LEGISLATIVE COUNCIL

Wednesday 8 November 2000

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the fourth report of the committee 2000-01.

PASSENGER TRANSPORT ACT

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement on the subject of a review of the Passenger Transport Act.

Leave granted.

The Hon. DIANA LAIDLAW: In line with the state government's obligations as part of the national competition policy principles agreement (April 1995), a review has been undertaken of the Passenger Transport Act 1994 and the operations of the Passenger Transport Board. The review, conducted by B. Halliday and Associates, assessed whether the act incorporates any restrictions to competition and, if so, whether such restrictions provide more benefit to the public than the costs of such limitations to industry. The review concluded that there is no need for major change to the act to meet competition principles. I seek leave to table a copy of the report.

Leave granted.

The Hon. DIANA LAIDLAW: As members will recall, the Passenger Transport Act addresses the provision and integration of a wide range of land-based passenger transport modes: buses and coaches in the metropolitan area and the country; metropolitan trains and trams; and taxis and small passenger vehicles or hire cars. In addition, the board has various regulating roles related to ticketing and fares, accreditation, licensing, monitoring and inspections to ensure safety standards, complaint resolution and the provision of infrastructure such as signage.

In undertaking the review last year submissions were sought and workshops held, which in turn formed the basis of a discussion paper of issues, which was the subject of further consultation. Finally, the review was thoroughly, even painstakingly, assessed by the Economic Reform Branch of the Department of Premier and Cabinet and, subject to clarification that the hire vehicle industry regulations are designed to service public safety, training and vehicle standard issues, and for no other anti-competitive purpose, the branch 'signed off' the review as complying with the Competition Principles Agreement.

The Halliday review, however, did make 10 recommendations, all of which are administrative and policy matters related to the implementation and monitoring of provisions of the act by the Passenger Transport Board. The 10 matters include:

- Four accreditation issues ranging from a proposed common accreditation system in South Australia for all bus drivers (including drivers of school buses and community services) to mutual recognition of bus driver and operator accreditation across Australia;
- The operation of taxi and small passenger vehicle services outside the Adelaide metropolitan area;
- Equity principles in contracting out regular route services;
- Service contract exemptions granted to operators of regular passenger services;
- The tendering of all or part of the metropolitan rail services;
- The general restriction on the use of the SA Transport Subsidy Scheme vouchers to taxi services; and
- The prohibition of roof-top advertising signs on taxis.

In relation to all 10 recommendations arising from the Halliday review, I have asked the Passenger Transport Board, in consultation with industry groups, to assess each matter and report to me by no later than the end of April 2001. In the meantime, I can advise that, in terms of the metropolitan rail system, TransAdelaide has undertaken a tendering process for both the cleaning and maintenance of rail cars and is now well advanced in finalising a five-year contract with the PTB for the operation of services with a right of renewal dependent on meeting performance targets.

Briefly, I also wish to address a number of issues relating to the taxi industry. Specifically, the Halliday review concluded (page 60):

> . . . although the taxi industry appears heavily protected and competition severely restricted by the presence of a set number of licences. . . some degree of protection of the industry is necessary because of passenger safety, cost structure issues and social justice implications.

The review also highlighted:

> . . . there are sufficient dynamics in the system and the environment for the taxi industry to be unable to hide behind the seeming protection of taxi licences.

And further:

> . . . under the current regulatory system, the taxi industry will need to be innovative and resourceful to sustain reasonable market share, and as such there is no substantial need to change the existing regulatory system.

The government agrees with these conclusions. Today I also advise that the following measures of interest to the taxi industry will be pursued, or are under consideration, by the government.

Training for drivers of small passenger vehicles.

From this month a pilot course, developed in consultation with the industry, will be conducted for a cross-section of current drivers of small passenger vehicles. The course will include regulations, codes of practice, knowledge of major traffic routes and tourism sites, assistance with passengers with disabilities and general driving training. A mandatory course for new drivers will commence from early 2001.

Adelaide baseline taxi study.

A further baseline study will commence shortly to monitor the issues in the taxi industry and changing trends—ranging from revenue, work performed and the impact of the GST and other costs, including fuel pricing. The data collected from this will be assessed against the finding of baseline studies undertaken in 1996 and 1998—and on past occasions considered in terms of the issue of licences.

South Australian Taxi Council.

Recently a proposal was forwarded to me by representatives of the taxi industry to establish a South Australian Taxi Council—as a broadly based single industry body. The proposal is timely in the context of the Halliday report's reference to the need for the taxi industry '. . . to be innovative and resourceful to sustain market share'. I now propose to explore the option further, including part-funding for the council from accreditation fees so that all drivers and operators feel they have a greater say and a shared role and

responsibility in promoting best practice across the taxi industry, including training, service standards, tourism, marketing, industry and government liaison.

Surveillance cameras.

Further to a Taxi Industry Task Force recommendation regarding safety, I announced in July 1999 a plan for all taxis to be fitted with a surveillance camera by July 2001. Discussions with the industry and the PTB have been progressing well, and the measure will be formalised shortly through regulations. I am advised that the 1 per cent safety levy on fares that has been collected by taxis since 1997 will be sufficient to pay for the installation of the cameras.

SA Transport Subsidy Scheme (SATSS).

Work is progressing on the Halliday recommendation that the PTB assess the merits of extending the SATSS voucher scheme to non-taxi service providers. This work will be completed no later than the end of April 2001 as part of a wider PTB evaluation of SATSS. Currently, there are more than 62 350 members of the scheme, all of whom have been assessed with physical or mobility disabilities that do not allow them to use public transport.

Members are entitled to 60 vouchers every six months to a maximum value of $30 per taxi trip. In 1999-2000 the government provided $6.354 million for 941,000 taxi trips. The estimated value of the subsidies this financial year is $8.5 million. I advise that the rapidly rising cost of the scheme—and the issue of accountability and audit trials for the use of public funds through the taxi meter—will be considered by the PTB in assessing the Halliday recommendation regarding the use of non-taxi, non-metered passenger services for SATSS purposes.

In conclusion, I acknowledge the sensitivity of competition issues in the passenger transport sector and highlight again that the Halliday review found no need for major change to the act to meet competition principles. However, arising from the review the government is required to address 10 essentially administrative and policy recommendations—and the Passenger Transport Board will undertake this task promptly, in consultation with industry sectors. Copies of the Halliday review are available on the Passenger Transport Board website, and copies of the executive summary and 10 recommendations have been forwarded today to everyone who participated in the review process.

QUESTION TIME

TRANSPORT, EXPIATION NOTICES

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Transport a question about fare evasion.

Leave granted.

The Hon. P. HOLLOWAY: I refer to media reports which suggest that the government has been forced to change its fare evasion program and waive the $167 on-the-spot fine for people failing to carry concession cards on public transport. The minister has also advised that existing fines will stand and reimbursements will not be issued. This situation has a few similarities with the situation relating to the school speed zones debacle of a few years ago. My questions are:

1. Following the question by the Leader of the Opposition in the last sitting week, is the minister now in a position to report on the level of revenue collected by the government since the introduction of these measures, particularly in relation to the $167 fine for failure to present concession cards?

2. Why did it take the government four months to remedy this situation when the problems were apparent immediately?

3. Given that a number of alleged offenders are refusing to pay the fine on the basis that it is not fair, does the government intend to pursue the payment of the expiation notices through the court system?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): It is clear that the opposition either does not wish to understand or has deliberately distorted the facts, and I appreciate the opportunity to set the record straight. I understand that the honourable member is not the shadow Minister for Transport and therefore may not have followed this issue quite as closely, but if—

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: The Hon. Legh Davis may be right in his comments. What I have said to this place during question time and to the media at other times is that we would be undertaking an assessment of the practice of compulsory checks of tickets and that I would implement that assessment three months after it commenced on 2 July. In that assessment, I took account of issues that the Hon. Mr Cameron, the Hon. Sandra Kanck and other members of parliament had raised with me.

I spoke widely with passenger service assistants and with the transit police; there were consultations with customers and also with representatives of the Passenger Transport Board, which is responsible for implementing this exercise. It was clear that a number of people had been innocently caught, had innocently made a mistake. They were generally first-time users and it was in relation to having a note rather than coins to buy a ticket on the rail car, or a failure to carry a concession card. I highlight here the difficulties for the PTB and also for the passenger service attendants.

Many members of parliament and others have argued for passenger service attendants to have discretion as to who they issue with an expiation notice. I do not accept that in practice that is workable, although it may sound great in theory. So, we will continue the practice of a person without a concession card travelling on a concession ticket, who does not have the money to pay in terms of the coins to buy a ticket but who may have a note, continuing to be issued with an expiation notice. The first reason for doing this is the issue of discretion.

When the PSAs move through a rail car, every passenger's ears are pricked up to hear what the conversation involves. If, on the spot, they say that they accept that this reason is good enough in one case and then say to the passenger in the next seat that it is not, you will have a very tense situation on the train. It is better that the expiation notice be issued and forwarded to the PTB. The PTB can then develop a history of practice.

However, we have said that, in forwarding that notice to the PTB, everyone who has a note and not the coins to buy a ticket, and everyone who does not travel with a concession card when travelling on a concession ticket, will also be issued with a new blue verification note. That will enable them to go and buy a ticket at the Adelaide Railway Station, get the verification notice stamped and forward that with the expiation notice, or show their concession ticket.

Fare evasion has been most rife where people have not had their concession card but have travelled on a concession ticket. Parents or anyone else can go and buy a concession

ticket, but to travel on a concession ticket you must have a concession card. That has been the practice from time immemorial in South Australia and across Australia. Also, we know that many people deliberately carry a big note—some people do not; they inadvertently carry a big note—knowing that those notes cannot be changed on a rail car.

Where that practice is repeated and there is defiance, the people will continue to be issued with an expiation notice. This practice that we have implemented will enable the PTB to more effectively distinguish between the first time practice of people on a train not having a concession card or having a big denomination note, or indeed any note, rather than coins, to buy a ticket, and those who do it repeatedly. That has been the basis of the angst with the system as implemented. I know a few people who have not applauded the introduction of the compulsory checks of tickets, even those members who have urged us to consider a new arrangement and who supported the arrangement introduced a couple of weeks ago in relation to the issue of the verification form. I will get answers to the other questions that the honourable member asked.

BEACHPORT BOAT RAMP

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation prior to asking the Minister for Transport a question about the proposed Beachport boat ramp.

Leave granted.

The Hon. M.J. Elliott: Using the West Beach design for this are they?

The Hon. T.G. ROBERTS: Similar, slightly scaled down. I previously asked a question in this Council in relation to a proposal for an extension to the Beachport boat ramp that was being built in a sensitive part of Rivoli Bay, an area that had been previously designated for general public use, swimming for small children, and also mixed with boats being launched. It was not a safe practice very early in the morning nor was it when boats were being pulled out at night, so there was a voluntary separation, if you like, of swimmers and bathers and learn to swim children when boats were being put in and pulled out. But it was a dangerous situation and it was recognised by the Wattle Range Council and others.

An application for a new boat ramp was discussed widely in the area, but the decision for the siting has come down on the same site as the existing boat ramp. The extension of the boat ramp is quite significant and it certainly will have some impact environmentally as it will be built into a reef that now is a seagrass reef, and it certainly will take away any of the debate about whether bathers can mix with boats being launched, because it will have only the one facility. It will be boats only at that particular site.

A public meeting was held, along with a council meeting, just recently, and the council voted, I think, 4:3 to go ahead with the project in the particular site that it was designed for, as I said, in that particular area of Rivoli Bay. There is still a lot of disquiet about the downstream environmental impact and the impact on bathers, particularly children, in that area. There is some concern that if the extensions to the boat ramp go ahead we will have similar problems to what we are having in the metropolitan area where sand drift and continual build-up of sands in some areas will need future expenditure programs that will commit either the state government or local government to large amounts of continuing finance. My question is: what is the government's position on the siting of the proposed boat ramp at Beachport now that the Wattle Range council has approved the site, as stated?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member has asked a question on a matter which is complex and which is definitely generating a lot of heat in the community and interesting meetings of minds. I have met with the honourable member, the local member (Mr Mitch Williams) and the Hon. Angus Redford to discuss this issue, because all three members have major concerns not only about the environmental issues highlighted by the honourable member in relation to swimming and bathing—particularly by young children—but also safety on the outer reaches of the bay. I understand that it is not easy to launch a boat now and, on days when it is rougher in the outer bay, people may not launch their boat but, if it is made easy by this extension of the ramp as proposed by the council, a lot more people may unwittingly get into danger because of the outer reef and rougher waters.

In relation to the council's application, it is interesting that advice received from the Coastal Protection Board has changed over time. The board has indicated grave misgivings about the issue whereas the earlier advice sought and received from the Coastal Protection Board did not raise concerns at all, and it was at that time that my officers were addressing the application. Subsequently, we have received further advice from the Coastal Protection Board.

I have put a stop to consideration of the funding application by the Wattle Range council to the South Australian Recreational Boating Advisory Committee, the committee that assesses all applications and makes recommendations to me. I am of the view that, because of the importance of having a safe network of recreational boating facilities, the particular issues at Beachport and the division in the community about this ramp proposal and among government agencies, it would be a good idea if I arranged for all parties to sit down and work through this issue. So, instead of fighting it out at public meetings and through the media, and in a warfare of letters, we should sit down and find a solution that will satisfy all parties. I am quite confident that we will be able to do that.

Clearly, the council wants to spend some money and, clearly, it has an issue. The government wants to see a network of facilities that is environmentally sound and also is safe. The council has money, the government has money but we do not have a proposal that people agree on. If the honourable member is prepared to work with me and Liberal members and the council in working through this in a sensible fashion, I think we can satisfy all the needs, and it would be a reinforcement of the positive role that state members of parliament can play.

The Hon. A.J. REDFORD: I have a supplementary question. Will the minister accept congratulations on the way she is managing this matter today—and I assume the Hon. Terry Roberts's as well?

The Hon. DIANA LAIDLAW: Yes.

DRIVING LICENCES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about older persons' driving costs.

Leave granted.

The Hon. R.R. ROBERTS: During a recent public meeting in Port Pirie with Mike Rann seeking input from country constituents, the question of licence costs was raised by one of our constituents, a Port Pirie identity Mr Jock Balfour. Mr Balfour, who is in his late seventies and is unfortunate enough to have ongoing medical problems, said that the suggestion of his taking out a five-year licence was unrealistic.

The dilemma is that he is required to take out a one-year licence and has to pay to have his photo taken each year, the cost being $11 for the licence and $10 for the photograph. Mr Balfour is of the view that he will not get any better looking in the coming years, but he hastens to add that he will not get any worse, either. He cannot understand—

The Hon. R.R. ROBERTS: You only have to use the Hon. Legh Davis as an example. He cannot understand why he has to endure the cost burden of $10 each year for a photograph. Has the Transport Advisory Committee taken this matter into consideration, or has the transport department itself looked at this matter with a view to providing some relief for aged drivers, especially in country areas where they are required to drive and a licence is a necessity, because this is proving to be somewhat of a burden?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The Registrar of Motor Vehicles is the individual to whom I will refer the question because he is responsible for licensing practices. Drivers licences are issued with a photograph as a means of confirming the identity of the individual and the signature because, under our statute, the Registrar must be confident that the person to whom the licence has been issued is the person who has been photographed, and from whom we have received the signature.

I cannot say on the spot that it would be wise, prudent, or even possible under the current package of legislation to deliver what the honourable member asks for, but I will certainly refer the honourable member's question. Just to clarify this, I assume that he is asking only about people of a certain age, where there would be no need for an annual photograph, rather than anybody who seeks to have a licence issued annually. Could the honourable member indicate by nodding if I am correct? He is nodding, so I am correct.

MOTOR REGISTRATION LABELS

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

Leave granted.

The Hon. J.S.L. DAWKINS: On 25 May this year I asked a question on this subject, highlighting the frustration that a number of people had expressed to me regarding the failure of registration labels to stick to the windscreen of their vehicles.

Members interjecting:

The Hon. J.S.L. DAWKINS: I have certainly experienced the frustration of this and, from the interjections, it sounds as though others have had a similar experience. On that occasion the minister advised the Council that the Registrar of Motor Vehicles had been seeking, for some time, to work with the manufacturer to address the adhesive issue. However, in the end he had resolved to call for tenders from other manufacturers for the supply of the labels. Has the Registrar completed the tender process and, if so, what guarantees can now be provided to motorists that the registration labels they receive will adhere satisfactorily for up to 12 months to the windscreen of their vehicles?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the honourable member for alerting me to his question, which is essentially a follow-up question to one he asked earlier in the session. It is true that there have been considerable problems with the contamination of the adhesive on the labels—an interstate manufacturer, I would add. I can report that, since June 1997, the Registrar has replaced 80 000 registration labels, at no cost to motorists, because they have not adhered to windscreens. While that appears a lot, I do note that that is about 1 per cent of the 8.492 million registration labels that have been issued in the period between June 1997 to the present. The Registrar of Motor Vehicles has issued the tender, and late last month it was awarded to a South Australian company, Star printing.

Star Printing is now in the process of printing the new labels but, because it takes one month, I am advised, for the adhesive to cure, we cannot issue those labels to the general public at this time, but they will be available from 20 November. The adhesive, I am told, has been checked at Transport SA's materials testing laboratory for its adhesion qualities for at least 12 months. There is a rapid heat process whereby it has been tested at the laboratory to show that the adhesive will stick for at least 12 months. I have been given that guarantee by the registrar and, in turn, I can provide it to the general public. It has been a testing time and—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: The first thing is to get them all to stick. To get them off afterwards, I suggest you do what I do, that is, go to the chemist and buy a gem blade and peel it off—do it manually. First, I hope you buy it and pay for it, and then it sticks.

PORT ADELAIDE PRIMARY SCHOOL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General—I presume he is standing in the place of the Treasurer and representing the Minister for Education—a question about Port Adelaide Primary School.

Leave granted.

The Hon. M.J. ELLIOTT: Like so many other governing councils, the governing council of Port Adelaide Primary School was told that, if it joined Partnerships 21, there would be more flexibility and it would have more say about how school funds were allocated. Having lost the school canteen, with premises and facilities declining from a lack of funding and with a closure review set for next year, P21 was attractive to some members of the school community. They thought that P21 might give them a chance to save their school.

Members of the school community started a campaign called 'Target 30' because they were told that this was the extra number of students necessary to keep open the school. They have already secured, I am told, 15 new students. Recently, the school advertised in the local paper to attract more students for next year. However, the challenge of attracting new families to the school has been made all the more difficult by the pending loss of the school counsellor and declining school facilities. Not surprisingly, members of the governing council have sought to use their newly promised flexibility under Partnerships 21 to stop the slow decline of the school to oblivion.

However, I am informed that the governing body is not being supported in its request to use available funds to

address these needs. I am also informed that, despite the school's advertising behaviour support programs as a strength of the school, members of the governing council have been told that the loss of the school counsellor is a result of departmental policy and nothing can be done at the local school level. It is worth noting that just in recent days the Primary School Principals Association has called for the allocation of a school counsellor to all primary schools: this is a school which already had a school counsellor but which is about to lose it. They have been told that, in fact, until after the review as to whether or not the school will remain open, they will not be given a school counsellor which, I am told by parents, undermines their efforts to maintain the school.

The question of sufficient resources to actually use the flexibility is an important question, and there are not enough resources allocated to schools for them to really be able to budget for school counsellors within the P21 allocation. My questions are:

1. Does the minister agree that a school counsellor is important in the provision of a successful behavioural support program?

2. Does the minister also agree that, in an area with socioeconomic challenges to success at school, such as Port Adelaide, the school counsellor should be of a high priority?

3. Will the minister explain the process by which the department decides which schools receive counsellors and which do not?

4. Does the minister agree that withholding funding, which could keep a counsellor in a school such as Port Adelaide Primary School until the school is no longer viable, is a case of too little support too late?

5. Will the Minister explain whether this situation is typical of what he means by greater flexibility and participation for school communities under Partnerships 21?

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

ARTS SA, EXECUTIVE DIRECTOR

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the position of Executive Director, Arts SA.

Leave granted.

The Hon. A.J. REDFORD: Recently Mr Tim O'Loughlin was appointed to a higher position within the public sector and thereby vacated his former position as Executive Director of Arts SA. Mr Tim O'Loughlin was an extraordinary success in that position and it came as no surprise that he was elevated to his new position as a consequence of a recommendation by an independent committee. I would like to place on record my thanks and congratulate him on his record in that position and for his great support of the contemporary music industry. I have no doubt that he will be successful in his new position.

Notwithstanding that my interest now turns to who and when the vacant position of Executive Director, Arts SA, will be filled. In that respect I would be grateful if the minister could advise the Council whether or not that position has been filled and, if so, by whom and the qualifications of the new appointee.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): A great deal of interest has been generated in who might fill the position of Executive Director, Arts SA. There has also been a lot of speculation in the press. There have even been suggestions of various people who had been preordained to fill the position, which was of considerable concern to me because I thought that it would be seen to be a set-up job and that people would not apply for the position. I highlight that at no time was anyone preordained, let alone by me. I am particularly pleased to learn from the Commissioner of Public Employment that the position gained very strong interest nation-wide, as well as attracting strong interest within South Australia.

