heeded it but it was good advice. As I have said, all members of the Council hold you in high esteem and it is a measure of that high esteem that we have decided on this occasion, in an impromptu way, to have this debate so that we can all pay our tributes to you in our own way. The tributes will not end for you, Mario, because next week the Australian Labor Party will have a function where we will celebrate your years in Parliament, in the community and in the Party which, of course, are not over.

I will not be overly long in my remarks because I understand that all members on this side wish to contribute to the debate. Mario, we will miss you but I am sure that in your retirement with your wife Pia—and I am sure she is looking forward to having you at home and having more time to spend with you—you will find many rewarding and enriching

hours ahead of you and that there is a life after Parliament. You have probably taken the right step in realising this and going when you know that you can spend more time with your family. That is a very important aspect of your life because you have always been a very strong family member and have always had a closeness with your whole family. I wish you and Pia many long and happy years in retirement. We all look forward to seeing you from time to time when you come in here to have lunch with us or, perhaps on the odd occasion, to listen to the debates, as other members have done. Seeing you in the Chamber will remind us of the good example that you have set and make us think that perhaps we should emulate your style in Parliament and behave a bit better. Thank you, Mario, for your contribution to South Australia.

The Hon. K.T. GRIFFIN (Attorney-General): Many is the time when, on difficult issues, I valued the quiet words of encouragement from the Hon. Mario Feleppa, and many other members will have that same appreciation of those words of encouragement. I was here when the Hon. Mario Feleppa was sworn in and I will be here when he leaves the Chamber, but in that long period of 13 years—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: No, not for me. In that long period of 13 years I have certainly appreciated the friendship that Mario Feleppa has given to me and I have seen that reflected in other members of this Chamber. Many people outside Parliament see only the antagonism between members, particularly members of different political persuasions, and I reflect that, if that antagonism in the Chamber were carried on outside Parliament, we would never get anything done for the benefit of the State. On many occasions, Mario Feleppa and I have disagreed on some issues but, notwithstanding that, we have been able to agree on many others.

What I have appreciated most about Mario Feleppa is that, whilst he is a very staunch member of the Italian community he is, overall, a good Australian, and an Australian of Italian background who has made a significant contribution to the community. He has a very strong church background, which has given him a very strong sense of moral values, and they have been well demonstrated in a number of debates in this Parliament on very difficult conscience issues. He has always kept his word. When he said that he intended to do something, he always did it.

He is a man of integrity. He has demonstrated his compassion, and he has also demonstrated that he is, above all, a family man, respecting and appreciating the value of family support, encouragement and stability that families give to members of Parliament, who are frequently under stress. As the Hon. Robert Lucas and the Hon. Carolyn Pickles have said, he is always courteous and always level-headed, and he does not always demonstrate passionate disregard for individuals as sometimes we other members do. I have valued the very close association I have had with Mario Feleppa and I wish him and his family many long years of retirement from this Chamber, but not necessarily retirement from the political arena, where I am sure he will continue to press the views that he holds very dearly.

The Hon. M.J. ELLIOTT: I should like to reinforce the words that previous speakers have said. For eight years, in this Chamber Mario was the closest member to me in a physical sense because he sat in front of me. We had many pleasant exchanges in the Chamber and, of course, outside it.

The word 'gentleman' has already been used, and I do not think that there is anyone to whom that word could be more appropriately applied than Mario Feleppa. There is no doubt that Mario feels things deeply. There were occasions when his emotions started to break through and when he felt there were injustices. However, in this place he never allowed his feelings to get in the way of proper parliamentary process and, perhaps more than anyone else in this place, he has a true idea of how Parliament should work. I am not sure that I have ever heard Mario interject in the almost 10 years that I have been here. He certainly upholds the principles that are important in Parliament. He has not allowed his Party politics to get in the way of genuine communication with all people and, while he has not been non-political in that sense, he has been a good and loyal member of his Party.

Earlier, the Hon. Mr Lucas, I think, made a comment about enjoying good moments with Mr Sumner. On occasions when Mr Sumner was the Minister for Ethnic Affairs and Mario rose to his feet to ask a question, one could see a slightly pensive look on Mr Sumner's face because, quite often, I do not think that he knew what question was coming. The Hon. Mario Feleppa has been the best representative of ethnic affairs in this place, even as a member of the Government, and occasionally he asked a question that needed to be asked, regardless of his being a member of the Government. From the look on Mr Sumner's face, those questions were not always dorothea dixers. Mario, I have enjoyed your company in this place and I have valued the contribution that you have made. I hope that your retirement is enjoyable and that you have the chance now to catch up with your family, which is something that we in this place so rarely have the opportunity to do.

The Hon. R.R. ROBERTS: It has been said that Mario Feleppa is a gentleman, he is friendly, he is courteous and he is humble. Some of the words that one does not hear attributed to the Hon. Mario Feleppa are 'dogged' and 'tough'. The other thing that has not been acknowledged to any great extent is how hard Mario works. In his own way today, Mario half apologised that he had not made a great contribution to many debates but, as a person who shared a secretary with Mario Feleppa for nearly six years, I am fully aware of the hard work that Mario does in the community. When I say that he is dogged, I have seen him in a lot of campaigns on issues on which he has felt passionate and he has used the ministry and the parliamentary system to its fullest extent. He has gone to his colleagues and explained the situation and has relied on them to pursue the debates with him. A couple of the campaigns in which I was involved with Mario Feleppa were successful, and they were led mainly by him. I have seen him take on Ministers.

As an example I will tell of a recent incident involving an immigration matter. Despite denials from the highest officers in this country who said that nothing could be done, Mario was convinced that he was right, so he took them on and I was very pleased to be with the recipients of Mario's hard work to see them pass on their appreciation to Mario Feleppa.

Our joint secretary once said to me, 'Once he takes up an issue he is like a dog with a bone, and he never gives it away until the job has been done.' The Hon. Mario Feleppa has been hard-working in the area of multicultural and ethnic affairs and the contribution that he has made in that area with the Hon. Chris Sumner has been mentioned. I am certain that, if the Hon. Chris Sumner was present, he would be the first

to confirm that much of the work that he was able to do was in no small part due to the efforts of the Hon. Mario Feleppa.

The Labor Party is extremely proud of its record in the area of multicultural and ethnic affairs, and everyone on this side of the Council attributes most of that success to the counsel and advice given by the Hon. Mario Feleppa. The Hon. Chris Sumner was decorated for the work he did in the Italian community and was recognised by the Italian Government. I am certain that the Hon. Chris Sumner would be thankful for the help and advice which he received from the Hon. Mario Feleppa and which allowed him to receive that decoration.

One other issue I raise is how tough and resilient the Hon. Mario Feleppa has demonstrated himself to be in the political situation. I refer to that all night session that we had on the introduction of poker machines. I have heard it said on the other side, on a number of occasions, how the Hon. Mario Feleppa was browbeaten for six or eight hours until he gave in. I can tell members opposite that the reverse was actually the truth. The point that the Hon. Mario Feleppa made at the outset of the debate was the one on which he settled. He was under enormous pressure from people trying to persuade him to do different things, but the honourable member in his own inimitable style knew that he was right. He stuck right the way through and was not prepared to compromise his morals or his thoughts in a conscience debate.

I know that the Hon. Mario Feleppa is a great supporter of the conscience vote. The honourable member has always participated very strongly in issues of conscience and he has always displayed the highest morals and commonsense in the way that he goes about it. In essence, at the end of the day, as I said, some people receive decorations through their work: the Hon. Mario Feleppa himself has been a decoration. The honourable member has been a decoration to multicultural affairs in South Australia, to the Labor Party and to this Legislative Council.