That is a credit to the standing of the arts in South Australia in terms of all the work that Mr O'Loughlin and the government generally have invested in the arts. It is strong today and there is national interest in working with the arts in this state. Earlier today I was able to advise that Ms Kathleen Massey has been appointed Executive Director to the most senior arts position in the state. She is currently Director of Organisation Performance at the Sydney Opera House. She will take up her new position on Monday 15 January. Prior to her position with the Sydney Opera House, Ms Massey worked as Assistant General Manager, Corporate Resources, at the Victorian Arts Centre.

Seven years earlier to that she worked for 11 years as the chief executive officer of a large agency which provides services to young people with disabilities in Victoria. Her work with both the Sydney Opera House and the Victorian Arts Centre were during periods when both organisations recorded significant improvements in generating new audiences and stronger financial performances overall. I can highlight that Ms Massey's work in South Australia will not only be in terms of implementing the arts, plus the government's five-year investment plan for the arts to the year 2005, but also audience development and the very areas with which she has been involved in the past.

I met Ms Massey and I am very keen to work with her. I think that she will add a lot of value to the arts in South Australia but I acknowledge, too, the strong range of candidates from South Australia, which only reinforces the fact that Ms Massey had to be better still in terms of winning her position. I am sure that she will be well supported in her work by the arts community in South Australia when she commences her job on 15 January.

CREDIT CARDS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General a question about credit card transactions.

Leave granted.

The Hon. NICK XENOPHON: On 10 October 2000, I asked the Attorney a series of questions in relation to credit card transactions, including whether any sanctions applied in circumstances where a cash advance is provided to a consumer by means of a credit card where the transaction is misdescribed as a purchase of goods and/or services (for instance, food and drink). I was referring particularly to instances that have been brought to my attention by problem gamblers who have received cash advances by misdescription of the credit card transaction.

I am grateful for the Attorney's prompt response yesterday regarding this issue. He indicated that credit card transactions are governed by the consumer credit code and that there are no requirements in the code for a transaction slip or statement of account to provide any specific details of what the transaction is for. The Attorney says that in the case of a

transaction slip generated by a third party provider which states that the transaction is for cash or goods or services, it is not required to specify exactly what those goods and services are.

The provision of cash against a credit card account could be described as the supply of goods or the provision of services. The Attorney explained quite comprehensively that it is, therefore, not misdescribed because the term 'goods and services' is a general description of what a business provides, whether that business be the supplier of specific goods and services or gambling facilities. Following that explanation, my questions are:

1. In circumstances where a cash advance is given by a gambling venue via a credit card and the transaction is described as 'food and drink' when no food or drink has been supplied—simply credit for the purpose of gambling—does the Attorney have a different view as to the legality of such a transaction?

2. Does the Attorney consider that such transactions are a misdescription that warrants sanctions to discourage such a practice?

The Hon. K.T. GRIFFIN (Attorney-General): I will take those questions on notice and bring back a reply.

ADELAIDE AIRPORT

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General, in the absence of the Treasurer, representing the Minister for Tourism, a question about the new car park ticketing system introduced recently at the Adelaide domestic airport.

Leave granted.

The Hon. CARMEL ZOLLO: The new car park ticketing system which replaced the pay-at-the-booth system incorporates a number of ticket validating machines located at several points outside the terminal exits. I understand that the ticket machines are difficult to use and access by people in wheelchairs. The initial changeover to the new system resulted in numerous complaints from both locals and visitors to Adelaide, particularly regarding the long queues and resultant delays, especially at peak times, and the fact that they are out in the open and one has to endure the elements. Whilst the shelters now provide some protection from the elements, they are not particularly attractive. The largest of the shelters has been described to me as looking like a small stock enclosure. I have also been advised that the user instructions on the machines are not very clear.

The international terminal, on the other hand, still has two staffed exits, which is surprising, given the lower volume of car traffic and frequency of flights. It has been suggested that many of these problems could have been avoided if most of the machines had been placed inside the terminal near each arrival/exit door. It would overcome the elements problem and provide easy wheelchair access, and human assistance would be easier to obtain in the event of malfunctions or other problems. My questions are:

1. Will the minister pursue appropriate action with the airport authorities to seek further improvements to the new car park ticketing system to ensure quick and easy access and operation by all car park users and visitors to Adelaide?

2. Will the minister ascertain whether a similar system is to be introduced to the international terminal and, if so, when, and will the minister seek an assurance that the system, if introduced, will ensure that similar problems are avoided.

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

TRANSPORT, BLIND PERSONS PASS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the use of a blind persons pass on non-metropolitan buses.

Leave granted.

The Hon. SANDRA KANCK: The blind persons pass issued by the Passenger Transport Board entitles the holder to free travel on public transport in Adelaide, and I believe that it also entitles the holder to certain concessions in interstate travel. My office has been contacted by Ms Heather Window, who lives at Woodside, regarding an inability to use her blind persons pass when travelling from Woodside to Adelaide.

Ms Window has multiple sclerosis, which has affected her optic nerve and, as a consequence, she is legally blind. She travels from Woodside to the Low Vision Centre in Adelaide once a week. After initially being allowed to use her pass on the Transit Plus service that runs through Woodside, Ms Window was recently told by the driver that, as the bus is classed as country, she is not entitled to the concession. A call to Transit Plus by Ms Window confirmed that ruling.

This is despite the fact that the buses concerned display a poster identifying acceptable concession passes, including the blind persons pass. It should be noted that Woodside is closer to Adelaide than either Gawler or Christies Beach and, should Ms Window board a bus from either of those locations, she would be entitled to travel free of charge. To add insult to injury, a car registered in Woodside is charged metropolitan registration rates, despite its classification as country for the purpose of the blind persons pass. My questions to the minister are:

1. Why does the use of the blind persons pass for travelling on public transport not extend to Woodside?

2. Will the minister commit to extending the blind persons pass concession to Woodside and other areas of the Adelaide Hills not currently covered?

3. Will the minister commit to extending the concession to all public road and rail transport within the state of South Australia?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): In her question the honourable member refers to public transport. Technically, that is the term for the subsidised bus, train and tram system in the metropolitan area, which is a clearly defined area and has been for many decades. To the east it goes as far as Aldgate, and beyond that has been deemed to be country. The issues have been raised in this place in the past and are on the government's agenda in terms of the metropolitan boundary.

It is complex, because various agencies over time have established different boundaries for metropolitan and country purposes. The Hon. Terry Cameron has raised this with me in the past, in terms of motor vehicles and public transport. The Premier has asked a group to look at issues related to the boundaries—

The Hon. Sandra Kanck: That was 12 months ago now.

The Hon. DIANA LAIDLAW: Yes, and most recently 'notional values' is the area that will gain the focus as the first part of further work on that study. But we do have a range of boundaries for different purposes, and it is true that

Woodside, for some registration purposes, is metropolitan but for public transport purposes it is country. At the present time we are looking for reciprocal rights interstate.

I believe that we can look at a range of other measures that have a social justice purpose in terms of public transport. All of them come at a cost, although we have made some savings through competitive tendering of services. All the concessions for public transport purposes are always paid through the Human Services budget so, notwithstanding savings in the delivery of public transport, we would need to look at the budget for Human Services in terms of any further extension of any concession.

So I will ask my officers and Human Services to look at the issues. As I say, on the face of it, it would seem fair and reasonable but the implications in terms of extension of concessions and deeming Woodside to be city for just blind persons passes but not for the rest of the ticketing system is a big issue in terms of our ticketing policy, revenue and operations. So I would not want to see Woodside or Mount Barker looked at as a one-off measure for a concession for people with the blind persons pass, particularly when that is a free trip and not even a concession trip. So there are some bigger implications, although, as I say, on the surface it sounds a very reasonable request.

MINISTERS, CONFLICT OF INTEREST

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question on conflict of interest.

Leave granted.

The Hon. P. HOLLOWAY: On 12 October the Attorney-General claimed that there was no conflict of interest when the Minister for Information Economy negotiated the $18 million Optus deal while owning shares in Optus. According to the—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Mr President, I hope the Hon. Legh Davis will listen to the rest of the question.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: According to the Public Corporations Act 1993, under section 16(2) and the heading 'Directors' duties of honesty' it provides:

> The director or former director of a public corporation must not, whether within or outside the state, make improper use of information acquired by virtue of his or her position as such a director to gain, directly or indirectly, an advantage for himself or herself or for any other person. . .

My question is: given the Attorney-General's interpretations of the ministerial guidelines on conflict of interest, are directors of public corporations also able to own and actively trade in shares and companies with which the public corporation has dealings and which are recipients, or which provide confidential information about their business dealings to the public corporation, or are the requirements placed on ministers of the Olsen government in relation to conflict of interest less onerous than the requirements placed on directors of public corporations as set out in the Public Corporations Act?

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order the Hon. Mr Davis!

Members interjecting:

The PRESIDENT: Order! A member has asked a question; the minister is standing. He should be given respect in proceeding to answer the question.

The Hon. K.T. GRIFFIN (Attorney-General): The honourable member's question presumes improper use of information, and that is quite wrong. There is no improper use of information, and therefore the claimed logic of his assertions is quite wrong.

The Hon. L.H. Davis: I dare you to say that outside, Paul.

The Hon. P. HOLLOWAY: I have a supplementary question, Mr President. The Attorney-General did not answer my question about whether directors—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Are directors of public corporations able to own and actively trade in shares in companies with which the public corporation has dealings?

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: That is a different question—

Members interjecting:

The PRESIDENT: Order! The Attorney-General is answering the question.

The Hon. K.T. GRIFFIN: That is a different question from the one that the member asked. The Hon. Mr Holloway's question, in the context of his explanation and then his question, related to the improper use of information gained in the course of a director's responsibilities. That is the issue. There was a presumption inherent in that that the Minister for Government Enterprises had made improper use of information, and the answer was that there was not, by virtue of the facts which have been already referred to publicly.

MOTOR VEHICLES, YOUNG DRIVERS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about dangerous driving.

Leave granted.

The Hon. T.G. CAMERON: According to new figures, South Australia's younger male drivers are the most dangerous in the nation. The annual AAMI insurance crash index reveals that more than 35 per cent of male drivers aged under 25 years lodged accident claims during the past financial year, which is more than one in three drivers and the highest in Australia. This figure represents a 4 per cent increase in the number of crashes during 1998-99. Road deaths this year stand at 140 compared to 126 for the same period last year, 26 per cent of whom were aged between 16 years and 24 years.

The Hon. M.J. Elliott: We need more speed cameras.

The Hon. T.G. CAMERON: We will get to speed cameras next week. I asked the minister questions in regard to supervised driver training earlier this year, following international research which showed that 120 hours of supervised training can reduce the risk of crashing by one-third. The minister in her response stated that the Joint Committee on Transport Safety was looking at the whole question of driver training.

My question is: considering that more than one-third of young South Australian male drivers and almost one-quarter of young female drivers were involved in an accident in the past year, and considering that research clearly shows supervised driver training can cut accident numbers by up to

one-third, when will we see some action to improve supervised driver training for learner drivers?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): In relation to AAMI, I think the honourable member is quoting figures that reflect that insurance company's policy holders and not necessarily the wider community.

Members interjecting:

The Hon. DIANA LAIDLAW: The Attorney and the Hon. Mr Cameron have differing views on the figures presented by the Hon. Mr Cameron but, nevertheless, I will not be deflected by the source of the figures. There is no question that younger people do have a high crash record—whatever the figure is we may wish to argue.

Supervised driver training is one matter among a whole range of matters that this parliament will have to consider over time in relation to road safety. Last week, whilst debating the Road Traffic (Alcohol Interlock Scheme) Amendment Bill, I mentioned that this parliament will be asked to address quite a large number of challenging issues, all of which have civil liberties consideration. On Friday next week, the Australian Transport Council—the council of federal, state and territory ministers—will consider the next national road safety strategy and we will be asked to endorse some very ambitious goals and targets for lowering the number of road deaths in South Australia and across the nation by some 40 per cent per thousand vehicle kilometres over a 10-year period.

The driver strategy that we have been asked to endorse will propose a whole range of actions that can be taken. It will not endorse any one of them, but a whole range of actions have been suggested. Supervised driving behaviour and training is one such action and, following the transport ministers conference on Friday week, I would like to provide all honourable members with an opportunity to go through this national road safety strategy and the proposed actions. Perhaps collectively, either through the Joint Committee on Transport Safety or by other means, we can assess which of the measures this parliament might consider or endorse to meet the targets for lowering road deaths, injuries and crashes in this state over the next 10 years.

I do not want to see this parliament, or private members, bring in a whole range of actions and then find that the parliament cannot agree on any of those measures, and that we are not, therefore, advancing the issue of road safety, either collectively in the community, and gaining community support, or having any impact on road deaths and crashes resulting in injury. I would much rather see a bipartisan, or tripartisan, approach to this, so that we gather—

The Hon. T.G. Cameron: Are you going to do something about the rorts in driver training in this state to start with, which you have never accepted go on?

The Hon. DIANA LAIDLAW: Rorts with driver training? Perhaps I should speak off the record to the Hon. Mr Cameron. We have an audit process. It has been confirmed to me time and again that the process is not contaminated with rorts, as the honourable member has alleged.

The Hon. T.G. Cameron: It is contaminated.

The Hon. DIANA LAIDLAW: If it is contaminated, perhaps I had better speak off the record and find more advice, because it is not the advice that I am receiving from the inspectors.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is why I will speak off the record, get the evidence from the honourable member and follow it up. It is contrary to the advice I am getting.

The Hon. T.G. Cameron: Are you sure you would do something about it—

The Hon. DIANA LAIDLAW: Of course I would do something about it if I was provided with the evidence, but it is not possible to do anything if I do not have the actual evidence. I have followed it up in the past and it has been confirmed that that is what the member has alleged—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: That is not true.

The Hon. T.G. Cameron: You say things but you do not do them.

The Hon. DIANA LAIDLAW: That is never true.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The honourable member should not interject.

The Hon. DIANA LAIDLAW: I do not know what—

The Hon. T.G. Cameron: How would you know—

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: The National Road Safety Strategy is the important issue and, notwithstanding the manner in which the honourable member is responding to some issues now, I look forward to working with him on a conciliatory and community respected approach to advancing road safety in this state.

OUTSOURCING

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, presumably today representing the Minister for Employment and Training, questions in relation to outsourcing and skilled labour shortages.

Leave granted.

The Hon. M.J. ELLIOTT: Mr President—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Yes, one last week.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I would be even happier if you shut up.

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: I have expressed my concern previously in this place over the outsourcing of government resources to the private sector. Not only have I noted that it centralises employment from the country to the city, or interstate, but also it puts at risk the adequate provision of skilled workers for the South Australian economy. Particularly, I have noted how the outsourcing of the public sector Youth Traineeship Program risks some employers reclassifying existing employees as trainees to obtain funding without providing additional training.

In response, the state government assured me that it had taken steps to prevent this sort of abuse of the system. However, this is not the only example of the problems caused by the outsourcing of government responsibilities and services to the private sector. I draw the minister's attention to the Vocational, Education, Employment and Training Board's report of an industry visit conducted on 5 May this year. The report notes that major South Australian industry players, including, for instance, the RAAF, are concerned by the decline in skills development and training that has coincided with the outsourcing of federal defence work. Labour hire companies drawing on existing pools of employ-

ees rather than providing training for new or existing tradespeople have caused this decline. The report explains that the companies have been forced into this position because the additional training costs would make tenders uncompetitive. In response, the VEET Board agreed, first, to urge the Minister to bring this decline to the attention of his Cabinet colleagues; and, secondly, to urge the minister to ensure that tendered documentation specifies training requirements to prevent shortages in skilled labour that will prove highly detrimental to the economic and social progress of the state. My questions are:

1. Has the minister been approached by the VEET Board, and has he taken the concerns of our leading defence industry to cabinet?

2. Does the minister agree that this is another example of the way in which federal and state government outsourcing is resulting in a decline in skilled labour in a range of areas?

3. If so, what does the minister propose to do to stem the detrimental decline in skilled labour within the state due to government outsourcing?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the honourable member's questions to my colleague in another place and bring back a reply.

PETROL PRICES

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of petrol pricing.

Leave granted.

The Hon. R.R. ROBERTS: Last week I raised a matter in this Council and put some questions to the Attorney-General in respect of lead replacement fuel and the cost thereof. The basis of the question was that lead replacement fuel is being sold to motorists in South Australia. I did touch on the fact that some of it was still badged as leaded petrol. My immediate question was: if it is being sold as leaded petrol and it contains no lead, does that conflict with consumer affairs, because the 2¢ excise tax on leaded fuel is still in place? The Attorney did undertake to look at the matter. I have had an enormous response from motorists in respect of this matter. I wonder whether the Attorney-General can give a report on his inquiries so far and whether there has been a conclusion to the inquiries.

The Hon. K.T. GRIFFIN (Attorney-General): The honourable member asked his question. Currently, a response is being prepared. When it is ready, it will be given.

MATTERS OF INTEREST

RIVERBANK PROJECT

The Hon. A.J. REDFORD: I want to talk today about the Riverbank project. On Tuesday last, I was fortunate enough to attend a briefing and a tour of inspection of the Convention Centre site. Indeed, it is featured on the front page of this week's *City Messenger* in which it is described as 'Opening the river to [the] city. . . Riverbank: a flowing vision.' Indeed, what we saw during the course of our briefing was a sight to behold. I understand that it is to be opened in September next year at a cost of $85 million and that it reflects the extraordinary success of the Convention Centre, its growth and its ability to achieve more than its fair market share in South Australia. Indeed, they punch above their weight.

The idea is for the development to face the Torrens River and to look over that beautiful vista, to improve the gardens and, most importantly, to improve access from the Festival Centre through the Convention Centre and vice versa. I note that two further stages are planned: first, upgrading the Festival Centre, including cutting out a large section of the Festival Plaza to reveal the ground floor of the Festival Theatre entrance; and, secondly, to build an east-west pedestrian promenade which will link the expanded Convention Centre to the Festival Centre and which is also to be completed by September next year.

I speak briefly about this matter today in respect of the area at the back of Parliament House. I understand that, when I was a small boy, it was the city baths, although I do not have any recollection of it, but I do understand that it was a very busy area. If one looks at that area at the back of Parliament House today, in what would have to be one of the most premium or prime areas of real estate in this town, all one sees is a vacant space. It is one of the most desolate, inhospitable areas in the City of Adelaide. It resembles something like an ALP conference on policy development: it is just a void area. It is cold in winter and hot in summer.

The only evidence of any activity I have seen are drug deals, and I do recall seeing a drug exchange there when I was sitting on the back balcony one afternoon. I have seen assaults take place in that area but, other than that, I have seen very little activity.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: At the back of Parliament House when you sit on the back balcony.

The Hon. L.H. Davis: It is called the Festival Plaza.

The Hon. A.J. REDFORD: Yes, that extraordinary area. What I also find extraordinary is that someone somewhere—and I would like to meet this individual—managed to have this area placed on our heritage register to make it that much more difficult for anyone in the current generation to do anything about it. I would like to urge the government to look at that situation. If members of the government sat out on the back balcony one afternoon with the Hon. Terry Cameron and me I am sure they would quickly conclude that the best thing we can do is blow it up so that we can replace it with something that is more conducive to attracting people to a premium part of the city. It is extraordinary that we have—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says, 'Don't I like it?' I would be interested to hear his speech justifying how much he enjoys the area. I would like to see it taken off the heritage register, a bomb put through it, and it made somewhat more user friendly. Indeed, if things such as this appear on the heritage register, one might think that the government should go back and review everything on the heritage register because, with something as abominable and people unfriendly as this area on it, one shudders to think what other stupid things might be on the register. I urge the minister or the ministers responsible to do something about this area so that future generations can enjoy it.

PETROL PRICES

The Hon. R.R. ROBERTS: I rise today to talk about fuel costs in country areas. This matter has been talked about

extensively in the press in recent weeks. It has been the subject of national, state and local television programs. In country areas this is a matter of vital importance. I first started talking about petroleum and LPG in correspondence to the Attorney-General on 11 December 1996. I talked then about the disparity between the price of LPG in Adelaide and the country areas. This has now extended beyond LPG to embrace also the cost of fuel to country residents. There is a disparity between what it costs a consumer in Adelaide for petrol and what it costs a consumer in a country area. However, the real problem is not the sales volume and it is not the fact that there are multinational petrol stations in close proximity; it is a matter of understanding that country people, by the nature of where they live, have to use their vehicles more often and for a greater range of purposes because they do not have the option of using public transport.

Last week I asked some questions of the Attorney-General about lead replacement fuel. In many cases in country areas drivers use older, pre 1986 cars, not because they want to drive around in an old car but because in many cases they are suffering financial hardship and cannot afford a new car. Some years ago we put an impost on leaded fuel for two reasons; first, to reduce emissions that are created by leaded fuel—and one can understand that on environmental grounds—and, secondly, to force quicker turnover to get older cars off the road. That was fine in buoyant, economic circumstances but today that is no longer acceptable. The technology has advanced. It was well accepted at that time that it was cheaper to make unleaded petrol than to make leaded petrol.