In conclusion, I state that the term 'good politician' is a term that the honourable member should carry. He has been able to demonstrate all those things: his being courteous, humble, hard working, dogged, tough and a good friend all the way through. The honourable member has been an achiever and, in my view, that makes him a good politician.

I thank him for his friendship and support over the years. I can remember when I handled my first Bill, the WorkCover Bill, as a shadow Minister. It was long and tortuous and, at the end of day, when I was feeling quite drained, the first person to come up and say, 'Congratulations, you have done a good job' was the Hon. Mario Feleppa. As have all other speakers, I wish him the very best in his retirement. I know the honourable member is looking forward to spending much more time with his good wife, Pia, and his grandchildren. I look forward to having a social occasion with him next week in a more quiet and personal way to thank him for his contributions to the Parliament and his friendship to me, and I hope that we continue that friendship for many years.

The Hon. ANNE LEVY: I, too, would like to pay a small tribute to the Hon. Mario Feleppa and to say farewell to him from this place with great affection and sadness. Like the Hon. Mr Griffin, I was here when the honourable member first joined us. I certainly recall his entry to the Council and have long admired the contributions that the honourable member has made throughout his time. Others have spoken of his courteousness, his integrity and his doggedness, all remarks which I would most heartily endorse.

I emphasise that the Hon. Mario Feleppa, while he often felt passionately about an issue, never attacked the person, only the policy or the issue. A search of *Hansard* will show that the Hon. Mario Feleppa has never said an unkind remark about any other member of this place, regardless of their political persuasion. He may well attack their policies and disagree fundamentally in ideology, but he never descended to attacking the individual. In this the Hon. Mario Feleppa has set us all a very good example and one which we could all emulate.

I can recall many discussions with the honourable member, not necessarily on the red leather benches, but in other rooms of this Parliament—on select committees, on other committees, both parliamentary and Party ones. I certainly recall many discussions with the honourable member on discrimination—for his part, discrimination on the basis of race or ethnicity and on my part discrimination on the basis of sex. From these discussions we both learnt a great deal.

At times, I felt I had managed to turn the Hon. Mario Feleppa into a feminist. Certainly, our views coincided considerably on the total unfairness of discrimination on what is fundamentally an irrelevant matter, be it ethnicity or sex. I have certainly enjoyed being a friend of the Hon. Mario Feleppa. The honourable member has contributed a great deal not only to the Parliament but also to the ALP, where I am sure his work to date will long be remembered. Luckily that will not be terminating as the honourable member's time in this Chamber finishes. I wish the honourable member well in his retirement. I hope he has a very long and happy retirement and that he maintains friendship with all the people with whom he has worked so closely in the past few years. We have certainly enjoyed working with the honourable member. We hope you have enjoyed working with us and we wish the honourable member all the best for the future.

The Hon. DIANA LAIDLAW (Minister for Transport): I, too, wish to add just a few words. The shortness of my contribution does not reflect on the sincerity, just the number of speakers participating in this debate. I entered this place at the same time as the Hon. Mario Feleppa. I recall that you, Mr President, also did so in 1982, along with the Hon. Robert Lucas, the Hon. Ian Gilfillan, the Hon. Mario Feleppa and me. Mr Gilfillan has gone, the Hon. Mario Feleppa is going: there are three more to go. I suspect that the Hon. Trevor Griffin may outlive us all as a diligent, conscientious and enthusiastic member of this place.

The Hon. Robert Lucas used the words 'friend and colleague', and I certainly endorse that. There have been many occasions, whether it be in Opposition or in Government, when the Hon. Mario Feleppa has given me encouragement on issues that he believed should be pursued, and I have valued and respected the confidences and also the support on numerous occasions because they were issue based.

Most recently the Hon. Mario Feleppa spoke to me about accessible transport and his pleasure to see ramps now on buses, Adelaide being the first city in Australia to have adopted such a comprehensive policy. He indicated a wish to see the performance of those ramps. I understand that his office has been contacted today and that the honourable member may be able to do so within two weeks.

The interest that he has shown in that program has been so well received by everyone in TransAdelaide and the Passenger Transport Board that they now wish to extend an invitation to all members of Parliament to see the absolute

delight on the faces of people who have had such frustration all their lives in terms of transport generally and access issues. They believe that they will now be able to see their friends get to work and generally get around the community by public transport.

The honourable member's general support for such programs, and because of his belief as a member of Parliament that one can do much through this place for people in the community, is not only appreciated by me and those two agencies I have just mentioned but is also indicative of the approach that he has taken over the past 13 years in this place. I have much respect for his contribution and wish him well.

The Hon. G. WEATHERILL: I would like to agree with every speaker who has contributed today in speaking about Mario Feleppa. He has always been very polite, day or night, but today I nearly got him going. I thought I did quite a good job today. When I saw him today, I said, 'Mario, you have to ask the first question today after the front bench; would you mind?' He replied, 'I do not have a question.' I said to him, 'If you haven't got a question, you will never ask another question in this Parliament.' Mario fled for a few seconds, and then realised what I was doing to him.

I was on the Subordinate Legislation Committee with Mario, when Mario was Chair of the committee and John Burdett was a member. It was a very good committee, and everyone on that committee really respected Mario. In particular, Mario and John had this very good relationship. John was a very honest person. With any new member appointed to that committee, he would never lead them astray. John and Mario had this friendship. I always remember on John's last day on that committee Mario arranged for the kitchen to make up a nice cake to celebrate his last day there.

I also attend many Spanish and multicultural functions in particular, and if Federal members involved in multicultural and ethnic affairs are asked whether they know Mario Feleppa, they reply that he just about drives them mad, because he is always pushing to get things done. I heard of one particular case he had recently which lasted for four years, but he finally won it! I thought that was fantastic. That was typical of Mario.

Unfortunately, he is not here today, but another person who had an awful lot of respect for Mario was Murray Hill. Mario used to teach him Italian. You would often see Murray move out of his seat and ask Mario how to pronounce certain words in preparing to attend an Italian community function.

The Hon. Diana Laidlaw: And he never misled Mr Hill?

The Hon. G. WEATHERILL: He would never mislead. Mario has been a very good friend in this Parliament, and I wish him and his family all the best for the future.

The Hon. R.D. LAWSON: I wish to add my tribute to the Hon. Mario Feleppa. We are both members of the Legislative Review Committee, and it was in that capacity that I came to know him and appreciate the qualities of which other members have spoken. The honourable member had a long association with the Legislative Review Committee which I think ought be noted on the record. He was appointed to the former Joint Committee on Subordinate Legislation in February 1986 and became the Chairperson of that committee in February 1990, taking over from the Hon. Gordon Bruce.

When the Parliamentary Committees Act came into operation, the new Legislative Review Committee was

established, and he became its first Presiding Member. He served in that capacity until February 1994 and has remained a valued member of it until this day. His service on the committee and its predecessor covers nine years and eight months, of which he served more than four years as Presiding Member.

When I had the privilege of taking over from Mario as Presiding Member, he was most helpful to me, and I came to value his wise counsel and readiness to be helpful and friendly. To use the words of the Hon. Trevor Griffin, he has a great capacity to encourage others. I have valued his integrity and courtesy. He has a great reputation in the Parliament and also in the Legislative Review Committee for his dedication and conscientiousness. In the committee, he demonstrated to me a wise appreciation of the need for a bipartisan approach to many of the tasks of the committee. He has always sought to remind the members of the committee that appropriate consideration be given to the interests of working people and members of the migrant community.

It was no surprise to me to hear Mario Feleppa's Address in Reply speech today, when he outlined his philosophy of tolerance. Nor was it any surprise to hear the generous tributes which he made to many with whom he had been associated in this Parliament. That sort of generosity is typical of the person. I express my appreciation to him for his great contribution to the Parliament and the community. I, too, wish him a long, happy and busy retirement.