We have now seen an evolution of lead replacement fuel. Since this lead replacement fuel has come into vogue, it has come under a veil of secrecy because drivers were finding that their cars were losing power, rattling and, in many cases, giving them awful trouble. I refer to correspondence from the Car Restorers Club to that effect. I am told that the reason that it has not been widely announced that certain companies were using lead replacement fuel is that drivers suffering the difficulties of lead replacement fuel were going elsewhere and buying real leaded petrol.

It was with some concern that I asked the questions of the Attorney yesterday. I asked him for a follow up today and received the answer that he was preparing an answer and that I would get it in good time. That is the attitude that we in the country face regarding the authorities in respect of these matters. It is about time that the government really showed that it is interested and that it does care about those people who choose to live in country areas and provided some relief for them in respect of petrol. I call not only on the Attorney-General and the Minister for Consumer Affairs but on the federal government to stop this money grab for more revenue because we are tied to world parity pricing.

Most of the petrol and all the LPG that we use in Australia is manufactured in Australia. The fact that oil prices in Russia increase has nothing whatsoever to do with the cost of the production of that fuel here, and it is about time that, in the light of these economic hardships faced by people in country areas, the government stopped the money grab and made a real attempt to provide some relief to those people living and working in country South Australia.

ITALIAN VILLAGE

The Hon. J.F. STEFANI: Today I wish to speak about the Italian Village. The Italian Benevolent Foundation of South Australia Incorporated was established more than 25 years ago and is operating from three locations: St Agnes, Campbelltown and Magill. There is a total capacity of 180 nursing beds, as well as independent and assisted low care residential accommodation. Initially, the Italian Village began operating at St Agnes under the administration of a board comprised of community volunteers. The idea of establishing a retirement village to assist elderly Italo-Australian people was first promoted by Mr Tony Novello, who was also the President of the Fogolar Furlan at Felixstow.

The challenge to raise funds to establish these aged-care facilities was quickly embraced by a board, headed by its inaugural Chairman, the late Judge Carmine Pirone, who provided strong leadership. The current Chairman is Dr Carmine De Pasquale, who has served as Chairman of the board since 1976. He has been supported by other members of the board who are volunteers and who have successfully expanded and diversified the Italian Village activities in line with the contemporary needs of the community. The Italian Village has the strong support of the Italo-Australian community, as well as funding support from both the commonwealth and state governments.

Recently, the organisation has undertaken major renovations at the Campbelltown Nursing Home. These renovations, which have been entirely funded from the resources of the Italian Village, are due to be completed in the next six months at a cost of more than $2 million. The annual operating budget of this organisation is in excess of $6 million and more than 100 people are employed by the Italian Village to provide high quality care and culturally appropriate services to many elderly people from Australian and Italian backgrounds. Through the generosity of the Italian Village, rent-free premises have also been provided to both ANFE and the Coordinating Italian Committee—two organisations that are working to meet the welfare needs of many elderly, disabled and isolated people of Italian origin still living at home.

On Saturday evening I was privileged to attend the members' Christmas function, which was held in the dining room at the St Agnes Nursing Home. More than 200 people attended the dinner, which provided an opportunity for the friends of the Italian Village and many of the relatives of the elderly people who have received support to express their appreciation for the work undertaken by this organisation. It was also an occasion to raise funds to assist with the ongoing work of the Italian Village and I was pleased to conduct the auction on the evening, which raised more than $3 000.

In conclusion, on behalf of the South Australian Italo-Australian community, I pay tribute to Dr Carmine De Pasquale and his board, together with the dedicated staff and the many volunteers of the Italian Benevolent Foundation, for the excellent services they provide to the elderly people in our community, and I wish them all continued success for the future.

HEALTH SERVICES

The Hon. T.G. CAMERON: I would like to congratulate Dean Brown, Minister for Human Services, on reopening 65 hospital beds in South Australian public hospitals. I am particularly pleased to do this because it is the first time since I have sat in parliament that I have been able to congratulate

Dean Brown on anything. It is particularly pleasing to note that the government of the day has finally begun to respond to the health needs of the South Australian public. It does not matter where one goes, health always bobs up as an issue of concern with voters. When you discuss that issue of concern with them, it nearly always revolves around the question of waiting times to be admitted to public hospitals.

In fact, my own medical practitioner, Dr Alex Alexander, bailed me up over the lack of public hospital facilities. Dr Alexander told me that part of his job now is trying to explain to his many patients in the western suburbs why they cannot get into hospital when they need elective surgery. They are in pain, they are suffering, yet he must try to explain the situation to them, and he has been doing this for 20 years. Dr Alexander says that it does not matter whether a Liberal or Labor government is in office, we just cannot get people who desperately need elective surgery into hospital. With 65 beds reopened, maybe we will see some or a significant reduction in the length of hospital waiting lists.

This leads me to a matter of some concern. It has been brought to my attention that 16 beds are closed on ward 2 west at the Modbury Public Hospital. One of these beds, a single room, in fact, is closed. I am informed that a sign on the door of the room reads 'Do not enter: bees in room.' When my source looked through the glass panel on the door, they noted that a number of what appeared to be bees were flying around the room. As far as my office has been able to ascertain, that room has been closed for the best part of a year, bees included. SA First has as its slogan—

The Hon. R.D. Lawson interjecting:

The Hon. T.G. CAMERON: No, the flying bees. SA First has as its slogan: People before Politics—

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: The honourable member would know all about human bees: he is still in the Labor Party.

The Hon. T.G. CAMERON: I will try again. SA First has as its slogan: People before Politics. We also have a strong environmental policy and a strong alternative medicine section in our new health policy. However, using bees as remedial medicine is not on the agenda—not yet, anyway. I do not know, but maybe the government is putting a spin on the SA First slogan and has decided to put bees before people: I am not quite sure. Perhaps the government is conducting some form of new alternative medical research with the bees: who knows. I like honey; I like it on my toast in the morning, as do a lot of people. I have wondered whether there is a hive at the Modbury Hospital and they have decided to let it—

The Hon. T.G. Roberts: It's been outsourced.

The Hon. T.G. CAMERON: Perhaps that is the case. However, whether or not people are waiting to collect the honey, I do not know. What I do know is that having bees in our public hospitals is probably neither the best way to collect honey nor in the best interests of patients or, dare I suggest, the bees. As I have finally congratulated him after six years in this place, I ask the minister, as a matter of urgency, to ascertain whether the Modbury bees are to remain in residence or to be sent packing to some friendly hive, or is this some new direction in health policy by his department. At the very least, if we can move the bees out we might be able to create an additional hospital bed in South Australia.

PETS

The Hon. CAROLINE SCHAEFER: Some time ago, many members of Parliament were sent a pamphlet called *The Power of Pets*. It contains a number of interesting statistics about the number and value of pets per Australian, and it is compiled by the Australian Companion Animal Council. This book verifies that almost two-thirds of Australian households currently own pets and that, as such, we have one of the highest rates of pet ownership in the world. In spite of this, numbers of particularly urban councils and larger towns are moving to make pet ownership more difficult than it is currently.

The Australian Companion Animal Council argues the benefits of pet ownership to Australians and South Australians. According to this group, a 1999 study claims that 13 million Australians are currently associated with pets and that almost two-thirds of the 6.6 million households in Australia have pets. Of these, 64 per cent care for one or more dogs and 43 per cent for one or more cats. We currently have 4 million dogs, 2.6 million cats, 8.4 million birds, 11.9 million fish and 2 million other pets including pleasure horses, rabbits and guinea pigs, etc. Of those, in South Australia, we have 320 000 dogs, 240 000 cats, 700 000 birds, 1 million fish, and 150 000 of the others, as stated.

This group argues that, as society becomes more urbanised, the opportunities for people to have contact with animals have become limited. In previous generations, those people would at least have been able to visit a cousin on a farm or something similar, whereas, as we have become more urbanised and more closely settled, it has become more difficult for that to happen. They argue (and have verified with medical research) that there are a number of therapeutic benefits which improve the quality of life of those who own pets. They state that 91 per cent of owners report feeling very close to their pets and that they lessen loneliness and stress, which, in turn, lessens heart disease, blood pressure, and even high cholesterol. They also state that 58 per cent of pet owners claim that they have met and made friends through their pets.

This group provides a number of educational outlets to educate people on pet ownership. Obviously, it lobbies local government and state and federal governments to make provision for those who own and care for pets. Some of the educational courses include: dog and pup training; research into the human companion animal bond; the Dog Safe Project, which aims to minimise the incidence of dog bites to children; and the Urban Animal Management Conference, which provides a forum for local government to explore new and better ways to manage pets in society.

I read this report with some interest, partly I suppose because I am a pet owner—I have always derived a great deal of comfort and companionship from animals—but I think also because, as legislators, we need to look at both sides of the argument before, willy-nilly, we introduce policies that would deprive people of the companionship of animals. We hear a great deal, at the moment, about such legislation being brought into being. I think that we need to consider those who do not like pets and find them intrusive as well as those who own pets and enjoy them. Surely, commonsense can provide for both.

COUNTRY FIRE SERVICE

The Hon. IAN GILFILLAN: I rise to reveal what I regard as a scandal in the funding of the Country Fire Service. Analysing the budget for the year 2000-01, the allocation for ESAU (Emergency Services Administration Unit) is $5 710 000 out of a total of $35 132 000. We have been very concerned that the amalgamation resulting in this megalithic ESAU entity would create bureaucratic enormity and expenditure—and this is borne out.

An analysis of the other figures in the administration costs of the budget show that there is a regional office management cost of $1 830 000; executive management, $345 000; board services, $122 000; and corporate overheads, $1 724 000 (and that is without the allocation for the government radio network, which was questionable in the first instance, of $5 915 000)—remember: this is each year—and there are capital works, which may well be worthwhile in their own right, of $7 520 000, leaving (on simple arithmetic) a balance of approximately $12 million to be allocated to on-the-ground fire fighting services.

That compares with the operating statement for the year ended 30 June 1999 of a total cost of services of $14 400 000, with an operating administration amount in that of $1 647 000. There has been an extraordinary blow-out in not only the amount but the proportion which has been sucked into the administration of the CFS. I believe that this will stir up even more suspicion and animosity among the volunteers who give so generously of their time and, in many cases, risk their life and safety to provide this service when they see that the funding allocation from this much vaunted new emergency services levy leaves them with very little, if any, more. I would say that, if one takes into account the influence of inflation, it leaves less money to be spent on the essential part of the work.

There is one other aspect of this budget which ought to be articulated, and that is that the detail that I have here spells out the actual cost for the three months of July, August and September. In a budget, one can understand some generalities of expenditure but, where it is allocated on a monthly expenditure basis, the fact that the administration support services cost is allocated as a specific amount of $475 000 per month and the others are put into the same category of a set amount per month means that the capital works program of $626 000 and the corporate overheads of $342 000 smack very much of a levy being placed on this budget without there being the detail of the budgetary justification for it provided on a monthly basis—the actual matching of the money spent with the money drawn out of the budget.

This document, brief though it is, serves in my view as an emphasis of how right we were to question the justification and potentially enormous increase in administration costs in setting up ESAU. If it is not addressed very rapidly in ensuing years, it will leave a very bitter and disappointed Country Fire Service which can see now, quite clearly, where the priorities will be in the allocation of budget funds.

I urge the government to look very closely in the ensuing 12 months at this proportion in administration. I must commend the Hon. Julian Stefani for his involvement in this, in critically analysing the way this money is spent. Just because it is collected does not mean that it must be thrown into enormous administrative costs.

Time expired.

MINISTERS, CONFLICT OF INTEREST

The Hon. P. HOLLOWAY: I wish to pursue again today the issue of ministerial conflict of interest. This is a matter that the government of this state would dearly like to stop, and it is hoping that, by stalling on these matters, it will be able to tough it through. I have news for the government: this matter will not rest, nor should it be allowed to rest.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron has a bill on the *Notice Paper*, put up when he was a member of the Labor Caucus. We supported it then and we will support it now. To return to the issue before us, why is it that members of the Liberal Party and Liberal governments (state and federal) have such extraordinary difficulty in deciding whether they want to be investors or ministers of the crown? I would have thought that it would not be too hard to choose between the two, but we have had a series of these cases federally as well as interstate of ministers who cannot seem to decide.

They want to be ministers of the crown, with all the responsibilities that involves, but they want to be share investors as well, investing in areas in which they are directly involved via their ministerial responsibilities. We are supposed to have in this state cabinet guidelines that provide that ministers must divest themselves of shareholdings in any company in respect of which a conflict of interest exists as a result of their portfolio responsibilities, or could reasonably be expected to exist. What we have seen in recent days—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: That is right: the Attorney-General has basically said that that provision in the cabinet guidelines is totally meaningless; that perhaps the only person that would apply to would be someone like Bill Gates or the owner of some major companies who, apparently, have such a significant share that they might benefit from it.

The Hon. Diana Laidlaw:

The Hon. P. HOLLOWAY: Yes they are, but they were interpreted completely differently. That is the whole point. This government cannot seem to understand, even though the public of this state fully understands, that what the government has done is rotten. It shows the complete—

Members interjecting:

The Hon. P. HOLLOWAY: Absolutely rotten. It stinks. There is a stink about this and the stink will continue all the way to the election. What we have in this state is a situation whereby ministers of the crown can have shares that are directly related to the portfolios—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: I am not a minister of the crown: I do not make decisions. Today, I asked a question of the Attorney-General and referred to part of the Public Corporations Act, which act was introduced back in 1993 to set in legislation the requirements on directors of public companies. It said that a director or former director of a public corporation must not within or outside the state make improper use of information acquired by virtue of his or her position as such a director to gain, directly or indirectly, an advantage for himself or herself or for any other person.

There is a series of other provisions required of directors in this state. The point I am trying to make is that, if we have the sort of low-grade, low-life regulations that this government has in the way in which it interprets its guidelines, we can have a state where ministers, because of their duties, will be recipients of information that would be or could be

potentially of significant benefit if they were to use that information.

That is why all other parliaments and all other ministers—certainly the government of which I was a member—divested themselves of all shares in matters that could come under their responsibilities. That is the reasonable and sensible thing to do, and the public of this state knows it. The only people who do not know it are members of this Liberal Party, state and federally, who cannot seem to make that distinction.

The cabinet guideline is quite clear: ministers should divest themselves of shareholdings in any company in respect of which a conflict of interest exists or could reasonably be expected to exist. Surely, a conflict of interest could reasonably be expected to exist if they have significant shareholdings in companies that are covered by the portfolio in which they deal.

When ministers are dealing with companies and receiving information about the future investment plans of those companies, it is prudent that they should divest themselves of those shares. That is the standard that the public of this state expects, but it is not the standard that is being given by members of this Olsen government. This issue will not go away.

Time expired.

MEMBER'S LEAVE

The Hon. P. HOLLOWAY: I move:

That two weeks leave of absence be granted to the Hon. Carolyn Pickles on account of illness.

Motion carried.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

The Hon. J.S.L. DAWKINS: I move:

That the report be noted.

The committee had a productive year in 1999-2000, during which time it completed four very important and timely references. These references comprised the wide-ranging topics of railways, mining, aquaculture, and environment protection. The first of these was the thirty-fifth report of the committee, on rail links with the eastern states.

Now that the agreement to build the Adelaide to Darwin railway line has been signed off, the recommendations of the committee seem even more significant. Of particular importance is the recommendation to develop an intermodal terminal in Adelaide. The committee found that the most appropriate location for the terminal should be within the vicinity of Dry Creek. If Adelaide is to succeed as a prominent hub of national transport, the development of an intermodal terminal is considered crucial.

The committee recommended that additional funds be allocated to the maintenance and improvement of the rail infrastructure on the Adelaide to Melbourne line. An upgrade of this line will significantly influence the efficiency of rail in terms of costs and transport times. The committee waits with interest to see how developments unfold in both these areas.

The second report tabled by the committee was its thirty-seventh report, on mining oil shale at Leigh Creek. Although the committee was not in a position to determine the economic viability of the resource, it believed that the opportunity should be taken to clarify once and for all the speculation that has for many years preoccupied a number of interested parties. Given the current economic climate and ever-increasing price of oil, it is possible that the viability of mining that deposit will be revisited by the new owners in the not too distant future.

The committee's inquiry into tuna feed lots at Louth Bay generated considerable interest from all quarters of the community. That inquiry found numerous deficiencies in the administration and enforcement of legislative requirements. Interestingly, the committee's call for the reform of legislation regulating aquaculture is now taking place, with the development of aquaculture legislation well under way.

Only this morning, the committee was briefed on progress in this regard by the General Manager of Aquaculture within the Department of Primary Industries and Resources, Mr Ian Nightingale. It is hoped that this legislation will provide an orderly framework for the promotion, development and management of aquaculture ventures in South Australia. I should add that the committee was pleased to learn today that first point of contact involvement in aquaculture developments will be handled by the regional development boards.

The most prominent of the inquiries undertaken by the committee was that of environment protection in South Australia. More than 70 submissions were taken and well over 80 witnesses appeared before the committee. The inquiry highlighted many difficulties being faced by the EPA in administering provisions of the Environment Protection Act. These are numerous and well documented in the committee's report.

I understand that the government's review of the EPA is well under way, and I believe that the committee's report has significantly influenced the direction and progress of that review. It is the committee's intention to revisit this subject in the middle of 2001 in order to monitor the process of reform.

The committee took further evidence after the report was tabled. This was in response to the committee being informed by the Minister for Transport and Urban Planning that one of its recommendations needed to be clarified and appeared to be at odds with evidence that was already before the committee. After taking evidence from the State Committee on the National Plan, and following further reconsideration of past evidence, it was resolved that the responsibility for investigation and enforcement functions of the Pollution of Waters by Oil and Noxious Substances Act be formally delegated to the EPA and that the operational function of managing marine pollution incidents should remain with the marine group within Transport SA. It was agreed that recommendation 37 of the committee's 39th report, entitled 'Environment Protection in South Australia', be clarified with the inclusion of recommendation 37A, which reads:

The committee recommends that the Minister for Transport and Urban Planning and the Minister for Environment and Heritage formalise, by legislative amendment if necessary, that operational functions of marine pollution incidents remain with the marine group within Transport SA and that the investigation and prosecution functions of marine pollution incidents be passed on to the Environment Protection Agency.

I commend this recommendation to the minister at the table at this moment. During the reporting period the committee actively pursued an interest in a range of other issues, including the Barcoo Outlet, ship breaking, urban living and

genetically modified foods. Preliminary evidence was taken and the committee may at some time in the future take up these interests as formal references.

The committee also considered almost 50 amendments to development plans. Of these, evidence and clarification was sought on the Waste Disposal PAR, the Barossa Valley Region Industry PAR and the City of Unley PAR. These investigations resulted in substantial changes to two of these PARs. I wish to extend the thanks of the committee to local government officers and officers from Planning SA, and to the Minister for Transport and Urban Planning, for their cooperation in assisting the committee to undertake its investigations in a timely and professional manner.

On behalf of the presiding member, Mr Ivan Venning, the member for Schubert in another place, I extend my thanks to members of committee: Ms Stephanie Key, member for Hanson, Ms Karlene Maywald, member for Chaffey, and the Hon. Mike Elliott and the Hon. Terry Roberts for their commitment to the business of the committee. I would also acknowledge the work of Knut Cudarans, Secretary of the Committee, and Ms Heather Hill, the research officer for a number of years who has since moved on to another position. In addition, I take the opportunity to welcome Mr Stephen Yarwood, who has only recently been appointed to the position of research officer. I commend the report to the Council.

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

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (RETURNS) AMENDMENT BILL

The Hon. T.G. CAMERON obtained leave and introduced a bill for an act to amend the Members of Parliament (Register of Interests) Act 1983. Read a first time.

The Hon. T.G. CAMERON: I move:

That this bill be now read a second time.

My intention in introducing this bill is to ensure that state MP's financial interests are made open and accountable. The bill will close loopholes in existing guidelines that are, frankly, laughable. You could drive a truck through the current legislation governing disclosure of interests. One wonders whether this whole matter ought to be referred to an independent tribunal or to some other body, so that they can have a look at this problem and make recommendations to the parliament independently about what guidelines should govern us in relation to our pecuniary interests. However, one would find it difficult to imagine that either house of this parliament would ever allow a matter such as this to be sent off to some independent tribunal for either determination or recommendation. One thing I would like to make clear—although my confidence in this statement is undermined every time the Hon. Paul Holloway gets to his feet in relation to a minister in another place—is that I am not aware of any MP who is currently in breach of any of the provisions that I propose, but without provisions like these how would we know?

There are a number of important provisions in the bill that I would like to draw members' attention to. The guiding principle is that MPs must disclose anything which might result in a conflict between their duty and private business interests when voting in parliament. The only advice I would give members of parliament in relation to this is: if in doubt, include it in your register. The implications of any undeclared conflict of interest are even greater where ministers are exercising executive powers. However, my bill does not set out a special condition for ministers, and I understand the government has a set of guidelines for ministers when they are exercising executive powers.

I guess it would be incumbent upon all of the political parties to let the electorate know just what guidelines their ministers are going to operate under. We know what the Liberal Party's guidelines are and how they are enforced and interpreted. I look forward to seeing guidelines for the other political parties. It became obvious to me when preparing my own annual declaration of interests that the existing law was inadequate to deal with a range of what would be quite widely used investment vehicles and business arrangements.