The Hon. T.G. ROBERTS: I would like to add my contribution to the tributes being paid to Mario and perhaps raise a couple of issues that have stood out in my mind in relation to Mario's contribution in this Parliament. Tributes have been paid to his recognition of and support for gender issues, the Italian community and ethnic communities in South Australia generally, but he also supported and defended class arguments in relation to those people who were unable to represent their own interests. He was able to show leadership for those people.

Mario was a former metal worker who rose from the shop floor with the support and assistance of patrons. We all need patrons to get into Parliament. We are all sponsored by people through the Party structure into the parliamentary process. I do not think Mario was reluctant to enter Parliament but he was dragging his feet a little, and took some convincing that Parliament was going to be his future career. However, inevitably he fell to the wisdom of both Don Dunstan and Chris Sumner—and other colleagues—who convinced him that he would be able to play a role and perform a function in Parliament.

For working-class people, like Mario, others in this Chamber and me, with our humble origins, it does take quite a bit of convincing that there is a role to play in the parliamentary process, given that most of our activities take place at different levels. The highest accolade that one's Party can pay you is, I guess, to have the confidence that one can play a role in developing legislation to support and protect those whom one represents.

Mario entered the Parliament in 1982 after the death of Jim Dunford. Jim played a particular role, coming from an AWU background, and Mario played a different role coming from a metal worker's background. Inevitably, they tried to serve similar interests.

The other tribute I will pay to Mario is that, if one goes into his office, one would think one was going into a librarian's office. He is so methodical in the way that he

stores and collects information. He has a very ordered mind. Given different circumstances and opportunities that may have presented themselves in Italy or Australia, I am sure he would have made a very good lawyer. I am not sure whether he has ever considered that as a career, but he has a very logical, ordered mind and through this place he has been able to express a philosophical contribution while making assessments of legislation and a defence for those people whom he was elected to represent. Mario was one of the first people to come into this Parliament directly to represent Italian Australians and other migrant groups in this State. Until that time, most of the communities would express their vote through people they trusted to carry their representation into this House and, based on our previous migratory patterns, most of them were Anglo Saxon. People from different backgrounds placed a certain amount of confidence in Anglo Saxon representation and Mario changed that and showed a lot of people that the Westminster system in this State was not only for people from an Anglo Saxon background but that Parliament was a place to which all people in this State could aspire to come to make direct representation on behalf of their constituents.

From then on, a long list of broader based ethnic community representatives have come into this Parliament. We still have a long way to go in terms of weightings; there needs to be more representation from more community groups with migrant backgrounds. We now come to a position where second and third generation migrant representation is taking place, and Mario has been able to do that in a cross-over manner, being able to represent the original migrants who arrived in the two heavy patterns of migration into Australia in the 1930s and 1940s and into the 1950s and 1960s. He has also been able to take over the role and responsibility of representing the children and grandchildren of those original migrants and he is held in high esteem through those generational cross sections, which is very hard to do. It is not easy to hold the respect right across the spectrum of all generations in any political grouping, but I have noticed that, through organisations and at functions, Mario has that mark of respect.

So, I guess the time has come for Mario to rest his pen and his philosophies. He is not leaving us completely; he will be active around the Party and the Parliament. I am sure there will be knocks on the door of the Government at the State and Federal levels to take up issues on behalf of his constituents. I wish his wife a happy retirement with Mario, and I also wish Paolo Nocello all the best when he takes Mario's seat. Hopefully, we will be able to retain the cross-Party cooperation that we have had. That is another thing that Mario has brought into Parliament. 'Cross-Party' is a European expression in politics. As long as an issue has a moral and a value he will pursue it, and I hope that is still recognised by the Government. I think the same applies to the community he represented. The Italian community in particular does not play hard line factional or Party politics; it has issues it wants pursued and it is really not particular about how they are pursued and by whom, as long as there is an end result and that result has a moral base and value to it. I would hope that that cooperation can continue and I am sure Paolo will work closely with Mario and with those members on the Government benches who are prepared to work with them. I wish Mario all the business in his retirement.

The Hon. J.F. STEFANI: I wish to join other members in saying a few words in paying tribute to the Hon. Mario

Feleppa's work. I can recall that it was a function at the Italian Centre, of the South Australian Italian Association, that the Hon. Mario Feleppa said to me, 'When are you going to join me and give me a hand to do some work for the community?' It was those words of encouragement that made me think again about whether I should enter politics. I must confess that they were warm words, which reflected his nature. I speak as a colleague as well as a person from an Italian background, like Mario, who has come to this country to establish a new life. I am sure that in his way the Hon. Mario Feleppa has made that contribution to his family and also to the community. I have had the pleasure to join the Hon. Mario Feleppa on many occasions as we crossed the political spectrum at community functions, and it has always been a great pleasure to share the company and the occasions when each of us represented the political Party to which we belong.

The Hon. Mario Feleppa has always been a generous person. My wife and Mario often exchanged some conversation at tables and we reminisce about the various functions and experiences we shared. Some of them have been very pleasant, others have been rather tedious, and some of them have been under a very hot sun; nonetheless, we carried out our duties and have certainly endured the functions and also enjoyed each other's company. The Hon. Mario Feleppa has always been an extremely courteous person, and we enjoy that very much. In that bipartisan approach to the work that each of us do, it has been a great pleasure to share those occasions.

Mario Feleppa has certainly made a mark in the contributions that he has made to represent the Italo-Australian and the broader community. He has earned the wide respect of the community groups for which he has worked and, particularly, his work in Parliament has always been exemplary. I join other members in wishing him and his family a long and happy retirement. I am sure we will see Mario in this place knocking on doors telling us that we ought to take on a particular issue. I expect that of him, because he will continue to do his work for the community. I am sure that all of us wish him and Pia and his daughter and son a very happy and long life and hope he enjoys the fruit of his labour and his grandchildren in his retirement. I am sure we will see each other around.

The Hon. T. CROTHERS: I rise to pay brief tribute to my retiring colleague, the Hon. Mr Feleppa. Much has been said by previous speakers—and justly so—that in the early part of his life Mario was a very fine Italian and in another time of his life he became a very fine Australian. They were just and honest comments, but it is not just those things for which I remember him most. I think the Hon. Mario Feleppa is truly a citizen of the world, and a very fine example of that: a member of the human race; a fine human being; perhaps one of the finest I have ever known, in his practising the art of humanity.

On the very first day I came in here—and perhaps there was something symbiotic about it—I was sat down alongside the Hon. Mario Feleppa on the Government side of this Council and, on the last day of his retirement in the House, I am still sitting in the same position, albeit on the Opposition side of the Council, as when I first came in here. Perhaps the Whip of the day, Gordon Bruce—a dear, deceased colleague of both of us—well knew what he was doing. It may have been symbiosis in the fact that we sat here in excess of 8½ years and right up to tonight still continue to sit in the

same position, albeit on the opposite side of the Chamber. We are both, you see, blue collar workers: Mario was a toolmaker by trade and I a carpenter. We both were the two speakers in the Parliament with the funny accents who used to give *Hansard*—and I probably still do—a devil of a time.

The Hon. T.G. Roberts: We can understand that!

The Hon. T. CROTHERS: We cannot understand you, and I am coming to you in a minute. Perhaps there was something symbiotic about those matters. As I have said, it is as a member of the human race that I believe Mario Feleppa will be remembered by all. New settlers who arrive in South Australia, although they may not realise it, have lost a very good friend, a person who did not know when to give up if he thought that there had been an infraction of justice, a respecter for the fact as to whether the new arrival had been here one week, had yet to arrive or had been here 10 years, or whatever. I think that South Australia, in general terms, is the poorer for his early retirement that he is taking today.