Specifically, provisions in the bill include the following. There is a general anti-avoidance provision, with a $5 000 fine for any MP who enters into an arrangement with the intention of evading the disclosure provisions of the act. On reflection, I suspect that that $5 000 fine is not great enough to really act as a deterrent, and I will be having another look at that. There is a reduction from 50 per cent to 15 per cent in an MP's shareholding in a family company before full disclosure of the company's investments is required, in order to ensure that substantial interests of an MP are not overlooked just because extended family or close associates are involved in a business. I do not have to tell this chamber, particularly the Hon. Robert Lawson QC, of the wonderful array of financial structures that it is possible for people to enter into with things like perpetual trusts, for example.

There is a requirement to declare the assets contributed by another party to a joint venture business arrangement with an MP to ensure all assets from which an MP derives financial benefit are disclosed. There is a requirement to disclose all of the investments of a superannuation scheme established wholly or substantially for the benefit of a member of parliament, their family, a family company, a family trust or some joint venture in which the MP has an interest, because the same risks of conflict of interest arise with investments through superannuation schemes as through other business arrangements. I would just like to clarify there that I am not referring to trust investments or investments of that nature that people might invest superannuation money in. What I am talking about is the setting up of a family superannuation trust.

I have one of those trusts and it would be possible to hold shares in the trust—and, I might add, substantial amounts of shares—without ever having to declare them. I make it a practice to include on the pecuniary interests list any companies of which my superannuation trust may be a shareholder. I am aware that a former member of this place, Anne Levy, did the same thing.

There are extraordinary opportunities to avoid disclosing one's real interests by using a superannuation trust; for example, I can hold 100 000 BHP shares in my superannuation trust but I am not required to declare or disclose. I could be dealing with a bill in this chamber arguably having the casting vote on whether or not a piece of legislation affecting BHP went through this parliament. I am not a minister but I cannot see any other interpretation that anyone could draw from a situation where I voted on a bill which affected BHP advantageously and it was my casting vote that put the bill through—while I am secretly sitting on 100 000 BHP shares hidden away in my superannuation trust. I would be under no legal obligation to declare my interest, and neither would any other member of parliament.

There is a proposal to remove the present exemption for declarations in relation to testamentary trusts because conflicts of interest may arise for a MP or a member of their family as a beneficiary. Again, I do not know how anyone could argue that if there is no direct financial interest in a matter: if one of their children happened to be a substantial shareholder in a company, it may affect their interest. We ought to know about that to enable people to make their own assessments based on voting patterns and so on.

However, I appreciate that a conflict of interest may not be as serious an issue for members of the Labor Party as it is for members of the Liberal Party. They are bound by a caucus vote whether or not they are in conflict on a particular bill. Of course, if they did not abide by the caucus vote, they could suffer the same fate that I did.

I am also including a lowering of the threshold for disclosure of MPs' debts from $7 500 to $5 000 and the threshold for disclosure of loans or deposits made by MPs from $7 500 to $2 500. There is also a requirement for ministers to declare any gift value of $200 or more. I have had second thoughts about that and I would not like to put ministers to the inconvenience of having to declare lunches, which would probably be more than $200 a pop. I will have another think about that issue. I also consider there should be some guidelines in relation to the disposal of gifts of substantial value.

As I have indicated, I am not aware of any MP or MLC—just in case anyone picks that up—who is currently in breach of any of the provisions I have proposed. I believe that tough provisions are required to ensure that members of parliament do not evade the requirement to declare potential conflicts between their duty and private business interests.

I acknowledge the indication of the Hon. Paul Holloway, the Deputy Leader of the Labor Party, that the Labor Party caucus will support this bill, and I look forward to that support. I understand that the government has significant problems with the bill but I ask honourable members on the other side of the chamber to have a close look at what I am proposing.

The Hon. Diana Laidlaw: Is it the same bill introduced last session, or amended in any form?

The Hon. T.G. CAMERON: No, not at this stage.

The Hon. Diana Laidlaw: So it is the same measure?

The Hon. T.G. CAMERON: Yes, but the Hon. Trevor Griffin has indicated to me in this Council that he will not support the bill.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: I understand that the Attorney has a problem in supporting the bill, because he seems to have some difficulty understanding what a conflict of interest is. I guess you could put five lawyers in a room and ask them to summarise what conflict of interest means and I bet you would get five different answers. I guess that is the nature of the law.

However, in view of the discussion that has taken place in this chamber today in relation to conflict of interest, I urge members of the government to have a close look at the bill. If they are not prepared to support some of the more reasonable measures I have put forward, they cannot blame the public if they ask themselves, 'Why is it that the government will not support a tightening of the rules which govern the behaviour of either a member of parliament or a minister in relation to their own financial interests?' I am not sure the government would like the judgment the electorate would make if it rejects this bill outright.

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

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. R.I. Lucas:

That the interim report of the select committee be noted.

(Continued from 25 October. Page 230.)

The Hon. CARMEL ZOLLO: Members would be aware that I was appointed to the committee after the completion of this interim report, and following the retirement of the Hon. George Weatherill. When the select committee was established, I moved an amendment to the motion and I am now pleased to have been appointed to the committee. Members would also be well aware that I take a great deal of interest in debates and community concerns regarding gambling—as I am sure we all do. Whilst I have spoken on a number of occasions on the subject, I do again place on record that I personally do not have a problem with gambling, as such, or people's choice to gamble. We obviously have, and have had for a long time, many legal avenues to entertain ourselves via gambling.

My concern has always been that, since the introduction and tremendous growth in the number of poker machines, and the advent of and accessibility to newer forms of gambling in South Australia, we have also seen a greater number of people addicted to gambling, and a different profile of person addicted to gambling. What it means for us as a community is not just a greater number of addicts but a greater number of people affected by the action. Internet and interactive gambling is another means of gambling that we, as a community, will have to increasingly and rapidly grapple with.

As I have indicated on other occasions, we should not forget that gambling addiction is of sufficient community concern for a single issue member to be elected to this place. We have yet to see any other single issue member or other party elected to this place outside the two major parties and the Democrats.

I noted the majority view of the committee and the call for a regulatory framework, and I understand that this is the path that the committee is now working towards. The report points out that we cannot legislate for the arrival of interactive gambling—and of course that is a fact. The overview of the report, under the description of interactive gambling in South Australia, clearly spells this out. A number of different types of interactive gambling are now available in South Australia. They include telephone betting on horse racing and other Australian sporting events, interactive wagering on local and international sports, and interactive gambling or betting on a range of computer-generated games.

Interactive wagering and gaming are available via the internet from the few licensed providers in other states and territories and from a few hundred overseas providers. Another avenue for interactive gambling predicted to become widely available soon is interactive wagering on sports broadcasts on digital television. The Senate Select Committee on Information Technologies reported that there are at least 14 licensed interactive gambling operators in Australia. Eleven of these offer wagering on various sports and or racing events. The other three offer simulated casino gaming.

In relation to the TAB in particular, there is a transference from one medium to another, that is, rather than using the phone to bet, people can bet on the internet medium.

I also noted the view of the dissenting statement and the belief that we can legislate for prohibition. Of course there is no legal encumbrance to any parliament legislating for prohibition before or after the arrival of interactive gambling. New South Wales prohibits internet gambling. We would not be alone should parliament decide to go down this path. We certainly would not be totally out of step with other Australian jurisdictions. Both points of view are valid, that it is possible to prohibit or regulate. I think it was expressed in the report that it would appear that the feasibility of prohibition and of regulation are closely related. If one is not feasible, why is the other? I appreciate that I did not have the benefit of the deliberations other members had and that I did not hear the evidence first-hand but, if I had, I might well have lodged my vote with what is now the dissenting statement of the Hons Nick Xenophon and Angus Redford.

I particularly like what the Adelaide Central Mission had to say when addressing this new product. It believes that gambling should be assessed on the basis of its safety, just as any other new product is assessed. Mr Stephen Richards argued as follows:

> In terms of responsibility, there is a precautionary principle that needs to be applied. . . is the product safe? For example, if you talk about a new drug or a new food, it is pretty well accepted that it has to go through some sort of testing process to make sure that it is safe. Gambling is a service, and yet we do not have any precautionary approach to it, notwithstanding that we know that a certain number of people when exposed to gambling products end up being harmed quite significantly. In terms of the internet or interactivity, I would strongly regulate it. In fact, I would try to include mitigating controls that reduce the harm, and until we can find some methodology of doing that I would probably say, 'Don't do it'—at least for a period of one or two years. . . Do not open up interactive gambling without any sense or understanding that it will cause significant harm within the community.

Nonetheless, as the committee is now proceeding at looking at a regulatory model, I believe that, if we are going to go down that path, that regulation is to be one that best affords protection for those members of our community who are most vulnerable, in particular minors and those addicted to gambling.

While not wishing to diminish in any way the problems of addictive gamblers, particularly in relation to the internet, I have heard a number of people whose opinion I respect, including a reformed pokies gambler, say that internet gambling does nothing for them. The buzz that one gets, apparently, is not present on the net. I hope that is the case. Having said that, I am mindful, like my two colleagues who put in a dissenting statement, that it is not necessary to sanction yet another form of gambling which brings it into the family home. Whether or not parents gamble responsibly, it is not a good example for children to be growing up with. Obviously, there cannot be the same public controls as there are over other venues, such as hotels, in relation to minors, particularly as in the home children are likely to have greater accessibility to the internet. I know that the committee heard the same concern expressed by several people giving evidence to it.

I noted the Treasurer's comments that the majority view was that the committee was not prepared to support publicly that the existing forms of interactive gambling should be banned, abolished, prohibited or removed. If that is the case, and in keeping with the Treasurer's commitment, perhaps all this parliament is left with is to decide specifically whether the Adelaide Casino goes on-line. I understand the Adelaide Casino certainly is preparing to do so. Overseas, some states in the United States, in particular Nevada, have made a decision to prohibit on-line gambling from their casino outlets for onshore citizens. I understand that a group of former casino executives and industry experts have approached the Las Vegas City Council hoping to set up an internet casino site by April next year, but only for non-US citizens. Because of US restrictions, VegasOne.com would be licensed and regulated in Australia and only non-US citizens could use it to place bets. It is a good example of where we could prohibit internet gambling in a particular jurisdiction but where we are totally unable to do so outside another jurisdiction—not that it is easy for one to identify exactly where a server is located physically on the net.

I noted the comments of the Hon. Angus Redford that, given the social cost to the community, the revenue leakage to the state of prohibiting on-line gambling is not necessarily proven. Others have made similar comments. I am aware of the status of the Kyl Bill in the USA. If prohibition were to occur, whether it be totally or, say, just for minors, it might be that it may not be the success we would hope it to be. Then again, there is nothing wrong with legislating for a principle: it is the manner in which we legislate for the majority of our laws. In relation to existing legislation, I note the contribution of the Hon. Angus Redford and the recommendation to amend our existing acts to clarify the legality of gambling activities in South Australia.

The Hon. Nick Xenophon is understandably anxious to obviate the harm that can be caused by internet gambling by further empowering consumers and seeking to enable them to void transactions. It may not be quite as tidy as some would like, but certainly it is possible in relation to this type of e-commerce. I agree with him that attacking the actual financial transaction is a source of ultimate control in relation to addictive gamblers.

The Hon. Nick Xenophon interjecting:

The Hon. CARMEL ZOLLO: I am pretty much saying so, yes; I agree with you. I am not able to rewrite history—

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: I guess I was not there. I am not able to rewrite history, but I have looked at the issues as I see them. It is the case that we have some forms of interactive gambling already. The majority view of the committee was that the prohibition of interactive gambling within South Australia on social grounds is not acceptable. Even the Hon. Nick Xenophon had to concede that, while this is an interim report, in effect it is also a substantive report in the sense that the committee did reach a majority view for a regulated regime of on-line gambling.

The Hon. A.J. Redford: There was only one vote in it.

The Hon. CARMEL ZOLLO: There was only one vote and it was not mine. This has left us with the committee now examining in greater detail the desirable features of a regulatory model for interactive gambling. The other important issue to be considered is what role we can play as a state in satellite, cable and digital communications and the interactive gambling opportunities available to South Australian citizens from that technology. I understand that the committee will further consider the regulatory challenge of these issues in its final report.

In relation to regulatory models, the head of the Christian Churches Task Force on gambling has recently produced a report, 'Reducing harm through gambling regulation'. The report lays out a regulatory structure for the gambling

industry in South Australia and, understandably, it believes that the authority it would like to see in place should have the flexibility to deal with new and emerging issues in the gambling industry as they appear. It gives as an example the rapid change in products and the accessibility to gambling provided by internet gambling and interactive sports betting.

I also note the comments of the standing committee at the time of its inquiry in 1998 when its preference was to see interactive gambling banned. However, it also commented that, should this be impossible, the committee recommended a strong regulatory framework. There are already many examples of suggested legislation and policies for a regulatory model. This report sets out on page 4 the main foundation provisions of the draft national regulatory model for interactive home gambling products—and they are certainly excellent—including the prohibition of credit gambling, the prohibition of gambling by minors, prohibitions for compulsive and problem gambling, and so on.

One of the key findings in relation to policy of the Productivity Commission's Inquiry Report of November 1999 was the requirement for gambling needs to be directed at reducing the costs of problem gambling, and at harm minimisation and prevention, while retaining benefits to recreational gamblers. I am certain that no-one would argue that the finding should in any way be different for interactive gambling. Another finding was identified as internet gambling offering potential for consumer benefits and new risks for problem gambling. That is exactly the concern with this medium: it is another new risk, not just by its arrival but by its very nature in being easily available in one's own home. The report continues that managed liberalisation with licensed sites for probity, consumer protection and taxation could meet most concerns, although to be effective it would require commonwealth government assistance.

The Productivity Commission described the option of managed liberalisation within a nationally agreed framework as an alternative to prohibition. The Hon. Nick Xenophon has indicated that there may be the opportunity to recommit federal legislation in relation to a moratorium. He must know more than some of us in relation to the direction that the commonwealth government is now going following defeat of that legislation to see a moratorium for a year—and I guess we will have to wait to see the outcome.

The Hon. Nick Xenophon interjecting:

The Hon. CARMEL ZOLLO: The next couple of weeks.

The Hon. Nick Xenophon interjecting:

The Hon. CARMEL ZOLLO: Okay. Whilst I was not part of the initial committee, I have the luxury now of being able to say that I lean towards prohibition but appreciate the view of the majority of the committee which favoured a regulatory framework. I support the noting of this report and I look forward to now being part of the future deliberations of the committee.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. L.H. Davis:

That the annual report of the committee 1999-2000 be noted.

(Continued from 25 October. Page 231.)

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: RURAL HEALTH

Adjourned debate on motion of Hon. Caroline Schaefer:

That the report of the committee on rural health be noted.

(Continued from 11 October. Page 132.)

The Hon. T.G. ROBERTS: I support the noting of the 13th report of the Social Development Committee on rural health and, in doing so, would like to make a few supporting comments and observations in relation to the report. While I was not a member of the committee I do have a strong interest in rural health and, in particular, Aboriginal health. I understand that in the background to the committee's report a statement outlines that Aboriginal health was not to be a part of the inquiry. That decision was made early in the formation of the committee's terms of reference.

The original terms of reference of the Social Development Committee's rural health inquiry were to review obstetric services, with particular reference to access by women living outside the Adelaide metropolitan area; the costs of medical indemnity insurance for city general practitioners as opposed to country general practitioners with or without obstetrics loading; the rates in South Australia for medical indemnity insurance compared with other states; the role played by our state government and the role government plays in other states in regard to the negotiating and brokering of medical indemnity insurance; improvement in the claims management and work practices by the medical profession with a view to reducing the number of claims and therefore reducing the cost of medical indemnity insurance; the role of the legal system and its effect on the cost of medical indemnity insurance; and any other related matter.

I suspect that those terms of reference were drawn up having regard to the difficulty that country hospitals were facing in terms of general practitioners involving themselves in obstetrics and the subsequent access country women had to obstetric services within reasonable proximity to their home towns. The committee's terms of reference were then broadened somewhat by the Hon. Sandra Kanck, for which I am thankful as a single member of this Council. The terms of reference broad-banded not only the problems associated with insurance indemnity and access to obstetric services both inside and outside the metropolitan area but also a number of other important issues that were and are impacting on the community health of many people living in regional areas. The broadening of the issues resulted in the following:

i. access to a complete range of services, with emphasis on acute care, mental health and obstetrics;
ii. adequacy of facilities and equipment;
iii. availability of appropriately trained medical and nursing staff;
iv. the impact of medical indemnity insurance, including
v. the role played by government in the negotiating and brokering of medical indemnity insurance;
vi. improvement in the claims management and work practices by the medical profession with a view to reducing the number of claims and therefore reducing the cost of medical indemnity insurance;
vii. the role of the legal system and its effect on the cost of medical indemnity insurance;
viii. the impact of regionalisation;
ix. any other related matter.

That broadened out the issues somewhat for the committee in terms of having defined changes to its terms of reference. I know that on most committees we can move the 'any other related matter' clause but it is helpful, I think, to give

committees a defined path by numbering those issues that the parliament feels are important. It saves the committee arguing about what will be included in 'any other related matter', because we all take our pet 'any other related matter' subject into those committees away from parliamentary direction. Sometimes the length of the committees and the breadth of the arguments that are adopted in trying to get a set of parameters can be avoided if they are identified before the first meeting is convened.

I still support the 'any other related matter' clause, which allows for any changes to circumstances if a committee is trying to take a snapshot of a difficult issue. Rural health has an evolving program and there certainly are evolving problems emanating from changes to federal policy and the direction that states take in relation to how they apportion moneys to the health system. A large percentage of a state government's budget is directed into health, and another large consumer of state resources is education. To take a snapshot within such a large portfolio and departmental responsibility of health is difficult without having some flexibility built in so that the committee can adjust its sights if something moves while it is reporting.

As I said earlier, the committee decided early in its determinations not to look at Aboriginal health as a separate part of rural health. It decided that, if Aboriginal health formed part of rural and community health generally, comments would be made about that. The committee reported that, at the outset, members determined that Aboriginal health should not be part of its inquiry. It argued that Aboriginal health needed to be considered in its own right, because there were many health issues that related specifically to Aboriginal people and communities that could not be properly canvassed.

The committee believed that, to do justice to Aboriginal health as part of this inquiry, more resources and time would be required than were available. General comments on Aboriginal health matters have been included in the report where it was considered relevant to the region, but they should be seen as broad trends and in no way representative of an in-depth analysis of the state of Aboriginal health in rural South Australia.

I hope that, at some future time, a standing committee or a select committee will look at the issues associated with Aboriginal health, as this committee has identified that this issue needs special resources. It also needs a microscope to be placed over it so that justice can be done to any inquiry that the parliament might determine to set up to look at Aboriginal health.

The issue with which there was no argument in relation to service deficiencies within rural areas was that of mental health. When the committee was first set up, a number of issues were starting to appear to be difficult for rural health services to manage. I refer to the number of suicides, particularly of young males in regional areas, prior to the setting up of the committee.

Even though, as the committee reports, $2.5 million has been apportioned to mental health services generally, I suspect that nothing has really changed on the ground and that the fragile state of rural health services dedicated to supporting young and middle-aged males with psychiatric problems and mild depression (which can lead to exaggerated mental health problems later) are not being handled adequately or properly, and the people who are involved in those support services and their families are stretched to the limit.

In rural areas, communities have to support those members of the community who have either mild depression or severe psychiatric problems in the best way they can. In some cases, there is the support of GPs who can analyse some of the problems but, in many cases, GPs, medical clinics and regional hospitals do not have the resources and back-up services to adequately treat or hospitalise at appropriate times patients who need special mental health services. The committee states that mental health is the only area in current rural health services which all respondents saw as being inadequate throughout the state and in need of a major overhaul and system-wide improvements.

The committee sent out questionnaires (the return rate for which was about 24 per cent, which was a reasonable return) to create a snapshot of a difficult problem such as rural health. The committee decided to travel to regional areas to inspect smaller country health facilities, hear evidence and undertake community consultation. The committee must be congratulated for its efforts in getting out to regional and rural areas to take evidence and visit many of those areas of regional South Australia which, in many cases, do not get the respect they deserve in regard to the servicing that they expect from governments.

For those people who are critical of the Legislative Council, one of the strengths of the Legislative Council is that the committee structure that has been set up and run in this place has always played a key role in supporting rural and regional problems and facilities. In fact, in some cases, the only time that remote and regional people see any evidence that the tax dollar is working for them is through parliamentary services areas when select and standing committees arrive to talk to them and take evidence on important matters of interest such as rural health.

The committee made a number of recommendations in the summary of the report. I will not mention them all, but I will highlight a few. In the summary, the committee states that it is aware that it is difficult to provide a full range of health services to the country because of the distances between towns and services, the sparseness of the population, the cost of providing specialised services, and the shortage of staff in all health professional areas. That is probably one of the key problems associated with delivery.

It is becoming more painfully obvious as time goes by that, with the withdrawal of many other government services at both commonwealth and state level, and the thinning out of populations in remote and regional areas and the centralising of regional services, a lot of regional centres are losing many of their support services (which include education, health and commonwealth services) that provide population levels to allow for minimum services to be delivered in health in a way in which you could expect the professional qualifications of those dedicated GPs and doctors to be provided.

Although there have now been some changes at commonwealth level with recommendations for special payments for GPs in regional areas, the sacrifice that many GPs make in making regional areas their home (for themselves and their family) is generally never appreciated by their city colleagues. Visiting professionals are now starting to make a difference to regional centres, and the regionalisation of specialised health services is starting to slow down the movement of patient care from regional areas to the metropolitan area, which was the only option that regional people had before regional services were concentrated with visiting professionals.

In many cases that brings about hardship, with the total disruption of whole families in small communities. With perhaps the exception of obstetrics, there is now a confinement of that movement of people into the metropolitan area to seek out special health services to remain within those regions to be serviced by a visiting specialist.

With obstetrics, most women prefer to be close to their regional centre and to have their servicing GP deliver their children, if that is at all possible. Where that is not possible, such as where there are some projected complications or where the mother may have diabetes or some possibility of a complicated birth, then the recommendation by the practising GPs in regional and remote centres is to have the child in one of the metropolitan area hospitals, either the Flinders Medical Centre, the Women's and Children's Hospital or in private care.

This will always be the case. Unless the regional services are able to be built up to a point that mirrors Flinders Medical Centre or the Women's and Children's Hospital, there will always be some who will make the choice to have their child in the metropolitan area. I do not think that a lot of people in the metropolitan area realise just how difficult it is for regional people to get follow-up specialist treatment and support for serious problems such as cancer, leukaemia and, in the case of children, children born with deformities or who have genetic problems associated with the birth.

South Australia provides as good a service as is possible, given the financial constraints on us. I think that the accommodation allowance, the travelling allowance and the facilities that are provided by the major hospitals for those people who cannot afford to stay in motels but who are able to be housed in accommodation of an emergency nature in reasonable proximity to the centres they have to visit are very good, although there could always be more accommodation provided and more support facilities. I guess that that is something that governments have to take a snapshot of to try to meet the requirements of those people who find themselves in that situation.

The Social Development Committee makes recommendations on trying to fill the gaps in the shortage of general practitioners in country areas. There are recommendations on overseas-trained doctors, on training programs, on education and training for doctors and nurses from rural areas, and recommendations on nurses training etc. to fill the programs that are so vital to the support services that any health system needs.

I understand that we are now having such a critical problem with the training of nurses and the number of recruits entering the service that there is a big call for retired nurses to be brought back, even in a part-time capacity, to fill the requirements, because of the problems with recruiting and training, which seems to be a professional problem, as the Hon. Michael Elliott raised today, associated with apprentice training. It seems that in this day and age of outsourcing nobody wants to take the responsibility of training and education.

Everyone wants a finished product so that the accountants can write off the books any complications associated with the education and training of professionals in all services. So, with nurses and, in some cases, doctors and other health professionals, particularly mental health service deliverers, we are suffering from the lack of any response to a long-term plan for the training of people in the health area, as well as in many other areas.

I congratulate the committee for the work that it has done, the evidence that it has collected and the recommendations that it has made. It is up to the government now to pick up and run with the recommendations. I would certainly like to see the replies to the recommendations of the committee and to see those people in the human services departments, particularly in health and mental health, put forward programs that take into account the recommendations from the rural health inquiry.

I look forward to the implementation of those recommendations to overcome the deficiencies that exist in rural and remote regions, which were obvious to the committee. Hopefully, we can overcome some of the problems that exist out there today.

The Hon. R.R. ROBERTS: At the beginning of my contribution I would like to congratulate the people who wrote the report. I have maintained a particular interest in public health in country areas over many years. I have made a number of contributions and been involved in many negotiations on behalf of country constituents with health problems, and I have tried to assist them in pursuing some conclusion to those problems and finding some relief, at least, for some of the issues raised.

Earlier this year, I and the Leader of the Opposition and the shadow Minister for Health (Lea Stevens) undertook a tour of health facilities in the state seat of Frome, visiting Riverton, Clare, Crystal Brook, Laura, Port Pirie, Port Broughton and Snowtown. It was fascinating to talk to people who were crying out for support in their efforts. All those small country health facilities are backed up by very dedicated community members to the extent that they are actually painting the buildings themselves, making the curtains and running the cake stalls.

They are very concerned that some of their health centres are going to be closed down. The health centres are viewed by country residents as vital to the quality of their lives and the lives of their families. It was interesting to note the same problems right across the electorate of Frome. Things such as mental health featured very highly and, of course, the perennial problem of funding, trying to attract rural doctors and nurses. We noted the differences between the health problems and the perception of the health problems between those people living in country South Australia and those living in the metropolitan area or, indeed, in larger regional centres such as Port Pirie, and were interested to see how the system applies.

I refer to casemix funding, in particular, whereby we have a formula that says that a particular illness attracts a particular health regime to get the patient back to health. Those figures, by and large, are developed by studies across the whole of the state, and when we consider that about 85 per cent of the people that we are talking about live in the metropolitan area, obviously the figures are skewed by the figures that come out of the metropolitan hospitals and the larger medical facilities in the state, where they are fully equipped and fully nursed. Some would argue that they are not to the extent that they ought to be, but, in comparison with some of the country locations, they are doing comparatively well and, therefore, with a full range of services, a proper health plan for someone recuperating from an operation, for instance, runs along far more smoothly than it does in a country area, whereby you may have a patient who is actually sent to Adelaide for a procedure and then returned to a health service provider in a country area.

What would happen in this formula for Casemix funding is that a portion of that plan would be about the housing and the initial care of the patient, then there is a recuperation plan, which in many cases involves the patient returning to their home, and they are then serviced with dom care and other support facilities. The problem you find when you get an aged patient, for instance, returning to Riverton is that when they get home there is not the level of domiciliary care and there are not the support back-ups. In many cases it involves aged people living on their own, in the home, and therefore the Casemix funding formula, by necessity, has to go out the window, because you cannot send those patients home to a house without any back-up. For instance, they are hospitalised, and therefore all the formulas go out the window and you have a funding problem at the end of the year.

In many of these cases the funding is cross-pollinated and you can move funds around but, at the end of the day, when you couple that with the inability to get the right number of doctors and the right number of nurses, and they are trying to provide all the services that are required by the community, it makes for stress and strain. One can only admire the health service providers and their staff and, indeed, the hospital boards in all these areas. I was particularly impressed by the dedication of people in these areas and the extent to which they are prepared to extend themselves for the good of their health services.

I was able to observe some very good work that was being done in a number of hospitals. I was impressed by the gynaecological services and the birthing facilities and the work that is being done at Crystal Brook, which is rather a small health unit but staffed by very dedicated people and a very dedicated board, and it has become a preferred place for young women to produce their offspring in the Mid North. That comes about, I suppose, by the fact that they have a doctor there, a specialist GP, who does specialise in those services, but then we can look at Laura, where there was a great deal of angst when the general facilities of Laura were changed.

The people there changed their emphasis on what they were about and they have now become a specialist and a model for other health services in Australia to follow. In relation to Port Broughton, the same type of problems were faced by the hospital boards, and they are now moving into nursing facilities. I was pleased to see that there is some new nursing housing going to Port Broughton. They are fortunate that they now have some good doctors in residence, and their reputation is increasing all the time.

When we spoke—the Leader of the Opposition, the shadow minister for health, and myself—to all of those boards we were advised of the problems facing all of those boards, and many of those I see are duplicated in the report that has been produced by the committee. I was interested to hear that they were going to visit the same health services that had been visited by ourselves, and it was fascinating to listen to the press reports we heard when our tour was on and the coverage that was given to us by the press, and then to be followed by the Hon. Caroline Schaefer reporting on the findings of the committee as she went around, and to find that exactly the same story was coming out.

There is no question that mental health is probably the most pressing issue facing health care providers, not only in the seat of Frome but in Whyalla. I did recount to this Council a few weeks ago the story of a 28 year old male patient with bipolar disease in Whyalla and what he was faced with. The fact that you can go for nine or 10 days without getting any service is certainly an indictment on what we are doing in the area of mental health services, especially in the country.

Earlier this year I raised concerns about Glenside and the way patients were treated at Glenside, and I pointed out my concern that adolescents were being put into Glenside with psychiatric adult patients, some of them coming from other mental health institutions with a history of violence and sexual abuse, and they were also mixing with people from the Yatala Detention Centre. We did have some debate, myself and the minister, in respect of that and I was assured that these patients were not being subjected to being in the same wards with these patients with those types of history. But, unfortunately, I am certain that my accusations were right. I do note that there has been some alteration in the regimes that operate at Glenside.

I note that there is a new report and a new direction that was mentioned by His Excellency the Governor in his speech with which he chose to open this parliament about what is going to happen in mental health. I am looking forward with some anticipation to major improvements in the provision of health care services. There has been a problem in the area of mental health and mental health patients since about 1992, 1993 when the Labor government first embraced the principle of deinstitutionalisation for these patients, where it was considered that it was a good idea to have these people suffering these disabilities out in the community, give them a better quality of life.

I argued strongly against that in my own caucus on the basis that I wanted to see the back-up services provided for these patients before we deinstitutionalise. Unfortunately, that never occurred, and since 1993 and the change of government there has been nowhere near the emphasis that there should have been on the establishment of those facilities and those back-ups. Unfortunately, the sad part about it has been that many of those patients from 1993 onwards who were returned to their families were no longer children but were actually adults and the parents were aged people and could not control them. For a fair period of time we saw some very sad cases where these people had taken off and caused community problems, and not only community problems, of course, but there is the anguish and anxiety of the families.

I am happy to support the noting of this report, which reflects many of the issues that I have stumbled on in my own unprofessional way. But I think it is not the fact that we found the problems; the fact is that we have to overcome the problems, and they can be overcome only by dedicated governments looking at the health and wellbeing of those people who want to look after those who are unfortunate enough to be unhealthy in country areas, and provide not only the money but the professional services to ensure that all South Australians living in rural South Australia do get a fair go when it comes to the provision of health services. I support the motion.

The Hon. SANDRA KANCK: It is now more than four years since I moved a motion in this place to refer to the Social Development Committee a reference regarding my concern about country obstetric services.

The Hon. Nick Xenophon: Things move quickly, don't they?

The Hon. SANDRA KANCK: They do move very quickly—blink your eyes and things pass! At the time I considered this to be an extremely important motion, because of the turmoil that was existent in South Australia over

country obstetrics, particularly in the South-East of the state. In that region women were being denied access to obstetric services because of what amounted to industrial action being taken by GPs because of the high cost of medical indemnity insurance.

It certainly angered me to see pregnant women being used as bargaining tools by these doctors. However, the action did work for them and the state government intervened and took action to subsidise the medical indemnity insurance of South Australian rural GPs.

In the meantime, other references came before the committee and, because the heat appeared to have gone out of the country obstetrics issue, as the mover of the original motion I agreed to allow another reference to be given priority on the proviso that when we came to consider this reference we would widen the terms of reference to investigate a variety of rural health issues, and the committee agreed to this.

As it was the issue of medical indemnity insurance that acted as the catalyst for me to move the original reference to the Social Development Committee, this is the first issue I wish to address in looking at the results of the committee's inquiry. It was then and remains my view that subsidising the business on-costs of any professional group is not an appropriate role for government and the problem ought to be addressed at its source; that is, the acquisitive and sometimes irresponsible attitude of some lawyers seeking to make money for a client regardless of the consequences, taking advantage of judges—

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: Regardless of the consequences that have occurred; for instance, the shutting down of a hospital when a lawyer decides to take a doctor for—

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: Well, that is what I am saying: there are judges who do not understand the issues when they are brought to their attention. In fact, one—

The Hon. Nick Xenophon: Isn't it about adequate insurance?

The Hon. SANDRA KANCK: No, it is not about adequate insurance; it is about smart alec lawyers.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: There are a lot of smart alec lawyers around.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: No. A private hospital has been closed down—

The Hon. Nick Xenophon interjecting:

The PRESIDENT: Order! The Hon. Sandra Kanck has the call.

The Hon. SANDRA KANCK: —in Adelaide as a consequence of actions by lawyers on medical indemnity insurance.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: No, it is not a consequence of medical negligence. In fact, Doctor Richard Watts of Port Lincoln in his evidence to the committee said:

> I also believe that the judges who adjudicate on these cases for example, cerebral palsy from birth difficulties, these judges need to be educated on the role of birth trauma in the generation of these illnesses.
>
> So there are lawyers who are willing to prey on the lack of knowledge that judges have about certain medical procedures and the consequences of those procedures.

Terms of reference (iv) 'the impact of medical indemnity insurance' and (v) 'the role played by government in the negotiating and brokering of medical indemnity insurance' invoked responses of support for the state government subsidy to GPs for their medical indemnity insurance. The widely held view was that this was a positive and should be continued, and the committee has recommended that way. Nevertheless I note that, in its submission to the committee, the Barossa Area Health Services observed that doctors saved quite a deal of money from the subsidy from the state government but, as a consequence of that subsidy, no private obstetric patients were being admitted to the Tanunda Hospital so, in a sense, the doctors pocketed the difference. The Barossa Area Health Services stated that the board has concerns that it was not involved at any stage with the negotiation and brokerage of the medical indemnity insurance issues. As the legal entity, the board considers that it should have been a partner in the negotiations.

Because they were generally happy with the way things now stand, a number of submissions and references to the committee's initial questionnaire glossed over our terms of reference, which stated:

> vi. improvement in the claims management and work practices by the medical profession with a view to reducing the number of claims and therefore reducing the cost of medical indemnity insurance.
>
> vii. the role of the legal system and its effect on the cost of medical indemnity insurance.

Those who chose to comment were unanimous in the view that smart alec lawyers play a principal role in hoisting up the premiums for medical indemnity insurance. I draw the Hon. Mr Xenophon's attention to the fact that this was an almost universal view from the hospitals and health services in rural South Australia that commented. If the Hon. Mr Xenophon takes exception to it—

The Hon. Nick Xenophon: I do.

The Hon. SANDRA KANCK: —he had better make contact with the hospitals and health services in the rural regions of South Australia and tell them that they are wrong. Dr Graham Fleming of Tumby Bay made a reasonably detailed submission on this issue. It is worthwhile hearing what he had to say, as follows:

> Unfortunately, the legal system is one of the main reasons that medical indemnity insurance has increased in recent years. One of the main problems is that medical indemnity insurance is mostly dependent on case. . . law and is open to much interpretation and precedence. It is obviously very messy but case law can only be superseded by legislation. No Attorney-General is going to introduce legislation to simplify the law because the legal profession, of which they are usually a member, would so violently oppose any changes, it would make the Attorney-General's life intolerable. Medical indemnity cases are fertile ground for the legal profession and it is not surprising it is getting easier for the lawyers. Most rural hospitals and no rural general practitioner can match the standards demanded by case law. For example—

I hope you take notice of this, Mr Xenophon—

> duty of care. . . .Rural general practitioners have a duty of care to provide to anyone who calls for emergency assistance. There is no way of ascertaining whether it is a true emergency unless that general practitioner sees the patients and documents the facts. Once the patient has been seen there is a duty of care for treatment or for referral.
>
> Unfortunately, if there is no-one else to refer to, the rural doctor then becomes responsible for the treatment. In other words, rural general practitioners have an unrestrained legal duty of care to all members of the public within their geographic area which is physically and legally impossible to meet. Rural hospitals with an outreach service have a similar duty of care but, if a patient calls the hospital after hours, there is no facility to provide acute care. The

duty of care demanded by case law is 'a reasonable general practitioner or health facility with reasonable resources'. The fact that inadequate resources have been provided or do not exist is not a legal exemption. In fact, most rural general practitioners and rural health facilities fail this standard of duty of care from time to time.

For example, a general practitioner who has been up all night with an emergency and is confronted with a patient with a severe myocardial infarction has a duty to provide emergency care even though he or she may not be mentally capable of doing it well. Unfortunately, this is not an acceptable defence. It is wrong to believe the courts will take this into consideration, as they have ignored it by precedent in the past.

A patient being treated in hospital has a legal right to be informed of the nature of the illness, the alternatives of treatment, the reason why a particular treatment has been chosen, the drugs that are to be used, their side effects and the likely interaction. All this information must be written in the notes in a legally correct and legible manner. Of course, relevant history and findings must also be recorded to make the notes legal. If rural general practitioners are seeing 40 to 50 plus patients a day and working a 12 hour day, they are unlikely to have time to write this much documentation and, as patient care comes first, the doctor is unlikely to be compliant in keeping legal notes.

I guess this is the sort of thing that the Hon. Nick Xenophon is referring to when he says that doctors are being irresponsible.

This is the dilemma that faces every general practitioner: do they practise clinical risk management, see only 25 patients a day and ignore the risk of not adequately following up patients or not seeing patients in an emergency? The level of care is not taken to be what a reasonable general practitioner would do in similar circumstances but what the judge on the day considers to be appropriate treatment.

I was not going to read all this but, in the light of the interjections that I have been receiving from the Hon. Nick Xenophon, I think he needs to understand the experience that doctors have out in country regions.

The idea of having a limit to payouts similar to our workcover system was therefore advocated by many of the people making submissions. Accordingly, the committee in its final recommendations has recommended that a workcover type system with the capping of medical compensation claims be introduced. Through my work as the Democrats health spokesperson, I know that the AMA had discussions with the Minister for Human Services some time ago about this, and I look forward to hearing a positive response from the minister to the committee about this recommendation.

Additionally, the suggestion was made to us in evidence that the courts need some guidance in ordering payouts, so that a one-off lump sum is not the only way to make the payout. The point made to us was that a large lump sum can be spent at a rapid rate on a person who has been subject to some form of medical malpractice, with no money left to fund the extra services that might be needed to support someone with disabilities later in life. Accordingly, the committee has recommended that the suitability of compensation settlements paid as an annuity or pension, rather than a lump sum, be investigated.

Without appropriate people to deliver health services, the structures and the equipment are all but meaningless. Consequently, a great deal of the evidence that the committee took was about doctors, nurses and allied health professionals, with the general lament that there were not enough of any of them. The reasons range from health professionals wanting to live in the metropolitan area so that their children can have access to the education and services they believe are desirable to not wanting to have to be an expert on all medical conditions, as rural doctors have to do. That there is a shortage of doctors in rural areas in Australia is now a truism. The progress of the committee's inquiry revealed to me something of which I had not been previously aware, that is, the enormous amounts of money being metaphorically 'thrown' at doctors to either attract them to or keep them in the regions.

Since the release of the Social Development Committee's report, I have met with Dr Paul Beckinsale of the Royal Australian College of General Practitioners to discuss some of the recommendations, and he has presented some interesting information to me about the training of GPs in South Australia. Unfortunately, the college did not provide information or present evidence to the committee so that what I raise now, although it has implications for rural health, was not part of our deliberations. Without going into complex details, Dr Beckinsale has explained to me that, because of the formula used, South Australia gets only 6.7 per cent of the total pool of the commonwealth's GP funding package. Prior to 1995 the Royal Australian College of General Practitioners was training 70 GPs per annum in South Australia, but it has now been reduced to 33 this year. If you are a medical student graduating in South Australia your best bet is to move interstate if you want to get training to become a GP.

Clearly, this must have an impact on the number of GPs who are available to go out into country areas. But, given the reasons doctors provided for their reluctance to go out into these regions, how much impact this reduction in training money is having is unclear. While many people think 'doctors' when they hear the word 'health', a great majority of health delivery comes through other staff, including nurses, midwives and allied health professionals, and without them the health system would come to its knees.

The unsung heroes in some of the remoter areas of South Australia are the nurse practitioners. These are registered and very experienced nurses who often operate on their own in small rural and Aboriginal communities. The committee recommended a widening of the role and responsibilities of nurse practitioners. Specifically, in recommendations 11, 12 and 13, we said that there needs to be more training and induction of nurse practitioners; that the federal government should give a restricted provider number to enable them to order an appropriate range of investigative reports; and also that the federal government give nurse practitioners limited and appropriate prescription rights for pharmaceuticals.

When the AMA became aware of these recommendations, it made public statements attacking the committee for having made the recommendations. Nevertheless, despite everything that I have heard from the Royal Australian College of GPs, and having accepted that there is a funding disparity for GPs that might reduce some of the pressure in South Australia if there was equity, there are some communities which, because of their small size and remote location, would never be permanently serviced by a GP. These recommendations are not open slather, and I stress the word 'appropriate' that attaches to both the recommendations about the restricted provider number and the prescribing rights.

I greatly admire the work of nurse practitioners and believe that we should support them to do their job well. It befits their professionalism. I have had one letter from a nurse saying that this recommendation should not occur because 'nurses do not want that responsibility'. I acknowledge that there are some nurses who do not want that responsibility. Some nurses choose to be enrolled nurses rather than registered nurses because they do not want that extra responsibility. But there are some registered nurses who see that they can deliver these services and who want to be able

to deliver these services outside of the constraints of a medical model of health care. If we free up the system for them there will be benefits for those living in remote communities and there are particular ramifications for those living in Aboriginal communities.

I point out that, even in a community which is large enough to sustain a full-time GP, issues arise where a nurse practitioner's having prescribing rights might be far more acceptable in a smaller community. As an example, I refer to a hypothetical example of a woman who is on the school council with her local GP and whose daughters play on the same netball team. That woman may not feel comfortable going to see the same man as her medical practitioner and talking about her contraceptive needs or having him take a cervical smear.