I think—and I say I think—that he paid me a very great compliment when he said that I had some competency in English spelling. I think that was a compliment: I am not sure whether or not it was, but I thank him for it. I do not wish to say too much more than that because I think that most of what I would say has been said, and if I have assisted with my small contribution to the remembrances of all members of Mario then I am more than gratified to keep my contribution to a minimum.

I shall miss him: we all shall miss him. The South Australian community shall miss him. I know that some of my colleagues may not miss him, particularly because he, from time to time, would take them to task when he perceived that an injustice had been done. Mario Feleppa, you are a credit to the human race and you are a credit all round. I shall miss you sorely. Perhaps you may not miss me so much, being too loquacious as I am, but I shall miss you sorely.

The Hon. BERNICE PFITZNER: I would like to make a small contribution to say farewell to Mario. I remember when I first came here that there was a sea of faces congratulating me, but I shall never forget Mr Feleppa's face beaming at me and saying, I felt, from the bottom of his heart, 'Congratulations, it is very nice to see an Asian face in Parliament.' We did not need to talk about ethnic things and we did not need to talk about disadvantages: we seemed to have the same wave length whenever we spoke. Had I known that Mario also supported intensely the gender issue, now that I hear that from the Hon. Anne Levy, I would have raised that with him as well.

I think that he often observed me and how I behaved in Parliament, because when I was at a low state he would come up to me and say, 'How are you? I bet you are wondering why you are here'—and sometimes he would hit the nail on the head, so to speak. Sometimes he would come to see me in my office—and I had a very tiny office at that stage—and he would say, 'Your office is no bigger than a broom cupboard. Do you know how to increase the size of the office?' He told me that he used to have a lot of visitors and that he used to talk very loudly to all his visitors and, in the end, his colleagues got fed up with him, and that is why he now has such a huge office. I took that on board.

What my colleague, the Hon. Mr Lucas, said is quite correct. During ethnic functions when we often bumped into each other he always introduced his friends to me, whether they were Labor or Liberal. Only in one area did I have a tremendous difference with Mario, and that was on the issue

of the pokies, on that very night which I shall never forget. In the end I was quite furious with Mario, and I came up to him at something like 3 a.m. and said, 'How could you do this?' In his very dignified and quiet way he said, 'Well, Bernice, I did my best.' I respected that, for all the differences we have. I wish you all the best, Mario. John often asks after you, and I am sure that John also would give his very best to you for the future.

The Hon. P. HOLLOWAY: I will make my comments very brief as my time in this Chamber has been brief. It is now just three days that I have had the privilege of being a colleague of Mario within the Legislative Council, but I was for some years a colleague of Mario within the ALP Caucus and within the Party. During that time I came to value Mario's friendship and his wise advice. Mario is a person of great internal strength. He is a man of great compassion and he has always behaved himself with great dignity, as other members have testified here this afternoon. I would like to wish Mario a long, healthy, productive and enjoyable retirement. I look forward to seeing him not only around this place but around Party circles for a long time to come yet. As you leave this Parliament, I think you can do so secure in the knowledge that the South Australian community is a much better place for your contribution here.

The Hon. J.C. IRWIN: I am pleased to join those of my colleagues who have already paid tribute to the Hon. Mario Feleppa on the time he has spent in this Council and in service to the people of the community of the State and to his Party. I would like recorded that the Hon. Legh Davis, who is presently overseas and the Hon. Angus Redford, who cannot be here, would like to join with their colleagues in expressing their appreciation for the years of friendship you have given them, particularly Legh Davis, who, I guess, came in just a few years before you in 1978 I think. It is hard to believe that you and I have been colleagues in here now for almost 10 years. That time has gone by very quickly. I can recall, I think in my first contribution in this place from the other side saying, much as the Hon. Trevor Griffin has said today, that although some of our debates in here are combative there is probably 80 per cent of the time when they are not and they are good and sensible debates trying to get a good answer. Luckily Governments of any persuasion—Liberal or Labor—do take the advice of the Council at times and not just follow their own noses. At the end of the day, one tends to feel that in this Council, from whatever side you are on, you are part of a team and doing work for the State. I very much felt that with you, Mario. I pay tribute to you on your contribution to this place.