I make it clear what the current situation is in relation to nurse practitioners. They can undertake cervical smears, but they do not have the right to authorise that the smear go to a laboratory to be checked or tested. They cannot sign the laboratory form. It is useless their being able to do the smear test and then not being able to send it on to a laboratory.

Other health professionals that were of concern in evidence we were given included physiotherapists, podiatrists, dietitians, psychologists and health educators. The Yorke Peninsula division of the Rural Division of General Practitioners in South Australia drew attention to a shortfall which affects one of the federal government programs it runs. It stated:

> Because of the federal government enhanced primary care initiatives, the lack of allied health workers needs to be addressed urgently as this whole package is built on the assumption that GPs have community health workers to case conference with, institute care plans, do home assessments. I do not think that the general public will be pleased if they know that these initiatives cannot be acted upon because their state fundholders cannot see the value in dollar terms of good preventative care to keep people out of hospitals and aged-care facilities.

I sometimes wonder whether the government really understands what primary health care is but, if the Yorke Peninsula division was making these observations in its area, clearly there would be problems elsewhere.

We made no recommendations on midwives, but a number of hospitals and health services told us that there was a shortage of midwives in their regions. The observation was made that there is a problem because many of the midwives are expected to be multiskilled or have generous nursing skills. Of course, not all midwives want to be involved in aged-care and mental health and there needs to be some way around this. I think we need to respect the midwives' right to be just midwives if that is what is needed. The solution may be assistance and extra training for those women who have midwifery skills who want to build on and develop other skills.

As the Hon. Ron Roberts observed, mental health is probably the major issue in the regions, and that appeared to be the case wherever we went and whatever evidence we took. We did note, for instance, that in some ways regional hospitals were better off than metropolitan hospitals. We came across one regional hospital, for instance, where there was a six to eight weeks' wait for a hip replacement operation, whereas in the metropolitan area it is about 18 months to two years. On the other hand, there was also another rural hospital that had about a five year wait for hip replacement operations.

In the area of mental health, almost every hospital and health service made some comment about the lack of backup. This was an area where we took the evidence very seriously, and we made seven recommendations on mental health. Recommendation No. 22, which was the crucial one for me, states:

> A number of hospitals within each region be resourced with appropriately trained support staff and have a designated room, or a room that can be adapted safely and quickly, to care for a person suffering from an acute mental episode.

The Northern Yorke Peninsula Health Service referred to the current situation and states:

> So often NYPHS has transferred patients under detention to metropolitan health services with the outcome for that person being very unsatisfactory. The isolation and increase in anxiety is often unwarranted and the detention order is lifted and the patient discharged back to the local community only to be readmitted to hospital with the same problem.

One must query the value of having done that. The submission from the Southern Yorke Peninsula Health Service and Central Yorke Peninsula Hospital about mental health was at least very angry, in part, and states:

> It would not be an overstatement to say that there is a crisis in our lack of capacity to provide proper care to those with mental illness. On Yorke Peninsula there are three mental health nurses to provide services for a population of over 23 000 people. They are supported by a very much part-time visiting clinical psychologist and occasional visits from a private practice psychiatrist. We are extremely disappointed that the promised reassignment of resources to the community as a result of de-institutionalisation has only been realised in a token way in rural areas such as ours. The mental health nurses are highly stressed and at risk of burn-out, endeavouring to cope with a workload which is impossible for them to meet. We are frequently only able to meet crisis care needs.

The Mental Health Advisory Group for the Northern and Far Western Regional Health Service raised the issue of access to psychiatrists. Its submission states:

> In the 1993 report, 'Country Mental Health Services for South Australia: A Framework for Service Delivery', the recommended allocation of psychiatrists in Port Augusta is 'three sessions a week'. Currently it receives 1½ days a month of consultant psychiatrist time, soon to be reduced due to an extended period of annual leave. There is no other specialist psychiatric service in the region. Perhaps some of the federal funding being offered (and not being accessed) to attract rural and remote GPs could be diverted to support an increase in visiting psychiatrists to our rural and remote regions.

Sexual health was another issue with which the committee dealt and those who have read the report will note that recommendation 33 states:

> Additional funding be allocated by the state government to enable the Sexual Health Hotline information referral and counselling service to operate seven days a week, 24 hours a day.

This service offers advice about contraception, sexually transmitted infections and sexuality information, which can be extremely important in rural areas where we know, for instance, there is a high suicide rate or at least a high rate of attempts at suicide by young gay men. When is the sexual health hotline open? Monday to Friday, 9 a.m. to 1 p.m. It was observed during the taking of evidence that this is the time when most of the people who might be wanting to access it would be at school. I was very pleased last week to attend the 30th birthday celebration of SHINE SA at which an announcement was made of government money to that organisation. I have not had a chance to speak with SHINE SA about how it intends to use the money but I hope that part of it will be able to turn the sexual health hotline into a seven day a week, 24 hour a day service.

The impact of regionalisation was another of the terms of reference. For those hospital boards where the hospital had been declared to be the regional hospital there was satisfac-

tion with regionalisation, but for those hospitals that were lower on the pecking order there was dissatisfaction. The committee opted out of dealing with this issue and it was the one recommendation I felt we did not deal with properly because it became political. The majority of committee members on the day we reviewed the recommendations were government members and they did not want to see any criticism of the government. Recommendations 29, 30 and 31 are couched in very non-threatening terms. Recommendation 29 states:

> The state government takes steps to ensure regional autonomy and avoid duplication of functions in the central offices of the Department of Human Services.

Recommendation 30 states:

> The state government reassess the validity of casemix funding for regional areas and make adjustments if required.

Recommendation 31 states:

> The effectiveness of regionalisation be subject to continuous review.

Some of the hospitals, I think, felt constrained with what they said. I certainly know that what we received in writing did not always reflect some of the private comments that have been made to me as the Democrats health spokesperson. Nevertheless, one needs to read between the lines. The submission presented by the board of directors of the Port Lincoln Health Services states:

> As the committee would be aware, regionalisation of health services was a South Australian Health Commission initiative that was implemented approximately five years ago. The philosophy behind this model of health service delivery was to empower local communities to take ownership of their health needs and develop and enhance local services. It was also intended that the resultant structural changes to the system would not add any new layers of administration to the process, but rather savings would be made from downsizing the previous country health services division in the Health Commission, and these savings would be used to provide additional services to rural communities. Consequently the intent behind regionalisation appeared to be sound and therefore generally supported. Whether it has achieved its objectives is unclear and the board therefore suggests that an independent evaluation of this model of service delivery be carried out.

I stress that word 'independent' because that is the word that the majority on my committee would not include in its recommendations. It wanted the government to be able to do the review. The Barossa Area Health Services, I think, was a little more scathing between the lines than the Port Lincoln Health Services. The Barossa Area Health Services included part of the response it had sent to the Minister for Human Services in relation to the Human Services Department's document 'Evaluation of Regionalisation in Country South Australia 1998'. At that time the Barossa Area Health Service told the minister:

> Although the Barossa Area Health Service has fully supported the implementation of regionalisation, there appears to have been little achievement into its primary goals. It is considered that the evaluation report is biased in its findings and conclusions and has not taken an objective and arm's length view of the process. A critical analysis which identified the positive and negative factors and issues, that both facilitated and hindered meeting objectives, would have been more constructive in assisting a credible evaluation process. The implementation of regionalisation has resulted in the following for the Barossa Area Health Services Incorporated: (a) a loss of over $100 000 in 1998-99 from patient care to support a regional bureaucracy; (b) an additional layer of bureaucracy has been implemented with a resultant slow-down of decision making and reduction in delegations and autonomy for local health boards; (c) a reduction in local board and community input into the representation and development of local health services, i.e., the process has acted as a filter in the access and development of local health services. It is suggested that, as we have progressed a further two years on from the report time frame, it may be opportune that a subsequent evaluation be undertaken. To achieve a truly meaningful evaluation it should be undertaken by an independent reviewer and have a broad input from all health care providers involved, including local health unit boards, non-government organisations, etc.

That was from a letter the Barossa Area Health Services sent to Dean Brown. Again, it stresses the need for an independent review. In its actual submission to the committee, the Barossa Area Health Services stated:

> I must again reiterate my board's support for the regionalisation concept, however a number of significant issues provide ongoing concern: reduction in dollars committed to patient care—approximately $5 million dollars per annum; new layer of bureaucracy; no reduction in staffing for Country and Disability Services Division of DHS; additional 50 plus FTE in regional offices; increase in duplication; confusion of responsibilities; increased centralised control and reduction in local community involvement.

So, whilst I think most of the boards feel that their hands are tied and that they have to say that they support regionalisation, the extent of that support is questionable.

I note the Hon. Terry Roberts' comments about Aboriginal health. The committee decided that this issue needed to be investigated in its own right, that it is an extraordinarily complex matter, one which no state or federal government has been able to solve over a period of years. I would welcome the opportunity at some stage to take this issue on as a complete reference. Many of the recommendations that we have made, however, will have positive effects for Aboriginal communities if they are acted upon. I am happy to support the motion.

The Hon. NICK XENOPHON: I was not going to speak to this motion, but I have been provoked in the most egregious fashion by the Hon. Sandra Kanck. I commend the committee for the work that it has done on the issue of rural health. This is an important issue. In general terms, the issues of infrastructure and facilities and particularly health care for rural communities should be at the forefront of the public policy debate.

However, I take issue with the recommendation of the committee that a scheme similar to WorkCover should be introduced to allow medical compensation claims to be capped. Essentially, this committee is going down the path of having a 'no fault' system for medical negligence claims. I think we need to put into perspective what the reality is in terms of these claims, because I believe that the consequence of abandoning the common law system will be that we will have a system of second-class medicine and third class compensation for victims of medical negligence. The long-term consequence for our health care system will be quite disastrous. In particular, the consumers of medical services (the patients), those people whom the Hon. Sandra Kanck is supposed to represent as the Democrats' health spokesperson, will suffer the most.

I should disclose, lest I be criticised, that I am a legal practitioner. My firm handles medical negligence cases, and I have done medical negligence work in the past.

The Hon. Ian Gilfillan interjecting:

The Hon. NICK XENOPHON: In all sorts of areas throughout the state. Having dealt with victims of medical negligence, I have very close knowledge of some of the things that go on in hospitals where doctors have let down patients. I think it is important that, if we take away the right of people to sue for negligence following a breach of duty of care, it will be an absolute disaster.

Let us look at what happened in New Zealand 28 years ago when that country adopted an accident compensation scheme, a scheme which allows for 'no fault' compensation. In that country, we have seen a steady erosion of the benefits that have been paid. They approached this issue by looking at a WorkCover type scheme—a 'no fault' scheme. The evidence from New Zealand included a paper prepared by Chief Judge Tom Goddard of the Employment Court of New Zealand. This paper was delivered at a legal conference several years ago. It was quite scathing about the extent to which benefits for victims of malpractice, particularly medical malpractice and also in relation to victims of road accident trauma, had been eroded over the years.

When I was in New Zealand a number of years ago, there was a case involving a person who went into hospital for, I think, an appendectomy. The hospital made a mistake and he was castrated instead.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: No. This person did not have a claim. It was argued before the New Zealand High Court whether—

The Hon. R.R. Roberts interjecting:

The Hon. NICK XENOPHON: This case verged on criminal negligence, and that person did not have an ordinary common law claim for negligence. That person's damages were going to be an absolute pittance, because that hospital did not get its act together. The doctors did not get their act together in terms of who was going to be operated on and for what. It indicates how disastrous it can be if you get rid of a system of common law damages. Let us put this in perspective.

The Hon. Sandra Kanck: That's one case.

The Hon. NICK XENOPHON: No, there are many cases.

The Hon. Sandra Kanck: Let's close the hospitals down then.

The Hon. NICK XENOPHON: The Hon. Sandra Kanck talks about closing the hospital down. If she is referring to the Le Fevre Private Hospital case, that award was for about $6 million. The case involved a young child with cerebral palsy. The infant suffered significant and gross injuries, and the court found that those involved in the birth—

The Hon. Sandra Kanck interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: The Hon. Sandra Kanck says that there is now other evidence about cerebral palsy. It is then incumbent on the medical defence union. Having dealt with various medical defence unions for a number of years, I know that they fight their cases ferociously for their doctors. Many cases are not successful but, because we do not have the American system but we do have the cost indemnity rule, if you bring a case and you are not successful the court will award costs against the unsuccessful party. We do not have the US system (which I do not advocate) where there is no cost rule that applies.

In other words, if you bring a case which could well be frivolous, the hospital or the insurer could spend millions in defending it and, if they succeed, if the judgment is in favour of the hospital, they cannot recover costs against the other side. We do not have that rule. It acts as a very powerful disincentive for people not to bring frivolous or vexatious claims. The situation in our—

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: Well, frivolous claims or claims that are brought lightly.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: No. The Hon. Sandra Kanck needs to be challenged about people who have a disabled kid and who want that kid to be looked after. You can understand that but, if that child has gross disabilities as a result of a failure of duty of care on the part of the hospital or the medical practitioners treating the mother or the child, what is wrong with the court saying that there ought to be an appropriate award of damages based on common law principles in respect of economic loss and non-economic loss, that is, pain and suffering?

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: The Hon. Sandra Kanck I am sure will correct me if I am wrong, but I think it was Shylock in the Merchant of Venice who said something like, 'Let's kill all the lawyers.' She is adopting the Shylock principle of 'Let's kill all the lawyers; let's shoot the messenger.' All the lawyers are doing—

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: It should be noted for the record that there are a number of members in this chamber who are getting very excited at the prospect of killing all the lawyers.

The Hon. Sandra Kanck: I think we're all in favour.

The PRESIDENT: Order!

The Hon. NICK XENOPHON: The real issue is that the public hospital system is being squeezed because of budget cuts. It is being squeezed because of a new philosophy of case management, of getting people out of hospitals on the basis that they have been discharged.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron asks where the money is coming from, and he refers to additional taxes.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: But let us look at the issue. A basic standard of care should apply to any patient who goes into a private or public hospital in this state. If there has been a breach of duty of care, an act of negligence on the part of the doctor or the hospital, then they will be judged by the courts. There are many cases I am aware of where claims are not successful. Many more cases never see the light of day of trial because the evidence is not there. The principles as to standard of care must be judged in terms of what the reasonable standards are, based on appropriate medical evidence.

Members interjecting:

The PRESIDENT: Order! The Hon. Nick Xenophon will address the Chair and ignore interjections.

The Hon. NICK XENOPHON: I have been egregiously provoked, Sir.

The PRESIDENT: Ignore the interjections.

The Hon. NICK XENOPHON: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. NICK XENOPHON: I will continue the remarks I was making before I was rudely interrupted by the dinner break. There is a fundamental issue here as to whether consumers of medical services, whether patients who go into our hospitals, whether in rural areas or in the metropolitan area, are entitled to the basic protection of the common law, so that there is a basic standard of a duty of care and, if that

standard is breached, and that standard is determined by the courts, by the common law, taking into account reasonable standards of care, taking into account the opinions of the medical profession, a person who is a victim of medical negligence or malpractice is entitled to an award for damages from a court.

What the Hon. Sandra Kanck and others have suggested is that we take away that common law protection, we take away a very basic protection to ensure that there is a minimum standard of care in our hospital system. The consequences of that will be very similar to the consequences that occurred in New Zealand when common law rights were stripped away. We have seen in that country a significant declining of standards of care. We have seen damages. We have seen awards of compensation being whittled away by virtue of a no fault system. It has created a vast bureaucracy and the consequences have been that patients in that country are, by and large, second class citizens as a result of those changes in the 1970s pursuant to the Accident Compensation Scheme.

If there is a problem in the public hospital system it ought to be addressed in terms of appropriate funding and in terms of appropriate cutbacks, rather than cutting back some very basic rights that all citizens ought to have, and that is access to the common law. I hope that the Attorney will participate in this debate, given some of the remarks made by the Hon. Sandra Kanck. This is all about risk management. If people are being injured in the public hospital system, you do not throw the baby out with the bathwater by slashing benefits. You deal with the reasons why there has been a negligent act in the first place, and you deal with that by appropriate risk management. If there is a finding of negligence, and that would not have occurred had there been appropriate facilities or appropriate levels of training for the doctors, then those issues ought to be addressed, rather than stripping away people's basic rights for access to justice at the common law.

I am sure this debate will be revisited. I think that it is appropriate that we have a robust debate on this very fundamental issue, because if these common law rights are going to be taken away then there ought to be a fulsome public debate so that the views on all sides of the debate can be ventilated in the community, because I think that South Australians, particularly those in rural areas, ought to be aware of what the consequences will be of stripping away these very basic rights.

The Hon. CAROLINE SCHAEFER: I thank all members for their participation while speaking on this report and, as I have previously done, I thank members of the committee for their participation in the preparation of the report. The Hon. Nick Xenophon has obviously raised a number of issues with regard to the legal implications of our recommendation on health insurance, and that is his right, but, as the Hon. Sandra Kanck pointed out, we reacted to and reported on the wishes and recommendations of the many rural people and the many rural health professionals with whom we spoke and, as such, I certainly do not resile from any of the recommendations of the report.

As I said in my initial address, many of the concerns that were raised with us had in fact been addressed by both the state and federal governments by the time we brought down the report. One can debate at length whether they have been addressed as well as they might have been or as efficiently as they might have been. As I originally said, rural health is never going to be the equal of city health, because of isolation and because of budgetary restraints, but I believe many moves have been made to bring country people much closer to the health facilities that are available in city South Australia.

Motion carried.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT

Order of the Day, Private Business, No. 14: Hon. A.J. Redford to move:

That the regulations under the South Australian Health Commission Act 1976, concerning Flat Fee for Service, made on 22 June 2000 and laid on the table of this Council on 27 June 2000, be disallowed.

The Hon. J.S.L. DAWKINS: On behalf of my colleague the Hon. A.J. Redford, I move:

That this order of the day be discharged.

Motion carried.

CONTROLLED SUBSTANCES ACT REGULATIONS

Adjourned debate on motion of Hon. M.J. Elliott:

That regulations made under the Controlled Substances Act 1984 concerning expiation of offences, made on 24 August 2000 and laid on the table of this Council on 4 October 2000, be disallowed.

(Continued from 11 October. Page 124.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I do not propose to speak at length on this motion because I addressed this matter last session and my comments are therefore on the record.

Following the disallowance of the regulations last session, some of the points made during the debate have been followed up by the Drug and Alcohol Services Council. The council has advised that from anecdotal reports and police views on cannabis plant seizures it would appear that three plants should be sufficient to provide a cannabis user with sufficient cannabis for their own use for a year. The council has also advised that there is no evidence at all that restriction of the expiable number of plants to three has resulted in cannabis users switching to harder drugs such as heroin or amphetamines. Cannabis users tend to maintain their preference for cannabis and research has shown that switching to harder drugs is unlikely.

The Controlled Substances Advisory Council has again recommended that, for the purpose of the cannabis expiation notice scheme, the number of cannabis plants for personal use be three and regulations have accordingly been re-made. We must not lose sight of the fact that cannabis is a drug that has serious health risks. The immediate effects vary from person to person and include distorted perceptions; difficulties with concentration, problem solving and short term memory; loss of coordination and slower reaction times; increased heart rate and changes in blood pressure; dry mouth; and bloodshot eyes.

A person's ability to drive a motor vehicle may be impaired while affected by cannabis and combining alcohol use with cannabis reduces driving ability even more. In larger amounts, cannabis can cause other immediate effects such as confusion, anxiety and panic attacks and also feelings of paranoia. As to the longer term effects of cannabis use, I am advised that regular use of cannabis may contribute to the following health and psychological problems:

- A greater risk of chronic bronchitis and other respiratory problems such as wheezing, coughing, shortness of breath and emphysema.
- A probable increase in the risk of getting cancers of the lung, mouth, throat and tongue.
- A greater risk of psychotic symptoms (or losing touch with reality), especially in people who have a history of psychotic illness such as schizophrenia.
- In some people, a lack of energy and motivation for doing things.
- Reduced fertility in both men and women.
- When used during pregnancy, cannabis can cause low birth weight babies and can contribute to a higher risk of birth defects.
- Cannabis dependency in people who use the drug regularly.

The government is very much aware of the health aspects of cannabis use and has a number of initiatives under way. I cite, for instance, health services that are currently involved in a range of initiatives designed to reduce the harmful effects of cannabis use. One such initiative is the imminent introduction of the police drug diversion for young offenders. This scheme will provide opportunities for police to divert young offenders to health agencies for assessment and treatment for their cannabis use: this will be offered as an alternative to prosecution.

The introduction of this initiative will be supported by three new health promotional and drug harm reductive resources addressing issues around cannabis use. These are *Cannabis: a guide for young people*, *Cannabis: legal and health information* and *Quitting cannabis*. These resources will be distributed by police officers when diverting young offenders. The *Quitting cannabis* resource, which is a self-help guide, will also be given to adults receiving cannabis expiation notices.

The police drug diversion scheme is a joint initiative between South Australia Police, the Department of Human Services and the Drug and Alcohol Services Council. In the meantime, a cabinet subcommittee on illicit drugs is also doing work on the broader community education and awareness program related to cannabis. A scoping paper is being prepared by the Drug and Alcohol Services Council on current evidence and research on cannabis use prior to further work being undertaken on a community education campaign.

I oppose the move to disallow the regulations proposed by the Hon. Mike Elliott for the Democrats. I note that the Hon. Carolyn Pickles also proposes to move a similar motion. I do so having supported some years ago the proposition regarding 10 cannabis plants and I was one of the few members of the Liberal Party to do so. However, I do not mind standing in this place and saying that from experience I see this proposal reflecting the reality and changed circumstances since the time I voted for the 10 plants.

This motion still accommodates personal use and a different penalty system but it brings back a sense of reality where hydroponics and a range of other devices enable 10 pot plants for personal use to develop into jungle plants. Realistically, this parliament has to face up to some of those circumstances. I am very comfortable in supporting the government's regulations to limit from 10 to three the number of plants for personal use and to oppose—

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: No, we are now moving on to three.

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: The Police Commissioner says 'zero', and I accept that, but the government has not moved to that position. I think it was the Labor government that proposed 10 plants, and I supported that. I was one of two Liberals—I think the Hon. Robert Lucas was the other—who supported 10 plants at the time, and today the two of us support three. I ask honourable members opposite to also take account of the realities of changed circumstances, and also the advice of the Drug and Alcohol Services Council in this matter.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I think the Hon. Carmel Zollo has answered that question. They were around at the time; it is just that they have spread rampantly since then. If you are as conscious of hydroponic plants today as the Hon. Nick Xenophon is, why would you propose disallowance—

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: I am just turning the argument back on you—of this and therefore allow 10 hydroponic plants?

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: Yes, you essentially would be.

The Hon. Nick Xenophon: You are being disingenuous. I asked you a genuine question about—

The PRESIDENT: Order! The Hon. Nick Xenophon is out of order.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: No, I am not being disingenuous; I am just asking a question. If you approve the disallowance, you would be allowing 10 hydroponic plants. That is essentially what you would be doing, because we cannot amend the regulations—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I do not recall that those were the circumstances—three or five. My recollection is that three has been the proposal and that the Police Commissioner does not want any. The government has agreed to three, based on the advice of the Controlled Substances Advisory Council, which has again recommended that, for the purposes of the cannabis expiation notice scheme, the number of cannabis plants for personal use be three. And that is why the regulations have been remade and why I oppose the disallowance motion.

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

PARTNERSHIPS 21 SCHEME

Adjourned debate on motion of Hon, M.J. Elliott:

I. That a select committee of the Legislative Council be appointed to investigate and report on the Partnerships 21 scheme and, in particular, to identify—
(a) any strengths or weaknesses of the current scheme;
(b) differences in the level of funding between Partnerships 21 and non-Partnerships 21 schools;
(c) the process by which schools opt into the Partnerships 21 scheme; and
(d) any other related matter.

II. That standing order 389 be suspended as to enable the chairperson of the committee to have a deliberative vote only.

III. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being presented to the Council.

IV. That standing order 396 be suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 11 October. Page 129.)

The Hon. T.G. CAMERON: I rise to indicate that I am not prepared to support this resolution that is standing in the name of the Hon. Mike Elliott, and I note that a similar resolution is standing in the name of the Hon. Paul Holloway. I have carefully read the contribution made by the Hon. Robert Lucas. Whilst it was an entertaining and interesting speech, it did not add much to the debate on whether or not we should have an inquiry into Partnerships 21. It was vintage Robert Lucas, I am afraid. He spent most of the time getting stuck into the opposition and a few other individuals and, try as I did to find reasons why I should not support this measure in his contribution, I found it difficult. However, I did have a look at the contributions made by the Hon. Mike Elliott and the Hon. Carolyn Pickles, and I remain unpersuaded by the arguments that they have put forward.

I do note that the minister, the Hon. Malcolm Buckby, has stated that he considers Partnerships 21 to be the most significant reform in the South Australian school and preschool system yet undertaken. From a ministerial statement from the Hon. Malcolm Buckby, I notice that he says that about half our schools and preschools have already chosen to take up the new system and that he expects the take-up to rise to 65 per cent by the start of the 2001 school year. I think it should be noted that, when one considers the wave of opposition to Partnerships 21 and the campaign that has been conducted by the Australian Education Union, the Australian Labor Party and the Australian Democrats, I am surprised that they have been able to get the kind of take-up that they have.

I must say that I have read carefully all the submissions that I have received from the AEU (South Australian branch). I am just not sure where all the concern and all the criticisms are coming from in relation to Partnerships 21. I checked—

The Hon. L.H. Davis: I think they are being paid under the lap by the private schools to prise people from the public schools to the private schools.

The Hon. T.G. CAMERON: That is a possibility, Mr Davis.

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: I will let others be the judge of that. Despite the vociferous opposition that this scheme has encountered, when checking with my staff I find that—whether or not my office is being ignored, I do not know—no complaints have come into my office about Partnerships 21, except one. I had one parent expressing great concern to me about the fact that she thought that her child was being used as a political football by the teachers at her school. The parents wanted their child to undergo literacy tests but they were prevented, apparently, by the teacher. The only complaints that have been coming to my office about education, apart from the usual lack of funding etc., have been expressions of concern about why the literacy testing scheme has not been implemented in all schools.

I must say that, as a former member of the Labor Party, I have been constantly concerned as to the lack of intellectual debate that has taken place in that organisation about literacy tests. From time to time it seems to me that the AEU pronounces an edict and the Labor Party falls over itself to follow it. I would remind the Australian Labor Party that it was in government for a long time and I thought it was pretty good to the teachers. I thought the funding that the Australian Labor Party in government provided to the education system saw funding to education, compared with the level in other states, increase dramatically during the 1980s. I am just wondering what reward the Labor Party got for that. The AEU was so pleased with what the Labor Party had done in office as a government that it decided to run its own candidate against the Australian Labor Party—and nearly won. I guess one could say—and I certainly will as a former Secretary of the Australian Labor Party—what a thankless lot the AEU were. Despite every effort by the Labor government in difficult circumstances to look after them, they spat in the Labor government's face.

The Hon. L.H. Davis: In what way were they thankless?

The Hon. T.G. CAMERON: They sponsored a candidate and ran that candidate in the Legislative Council with the design of knocking off the Labor Party. That is what that campaign was all about.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: Well, the Hon. Ron Roberts interjects—and I have been waiting for the Hon. Ron Roberts to interject. What a load of nonsense! He just displays his ignorance—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. T.G. CAMERON: That had nothing to do with Trevor Crothers' getting up—and you and I both know that.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. T.G. CAMERON: So, don't interject with nonsense against me, the Hon. Ron Roberts, because I will answer back. I know a little more about that campaign than you do. The Australian Education Union scabbed on the Australian Labor Party. It ran a candidate against us—and you and I both know that. In fact, I can recall that we had discussions about it. My intention here is not to be sucked in by the Hon. Ron Roberts and his incessant interjections.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I would like to go back to whether or not we need an inquiry. I could think of a whole lot of things in education about which we could have an inquiry. The first thing that springs to mind is the question of literacy testing.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. T.G. CAMERON: I do not wish to lay any blame on the government, the former government, the teachers or the education system, but I am not impressed with the education system in this state, having three teenage sons who left school while they were 15 or 16, only to find out that one of my children has a problem with dyslexia. He has learning difficulties and this would have been picked up. If he was subjected to literacy testing when he was five, six and seven, this problem would have been picked up and he would not have left school at 16 and he would not have a problem in writing and reading English.

The Hon. R.R. Roberts: What has it got to do with Partnerships 21?

The Hon. T.G. CAMERON: I will come back to that. Exactly the same position you have adopted on literacy

testing, you have adopted on Partnerships 21. It would not matter what measure or innovation the government tried to introduce, you would cuddle up in a corner with the Democrats and the AEU and you would oppose it. That is what you would do.

I have had a careful look at what the AEU has said to me and the arguments outlined by the Australian Labor Party and the Democrats. Quite frankly, the argument put forward by the Australian Labor Party on this issue was pathetic. At least the Hon. Mike Elliott, the leader of the Democrats, got up and argued his case with passion, putting a substantive argument, quite contrary to the argument that was put forward by the Australian Labor Party.

While I am mentioning the Australian Labor Party, I noticed in the *Advertiser* this morning that the current deputy leader of the Australian Labor Party was reported as saying:

> Labor had made its position clear on almost every bill before the House and it was the three Independents and the Democrats who were posing more of a problem over what was debated and when.

I have a high regard for the Hon. Paul Holloway, but what a sleazy, devious comment that was—that it was the three Independents and the Democrats who were posing more of a problem over what was debated and when. If the Australian Labor Party was fair dinkum and honest, it would stop playing games and stop playing politics with the legislation that comes to this place. Instead of sitting in the lower house and saying, 'Well, we don't know what Cameron and Crothers are doing in the upper house—

The Hon. L.H. Davis: Like ETSA.

The Hon. T.G. CAMERON: —yes—we won't make a decision on this. We will sit back and wait to see what they do.' I would like to see a little more honesty and integrity from the Labor Party on some of these issues. Members should stand up and say what they really think instead of playing politics. I would love to see every member of the Australian Labor Party caucus stand up and say what they really think about the sale of Ports Corp. I would really love to hear every member—

The Hon. L.H. Davis: Paul Holloway would be missing in action.

The Hon. T.G. CAMERON: You have the opportunity. I would like to make some reference to the position put by the Hon. Paul Holloway. I did discuss it with him but his recollection of what appeared in the *Advertiser* was different to mine. I thought that I would bring the *Advertiser* with me.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: Would the honourable member like me to read the quote again?

Members interjecting:

The Hon. T.G. CAMERON: Would the honourable member like me to read the quote again? It states:

> . . . it was the three Independents and the Democrats who were posing more of a problem over what was debated and when.

I say to the Hon. Paul Holloway: I resent that comment; I resent the inference of it and I resent the imputation of it.

The Hon. R.R. Roberts interjecting:

The Hon. T.G. CAMERON: I have just been reminded by the Hon. Ron Roberts that I should get back to Partnerships 21.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: The one thing with which I can agree with the Hon. Robert Lucas in his speech is that this was again the Labor Party and the Democrats playing politics; trying to get up a committee to go on a witch-hunt to see what they could find. I have sat on a few select committees and I do take note of what the Treasurer said: select committees do not hand down reports. They go on a fishing expedition, and that is exactly what will happen with a select committee into Partnerships 21. It will spin out to the next election; it will go on a fishing expedition; it will be fed all the guff and data from the AEU; and it will take us nowhere.

I understand that a resolution similar to this may well get up in the lower house, anyway, as the two former Liberals, Peter Lewis and Bob Such, support the Labor Party in this situation. If the members of the lower house want to waste their time sitting on select committees and going on fishing expeditions on this issue of education, so be it. They can sit on the committee and they can waste their time. Whilst I am on my feet having a few words to say about education, I must say that most people to whom I talk are unhappy about the education system. They are unhappy about the quality and the standard of teaching.

It is my view that the Australian Education Union, South Australian Branch, is in danger of completely losing the debate on education if it continues to run self-interested, vested-interested arguments. I recently received a document from the union headed '17 ways of getting South Australian education back on track.' I carefully had a look at each of the 17 initiatives put forward by the AEU—15 of them were about what is good for teachers, not what is good for children, and that is a distinction the AEU has got to make. How dare it go into the electorate campaigning about what is good for our education system and what will improve the education system for our children in this state when what it is really doing is running an industrial campaign about wages and conditions for teachers.

That is dishonest; that is a lie. I am disappointed that the Australian Labor Party seems to be more interested in jumping into bed with the AEU about what is good for teachers than what is good for kids' education in South Australia.

The Hon. P. Holloway: You won't have good kids' education without good teachers. Unfortunately, that is a fact of life.

The Hon. T.G. CAMERON: A pearl of wisdom drops from the lips of the Hon. Paul Holloway. How could one disagree with that statement?

The Hon. L.H. Davis: That is a hell of a statement.

The Hon. T.G. CAMERON: That is very profound.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Seriously, my understanding of Partnerships 21 is that the funding is going to the areas of greatest need. Sure, I do understand why the teachers union, from its point of view, is a little concerned about Partnerships 21. I want to refer to an interjection made by the Hon. Paul Holloway. The Hon. Robert Lucas, when referring to the Hon. Paul Holloway, stated:

> He does not have to continue to make these outrageous allegations against hard-working senior officers in the Education Department that they are blackmailing principals into supporting P21.

I sat in this Council whilst the Treasurer, on five or six occasions, challenged the Hon. Paul Holloway to put forward this information. I will not be supporting this resolution but I place one caveat on it: if the Hon. Paul Holloway can put on record in this Council evidence that satisfies me that senior officers in the Education Department have blackmailed

principals into supporting P21, I will reconsider my position but, failing that, I will vote against this resolution.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

STATUTES AMENDMENT (DUST-RELATED CONDITIONS) BILL

Adjourned debate on second reading.
(Continued from 11 October. Page 137.)

The Hon. NICK XENOPHON: I comprehensively dealt with the issues raised in this bill several weeks ago. I propose to deal with any of the matters raised by members in the course of this debate in my reply. I urge members to support this bill. It is a very fundamental law reform to remedy a great injustice for the victims of dust diseases, particularly asbestos-related conditions and especially mesothelioma, a condition that can arise 20 to 40 years after initial exposure. The current legal position where victims of asbestos-related diseases die before their claims are finalised is a great injustice.

The parliaments of New South Wales and Victoria have already acted to remedy that injustice, and this bill will simply bring South Australia into line with those states. It is particularly important in South Australia as information I have received from the Asbestos Victims Association indicates that we have one of the highest levels of asbestos-related diseases anywhere in the commonwealth. I urge members to support this bill.

The Hon. IAN GILFILLAN secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES AND PAYMENTS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 11 October. Page 167.)

The Hon. R.D. LAWSON (Minister for Disability Services): I commend a good deal of this bill, because it is a direct take from legislation introduced by the government during the last session of this parliament. Indeed, it was passed in the other place and it passed through the second reading stage in this Council and the committee stage before the end of the parliament. However, the bill then lapsed and has now been introduced by the government.

The government bill and this particular measure, which has been introduced by the Hon. Nick Xenophon, seek to substantially increase the penalties for breaches of the Occupational Health, Safety and Welfare Act and to impose certain other duties. These penalty increases were overdue and are certainly supported by the government. They were supported by a bipartisan committee consisting of both union and employer representatives who agreed not only on the principle but also on the penalties to be imposed.

However, there are three measures in the bill presently under discussion (introduced by the Hon. Nick Xenophon) with which the government does not agree. The first of those is in clause 7. Clause 7 seeks to introduce a new provision which entitles the court to order part of the monetary penalty imposed on the conviction of an offence to the employee or a member of the employee's family. Government opposition to this measure is based on the proposition that fines for offences ordinarily are paid into general revenue and used for the purpose of defraying the costs of prosecution and the maintenance of the inspectorial function which leads to that prosecution.

The prosecution of offences against the law is a public responsibility undertaken and paid for by the public, and any fines resulting from that should, as is the normal procedure, go into public revenue. It is also opposed on the grounds that it seeks to undermine the integrity of the current workers' compensation system which compensates injured workers by means of a mechanism laid down in the workers' compensation legislation.

The workers' compensation legislation is based upon the principle that all workers, irrespective of fault, are entitled to be compensated on the same basis, not on the basis of whether or not their employer was culpable. Whether culpable or not, the worker is entitled to a particular amount in terms of not only capital sums but also income maintenance on the basis of the formula. There are no windfalls in our system. All workers are entitled to be compensated on the same basis.

The Hon. T.G. Cameron: We all know that. How does that undermine the workers' compensation act?

The Hon. R.D. LAWSON: This seeks to introduce another form of compensation for workers.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: It has been introduced elsewhere to some political fanfare by Labor governments, but it has not resulted in any particular benefits accruing to workers. It is a great measure, I have to admit, for lawyers if it is combined with the right of individuals to institute prosecutions for the purpose of obtaining compensation. That is the second element of this bill which the government finds offensive.

The current law requires prosecutions to be instituted by the inspectorate or upon the authority of the minister. That is the standard means by which regulatory offences of this kind are dealt with. We do not normally have private prosecutions in our system. What this measure introduces—cleverly, I might say, by the Hon. Nick Xenophon—is the notion that there can be a private prosecution and a private benefit received from that prosecution.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The Hon. Nick Xenophon says that you can have a private prosecution in a criminal matter, and that is true. There is an ancient if very little exercised right to have a civil prosecution, but that is a prosecution instituted not by the prosecuting authorities or the Crown but by the individual. There are some very rare cases where that occurs.

What the honourable member is seeking to do and what the government opposes is, as it were, to piggyback on a proposal that had support from both the unions and the employers to increase the penalties, which had a good public policy behind it, and to introduce on top of that—to piggyback, as it were—the notion of private prosecutions and also to introduce a notion that the court, rather than fining the company or employer who is guilty of the offence, would require the fine to be paid into the public revenue to be paid to the injured worker.

It is for that reason that the government is opposed to these measures which the Hon. Nick Xenophon seeks to tack onto the bill which was introduced and passed in the other

place. For that reason, the government will oppose so much of this measure that seeks to depart from the already introduced government measure on the same subject.

The Hon. T.G. CAMERON: I might as well get this out of the way. I would not want to be accused of trying to hold up the debate or delay things again.

An honourable member interjecting:

The Hon. T.G. CAMERON: I am not worried about Greg Kelton: it is the Hon. Paul Holloway who blames the Independents and the Democrats. I know that the 'government source' line in the *Advertiser* was a load of nonsense. Whenever you read 'government sources' or 'Labor Party sources', you know that they do not have a quote from someone, and that, if they do not put that in there, the editor will send them back to get a quote, so they put it in. I want to make a contribution in relation to this matter. I would not want to delay the proceedings before the Council.

This bill seeks to rectify the problem with the penalties under the Occupational Health, Safety and Welfare Act which have not been adjusted for inflation since the act came into operation and to increase maximum penalties in accordance with government policy. It is a fact that CPI had eroded the real value of the fines by about 50 per cent, and I think that is a reflection on both this government and the previous government in respect of something as critical as occupational health, safety and welfare.

One can understand the Liberal Party not upping the penalties, but it is difficult to find any rationale for why a Labor government did not increase the penalties in line with CPI, but I guess that is something for the unions to take up with the Labor Party. This legislation doubles the fines with the exception of division 7 fines.

I must confess that I am not completely au fait with the amendments that have been put forward by the Hon. Nick Xenophon, but I will have a close look at them. I do not accept what the Hon. Robert Lawson says that this system will undermine the workers' compensation system, and I cannot see any exceptional circumstances for why the Hon. Nick Xenophon's amendments cannot be supported. However, I am supporting the second reading and will listen with interest to the debate when it comes to the Hon. Nick Xenophon's amendments.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

CONSTITUTION (PARLIAMENTARY SITTINGS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 October. Page 138.)

The Hon. NICK XENOPHON: I have already outlined the rationale behind this bill. In essence, it is to ensure that parliament sits a minimum of 100 days with no break longer than 10 weeks. This is a challenge as much for the government as it is for the opposition, in terms of their commitment to accountability in the parliamentary process. I note that the Leader of the Opposition (Mr Rann) on a number of occasions has complained about parliamentary breaks, that the government is not accountable, but there has been silence from the opposition in relation to this fundamental issue.

The challenge is upon the Labor Party, given that it is the alternative government, as to its position with respect to a constitutionally guaranteed minimum number of sitting days and a maximum break between those sitting days. I did not conclude my remarks on the last occasion because I wanted an opportunity to table details of parliamentary sessions from 1967 to the current time, detailing the number of sitting days and the longest breaks between those sitting days, and I seek leave to have this table inserted in *Hansard*. It is of a purely statistical nature.

Leave granted.