It was interesting that the Hon. Mario Feleppa's Address in Reply speech today concerned the Year of Tolerance—and other members have mentioned that. I have always found you to be a very tolerant, obliging—and all the other words expressed today—gentleman and gentle person. I very much appreciated knowing you and being able to learn from your experience. I wish you and your wife well in retirement. It seems silly to say 'in retirement' because I think you just go on doing things. So, on leaving this place for another life I wish you well over many happy years in that area.

The Hon. SANDRA KANCK: In the reasonably short time I have been in this Chamber Mario has been my closest neighbour. Each sitting day, when the bells go and I do not hear them in my office across the road and have to rush over

here, almost inevitably Mario is already in the Chamber before me and, without fail, has always turned around and welcomed me. Sometimes it has been in the form of a 'Hello,' sometimes a 'How are you?' and sometimes a 'Chow.' But whatever it has been it has always been welcoming. He has probably been the most welcoming person in this Chamber. I have really appreciated the warmth of that, Mario. When I found out that Mario was leaving I met him in the car park and said to him that I expected his replacement would have to be someone just as polite and well mannered as he was. He assured me that his replacement would be even more well mannered than him. I find it almost impossible to believe that anyone on this earth is better mannered than Mario.

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: Absolutely! So, Mario, I really value the warmth and friendship that you have offered in the time I have been here. I wish you an absolutely wonderful retirement. As the Hon. Jamie Irwin said, it probably will not be a retirement but it will give you that time to be with your family. I would just say: enjoy it all as much as you can.

The PRESIDENT: I address my brief remarks to you, Mario, by saying how much poorer I think Australia, South Australia, this Parliament, and certainly I, would be had we not had the pleasure of meeting you and being in your company. It is nearly 13 years since I met you, Mario, and what has been said by other members is definitely true. The only thing that causes me some pain is that when you leave I will become the oldest member in this Chamber and will have to carry that mantle. You have represented your people superbly in the way that you came here as a toolmaker when people of that trade were very scarce at General Motors-Holden's. You filled that position, obviously rose in the ranks of the union movement and were chosen to enter this Parliament.

I think Mario feels that his language has been an impediment to him but if members read his speeches they will see that his thought processes were particularly good. Mario would quite often visit my room and we would have a bit of a chat about different matters. Mario continued to do that when I took the role of President. Can I say a particular 'Thanks' to you, Mario. I have called you my deputy which I think is a right and proper handle to put on it. Every time I have nodded, winked or whatever, Mario has come to my aid and assisted me. This Chamber does not have an official deputy and Mario has always been most helpful by sitting in the Chair for long hours when necessary. I have always enjoyed Mario's family values. Mario has served the people of his new country—I guess it is not new now—above and beyond the normal. I wish Mario and Pia God's richest blessing.

The Hon. M.S. FELEPPA: I will not respond to each and every kind comment that friends and members have made in relation to my departure from this Chamber. I thank you, Sir, for the privilege to work as temporary Acting President. It has been a privilege to relieve you from the Chair. Many times I have wondered whether one person as a Presiding Officer can stick to the Chair for such a long time. The comments which have been made by all members tonight have certainly touched me and I will remember those words. Perhaps I will read them over and again. I do not know whether or not I will be able to include them in a book, because I have no intention to write a book; rather, I would like to work with my tools for a little while and feel the relaxation of outside life. I thank you all for the kindness manifested upon me right up to the last moment and for assisting me in such a wonderful way. Goodbye to you all.

Motion carried.

At 5.31 p.m. the Council adjourned until Tuesday 10 October at 2.15 p.m.