SA Parliament—No. of sitting days and longest breaks between

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
38/3	1967	20.6.67	3.11.67	57			
					4.11.67 – 15.4.68	141	B
2 MAR	1968				ELECTION		
39/1	1968	16.4.68	17.4.68	2			
					18.4.68 – 24.6.68	68	B
39/2	1968-69	25.6.68	20.2.69	68	13.12.68 – 3.2.69	53	D
					21.2.69 –16.6.69	116	B
39/3	1969	17.6.69	5.12.69	64	4 – 21 July 1969	18	D
					6.12.69 – 27.4.70	143	B
39/4	1970	28.4.70	30.4.70	3			
					1.5.70 – 13.7.70	74	B
30 MAY	1970				ELECTION		
40/1	1970-71	14.7.70	8.4.71	75	6.12.70 – 22.2.71	79	D
					9.4.71 – 12.7.71	95	B
40/2	1971-72	13.7.71	6.4.72	74	26.11.71 – 28.2.72	95	D
					7.4.72 – 17.7.72	102	B
40/3	1972	18.7.72	24 Nov 72	54			
					25.11.72 – 18.6.73	206	B
10 MAR	1973				ELECTION		

SA Parliament—No. of sitting days and longest breaks between

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
41/1	1973	19 Jun 1973	27 Jun 1973	4			
					28 June 1973 – 23 July 1973	26	B
41/2	1973-74	24 Jul 1973	28 Mar 1974	69	30 Nov 1973 – 18 Feb 1974	80	D
					29 Mar 1974 – 22 July 1974	116	B
41/3	1974-75	23 Jul 1974	18 Jun 1975	74	29 Nov 1974 – 17 Feb 1975	82	D
					19 June 1975 – 4 Aug 1975	47	B

Election 12 July 1975

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
42/1	1975-76	5 Aug 1975	19 Feb 1976	45	14 Nov 1975 – 2 Feb 1976	81	D
					20 Feb 1976 – 7 June 1976	107	B
42/2	1976-77	8 Jun 1976	28 Apr 1977	65	10 Dec 1976 – 28 Mar 1977	109	D
					29 Apr 1977 – 18 Jul 1977	81	B
42/3	1977	19 Jul 1977	17 Aug 1977	11			
					18 Aug 1977 – 5 Oct 1977	49	B

Election 17 September 1977

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
43/1	1977-78	6 Oct 1977	22 Mar 1978	45	9 Dec 1977 – 6 Feb 1978	60	D
					23 Mar 1978 – 12 Jul 1978	111	B
43/2	1978-79	13 Jul 1978	1 Mar 1979	55	24 Nov 1978 – 5 Feb 1979	74	D
					2 Mar 1979 – 23 May 1979	83	B
43/3	1979	24 May 1979	22 Aug 1979	11	1 June 1979 – 30 July 1979	60	D

Election 15 September 1979

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
					23 Aug 1979 – 10 Oct 1979	49	B
44/1	1979-80	11 Oct 1979	12 Jun 1980	35	14 Nov 1979 – 18 Feb 1980	97	D
					13 June 1980 – 30 July 1980	48	B
44/2	1980-81	31 Jul 1980	11 Jun 1981	56	6 March 1980– 1 June 1980	88	D
			Xmas break		5 Dec 1980 – 9 Feb 1981	67	D
					12 June 1981 – 15 July 1981	34	B
44/3	1981-82	16 Jul 1981	18 Jun 1982	68	12 Dec 1981 – 8 Feb 1982	59	D
					19 June 1982 – 19 July 1982	31	B
44/4	1982	20 Jul 1982	14 Oct 1982	27	17 Sep 1982 – 4 Oct 1982	18	D

Election 6 November 1982

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
					15 Oct 1982 – 7 Dec 1982	53	B
45/1	1982-83	8 Dec 1982	2 Jun 1983	26	18 Dec 1982 – 14 Mar 1983	87	D
					3 June 1983 – 3 Aug 1983	62	B
45/2	1983-84	4 Aug 1983	10 May 1984	56	10 Dec 1983 – 19 Mar 1984	100	D
					11 May 1984 – 1 Aug 1984	82	B
45/3	1984-85	2 Aug 1984	16 May 1985	60	8 Dec 1984 – 11 Feb 1985	66	D
					17 May 1985 – 31 Jul 1985	76	B
45/4	1985	1 Aug 1985	7 Nov 1985	31	21 Sep 1985 – 7 Oct 1985	17	D

Election 7 December 1985

Session	Year	Opening of Session	Last Days of Sitting	No. of Sitting Days	Longest Breaks—Dates	No. of Days	
					8 Nov 1985 – 10 Feb 1986	95	B
46/1	1986	11 Feb 1986	25 Mar 1986	12	7 Mar 1986 – 24 Mar 1986	18	D
					26 Mar 1986 – 30 Jul 1986	127	B
46/2	1986-87	31 Jul 1986	14 Apr 1987	57	5 Dec 1986 – 11 Feb 1987	69	D
					15 Apr 1987 – 5 Aug 1987	113	B
46/3	1987-88	6 Aug 1987	14 Apr 1988	55	4 Dec 1987 – 8 Feb 1988	67	D
					15 Apr 1988 – 3 Aug 1988	111	B

46/4	1988-89	4 Aug 1988	13 Apr 1989	48	2 Dec 1988 – 13 Feb 1989	74	D
					14 Apr 1989 – 2 Aug 1989	111	B
46/5	1989	3 Aug 1989	19 Oct 1989	24			
Election 25 November 1989							
					20 Oct 1989 – 7 Feb 1990	111	B
47/1	1990	8 Feb 1990	11 Apr 1990	21	12 Apr 1990 – 14 May 1990	33	D
					12 Apr 1990 – 1 Aug 1990	112	B
47/2	1990-91	2 Aug 1990	11 Apr 1991	56	14 Dec 1990 – 11 Feb 1991	60	D
					12 Apr 1991 – 7 Aug 1991	118	B
47/3	1991-92	8 Aug 1991	6 May 1992	58	29 Nov 1991 – 10 Feb 1992	74	D
					7 May 1992 – 5 Aug 1992	91	B
47/4	1992-93	6 Aug 1992	6 May 1993	62	27 Nov 1992 – 8 Feb 1993	74	D
					7 May 1993 – 2 Aug 1993	88	B
47/5	1993	3 Aug 1993	2 Nov 1993	24	10 Sep 1993 – 5 Oct 1993	26	D
Election 11 December 1993							
					3 Nov 1993 – 9 Feb 1994	99	B
48/1	1994	10 Feb 1994	18 May 1994	28	31 Mar 1994 – 11 Apr 1994	12	D
					19 May 1994 – 1 Aug 1994	75	B
48/2	1994-95	2 Aug 1994	27 Jul 1995	70	2 Dec 1994 – 6 Feb 1995	67	D
					28 Jul 1995 – 25 Sep 1995	60	B
48/3	1995-1996	26 Sep 1995	1 Aug 1996	55	1 Dec 1995 – 5 Feb 1996	67	D
					2 Aug 1996 – 30 Sep 1996	60	B
48/4	1996-1997	1 Oct 1996	24 Jul 1997	51	6 Dec 1996 – 3 Feb 1997	60	D
Election 11 October 1997							
					25 Jul 1997 – 1 Dec 1997	130	B
49/1	1997-1998	2 Dec 1997	2 Sep 1998	42	12 Dec 1997 – 16 Feb 1998	67	D
					3 Sep 1998 – 26 Oct 1998	54	B
49/2	1998-1999	27 Oct 1998	5 Aug 1999	48	11 Dec 1998 – 8 Feb 1999	60	D
					6 Aug 1999 – 27 Sep 1999	53	B
49/3	1999-2000	28 Sep 1999	13 July 2000	44	24 Nov 1999 – 27 Mar 2000	125	D
					14 July 2000 – 3 Oct 2000	82	B

Conclusion

(1) Parliament sat a total of 44 days in the 1999-2000 session.

(2) The 1999-2000 break of 125 days is the longest within a session since 1973 as well as being the longest Christmas break since 1973.

(3) Only 2 longer breaks in the last 27 years (either within or between sessions)
127 Days in 1986 between sessions
130 days in 1997 at election time.

Note: 'B' means between sessions and 'D' means during a session.

The Hon. NICK XENOPHON: In conclusion, I urge members to support this bill. It will lead to a paradigm shift in terms of what this parliament is about. There ought to be an opportunity for this parliament to be not simply about government business but also about private members' business, to allow issues of concern in the community to be debated in detail at length, and to allow community participation, in a sense, in those debates. We cannot do so with only 45, 48 or 50 sitting days as at the moment, and I urge members to support this bill.

The Hon. T.G. CAMERON: I feel in a loquacious mood tonight.

The Hon. R.D. Lawson: The bees are buzzing!

The Hon. T.G. CAMERON: The bees are buzzing. I rise to indicate my opposition to the bill.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. CAMERON: I will support the second reading, because I wish to foreshadow an amendment. The only disagreement I have with the Hon. Nick Xenophon is that I would like to change the 100 days to 75 days. First, let me say that the legislative program—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I will repeat that for the Hon. Angus Redford.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: No. Bob might like 69 and all the connotations that go with that. We could call him the Mr 69er. But we have two proposals before parliament at the moment: one for a 69er and one for a century. However, it is not because I am opposed so much to the numbers that they have selected—

The Hon. T.G. Roberts: You don't want a paradigm shift, do you?

The Hon. T.G. CAMERON: I do believe there needs to be a bit of a paradigm shift, but I am well aware of how hard people in this place like to work. We had a demonstration of

that last night, only to pick up the newspaper this morning to find that the Hon. Paul Holloway was blaming the Independents and the Democrats for our not sitting last night. He wants to think twice before he does that again, otherwise I will put on the record the real reasons why we did not sit last night, instead of that nonsense that I read in the paper this morning.

Getting back to the Hon. Nick Xenophon's resolution, I commend him for introducing this bill, because I think it helps to underscore what a ridiculous situation this place and the other place are in this year. We will probably sit for only 50 days or a touch over that this year. We now have, I think, 10 sitting days left, yet we have to deal with the TAB bill, the Ports Corp bill and the development bill, and I heard today that an aquaculture bill is coming. God knows what further bills we have coming in this place. It is a bit like a Roman orgy: you never know what is coming next.

Members interjecting:

The Hon. T.G. CAMERON: You really don't. So, here we have at least a dozen major bills to debate, including the prostitution bill, which will probably see most of the members on the opposite side of the chamber squib and not deal with it, when they all know that realistically we have to deal with that bill.

But the reason that I am constrained from giving wholehearted support to the bill before us is that, as I am sure most members will be aware, I have established a new political party, to which the Electoral Commissioner granted registration, and we have a policy on how many days each year this parliament would sit. After my last experience of breaking a policy of a party that I belonged to and being thrown out for my efforts, I would not dare do it again.

However, long before the Hon. Nick Xenophon thought of his 100 days legislation, and long before the Hon. Bob Such—I have to call him 'the honourable', do I not?—decided to introduce a piece of populist legislation—

The Hon. K.T. Griffin: He is not an honourable.

The Hon. T.G. CAMERON: Is he not a former minister? He calls himself honourable: am I not required to do the same? There are a few people nodding, although I will not name them, and saying no. But long before Bob Such introduced his legislation—and I note that he is introducing that legislation only for the House of Assembly for 69 days—SA First at its first conference carried a resolution, and it is the policy of SA First, that this place should sit for a minimum of 75 days per year.

I think that there is a bit of ambit in the claim that the Hon. Nick Xenophon has put forward, and it would be a bit of a leap into the unknown to go from our current number of sitting days of 50 to 100. That would be a paradigm shift that I suspect would be a little too hard for most of the people in this place to accommodate.

The Hon. L.H. Davis: I think the interconnection would be too difficult.

The Hon. T.G. CAMERON: The interconnection, as the Hon. Legh Davis says, might be too difficult, so I foreshadow that I will be moving an amendment to his bill to limit it to 75 days. I know that the government has a few problems in both houses, in terms of getting the numbers for some of its more critical pieces of legislation, but the government will stand condemned if it tries to do the same thing next year as it did this year, that is, limit the house to about 50 sitting days.

I caution members of the government now: I believe that they will pay a penalty for that, and a penalty not dissimilar to the penalty that Kevin Foley is referring to when he says that, if they dare go beyond their four year term and try to extend their term of office until March 2002, he will go to the press about how much ministers, etc, would earn by extending the parliament.

Well, Kevin Foley should know all about that, because he was working for Lynn Arnold when, as secretary of the Labor Party, I had to argue constantly with Lynn Arnold that if we waited until March next year we would be lucky to win a seat, that there is no way that you can do that, and at the very same time ministers of the Labor government were walking around with their calculators and had it all worked out how much each extra sitting day would mean to them, and they would berate me as I argued that we should go on time. In fact, the Labor Caucus and some of the ministers were so outraged when Lynn Arnold, the then premier, called the election that for the first time in the history of the Australian Labor Party caucus met during an election campaign. That is how angry they were that he had dared have the courage to call an early election. So I do not want to see too much hypocrisy coming from the Labor Party if the government does decide to extend its election term. It is a little bit like the pot calling the kettle black.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I will not be able to table the minutes but I can certainly table the detailed notes of the meetings that took place. Anyway, I think we are on the matter of the number of sitting days. But, seriously, I appreciate what the Hon. Nick Xenophon is on about with the bill that is before the Council. I am not sure whether the Hon. Nick Xenophon is wedded to 100 days, and what he has done is put on the public record his disgust and his protest at this place only sitting for some 50 days per year. Quite frankly, when we are on $110 000 or $120 000 and the government is required to put in 48 per cent of our salary so that we can retire on our superannuation packages, I think that this place should sit for a little longer than 50 days per year. I would urge all members, both Labor and Liberal, to think seriously about 100 days, but if they think that is too much of a paradigm shift then support the SA First amendment for 75 days. I support the second reading.

The Hon. M.J. ELLIOTT: I rise to speak briefly on behalf of the Australian Democrats and support the second reading of the bill, and perhaps give some consideration to some different paradigms as well. I think that the fundamental issue that is being addressed here is one of an issue of accountability and, for those members who were not there, and I do not think many were at SA Business Vision 2010's meeting this morning, I encourage them to get a copy of a speech given by Professor Dick Blandy. It was a speech that looked at the history of South Australia and sought—

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: If only just once the Hon. Legh Davis had a blinding flash we would be all truly grateful. As I said, I suggest members look at the speech because it is interesting. It looks at where South Australia is at present within an historical context, and it made some important observations about what underpins the South Australian community, what makes it special, and referred towards the end of that speech to questions of accountability, secret government, etc. It was an excellent speech and well received by some 400 people who listened to it this morning.

As I see it, the fundamental issue here is about recognising that we are in South Australia a parliamentary democracy, not

an elected dictatorship, that the executive is not elected and then can do what it likes for the next three to four years.

The Hon. T.G. Cameron: They think they can.

The Hon. M.J. ELLIOTT: Well, they think they can and that is what they seek to do.

The Hon. T.G. Cameron: Not just this lot; the other lot does the same.

The Hon. M.J. ELLIOTT: They are not much better. I think there has been a deterioration over time. It began under Labor and has got worse over the past couple of years, and I suspect that if Labor got back in it would be about on par.

The Hon. R.I. Lucas: The only ones perfect would be the Democrats!

The Hon. M.J. ELLIOTT: Not perfection, but very good.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: As I said, the fundamental issue is one of accountability through parliamentary democracy and a recognition that, if that is to occur, the parliament needs to meet. If the parliament does not meet then we cannot have accountability through the parliamentary democracy. The instrument that the Hon. Nick Xenophon is using is really a requirement that parliament sit at least a certain number of days, and also looks at the issue of how long a break should be between sittings. That is one way of achieving it. I have not had amendments drafted at this stage, but I think there is an alternative. It might indeed be that there is not an overwhelming need for vast amounts of legislation. An awful lot of what we do is, arguably, rats and mice and not changing the world an awful lot, anyway. We need to concentrate more on the bigger issues.

What is important to me is that the parliament is in a position to demand accountability, and there still are some quite long breaks that can be manipulated by governments to their own purposes. I recall, indeed, this year where we were going to a break and the government brought in a regulation, essentially, I think the day that parliament was going to rise, knowing that the parliament could not then put it under scrutiny for some three or four months. It was quite a deliberate thing, and the government could still do it under this sort of proposal here.

It seems to me that another way of going is, indeed, to recognise that the parliament itself should be able to assemble, if a majority of members of either house wish the house to meet, providing there is sufficient notice, and there would need to be some argument about that, in which case the house should be able to assemble itself.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: I am not arguing about whether or not I believe that it will get support, but what I am saying is that, if one was serious about parliamentary accountability, probably an instrument which requires perhaps two to three weeks notice by a majority of members of either house would be a way to go about it. For instance, imagine hypothetically that the Auditor-General has produced a report which raises issues of great importance, highly significant importance, and the government just decides to sit on the report and not let parliament sit, and therefore avoid the scrutiny which might come about.

I think we are in a period now whereby over quite some years governments, be they Liberal or Labor, are not going to enjoy majorities in either house—something they brought upon themselves. I do not know what else they blame it on. There has been a massive growth of support for third parties and Independents such that Liberal and Labor will not enjoy majority government in both houses at the same time, and most likely not in either house, for quite some time. In many cases I think we will see minority governments rather than coalitions, but in those circumstances for an executive to expect that it can control when the parliament sits when it does not actually enjoy majority support, in all senses of the word, is a nonsense.

So at this stage without actually putting an amendment forward, which would have to be done in committee, in any event, I am saying that, rather than perhaps putting a simple number on the number of sitting days and a space between sittings, we could consider an amendment which enables a majority in either house to call for that house to be convened, requiring that there be sufficient notice, of course, recognising that some members may be interstate or overseas and would have to be given adequate time to return and carry out their parliamentary duties.

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

COMMUNITY TITLES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Community Titles Act 1996. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This bill makes a number of amendments to the *Community Titles Act 1996*.

In 1996, the *Community Titles Act* (the Act) came into operation introducing a new and innovative form of land division. Almost 4 years on the Government is pleased to report that, on the whole, the Act is operating well. However, as a result of consultation with various stake holders in the industry regarding the operation of the Act for the purposes of a review of the Act, a few minor amendments have been identified. These few minor amendments will facilitate the effective operation of the Act.

Vesting of Lots on the Deposit of a Plan to Divide a Jointly Owned Allotment

Currently, where one allotment, which is jointly owned by two or more persons, is divided by a plan, each lot created will vest in all owners of the original allotment. Therefore, if the owners of the original allotment wish to divide ownership of the community lots they need to lodge reciprocal transfers of their part interests after the plan is deposited. For example, where an allotment owned by A and B is divided into a two lot scheme, the Act states that A and B will be named as co-owners of both lots. To achieve a situation where A owns one lot and B owns the other, interests must be transferred after the plan is lodged. This situation increases the financial and time costs expended by a developer and the Lands Titles Office.

This situation does not arise with respect to general land division under the *Real Property Act* because allotments will vest as specified on the plan. The only restriction is that only persons who owned the original allotment that is being divided may being vested with ownership of any of the allotments created by the division. This approach reduces cost and documentation for both developers and the Lands Titles Office because the division and allocation of ownership of particular allotments takes place at the same time. The same approach is suitable for adoption in relation to the division of an allotment by community plan. The bill will make such an amendment.

By Laws for Exclusive Use of Common Property

The Act recognises that a by-law may confer a right to exclusive use of a specified part of the common property, and sensibly provides that such a by-law cannot be made without the written consent of the owner of the lot to which it relates. However, the wording of the

provision has raised some concern in the industry about whether or not a developer can include a by-law providing for exclusive use of the common property in the initial by-laws lodged with the community plan. On occasions, developments are created with the intention that part of the common property, for example a driveway, will be exclusively used by one lot owner. A lot owner suffers no disadvantage if the by-law for exclusive use is detailed upfront as it should be obvious at the time the lot is purchased. Therefore, the bill will make it clear that a developer may include a by-law for exclusive use of the common property in the initial by-laws.

Amendment of a Plan of Community Division pursuant to Development Contract

An application to amend a plan pursuant to a development contract must be accompanied by certain documents, including the duplicate certificate of title for the development lot. Where additional common property is created by virtue of the amended plan, it would be useful to also empower the Registrar General to require the production of the duplicate certificate of title for the existing common property. Production of this certificate of title would enable the Registrar General to issue a new certificate of title for the whole of the common property in the scheme. The bill will enable the Registrar General to cancel the certificate of title for the existing common property and issue a new certificate of title for the existing and newly created common property. The bill recognises that, for that purpose, the Registrar General can require the community corporation to produce the duplicate certificate of title for the existing common property.

Early Lodgement of a Plan of Community Division for Examination

The Act allows the Registrar General to examine a plan of community division before the application for community division is lodged to "determine whether the plan is in an appropriate form". The purpose of the provision is to allow the Registrar General to conduct the examination of a plan and, where appropriate, provisionally approve the plan prior to an application for community division being lodged. This preliminary examination significantly reduces the time taken to register the application and plan when it is eventually lodged for registration. While the current provision recognises the Registrar General's ability to examine the form of the plan, it does not empower the Registrar General to 'approve' the plan in preparation for registration. The bill rectifies this problem.

Issue of new certificates when Strata scheme converts to a Community Scheme

Where a strata scheme regulated by the *Strata Titles Act* resolves to be regulated by the *Community Titles Act*, the Registrar General is obliged to endorse this resolution on the original certificates of title. However, the automation of the Land Titles Register now means that it is easier to cancel the existing certificates and to issue new certificates of title. Clause 6*(a)* of the bill amends the Act so that the Registrar General can either issue new certificates of title or endorse the conversion on the original certificates of title.

Conversion of Single Storey Prescribed Building Unit Schemes

The Schedule to the Act also sets out a number of transitional provisions providing for the conversion of prescribed building unit schemes, which are pre- February 1968 unit schemes. Currently, a single storey prescribed building scheme will become a community scheme, not a community strata scheme, when converting under the Act. To be a community strata scheme there must be one lot existing above another (except where an existing strata titles scheme converts under the Act), which would not be the case with a single storey prescribed building unit scheme. As a result, such schemes are subjected to open space issues that are not confronted by schemes that convert into community strata schemes. This may deter schemes from converting to a type of scheme where a unit holders interest is registered and, therefore, easily traceable.

Holdings under most prescribed building unit schemes are similar to strata titles; that is, the owner only owns the space between the walls, floor and ceiling. Therefore, it is reasonable to allow the conversion of such schemes into community strata schemes. Clause 6*(b)* of the bill recognises the ability of single storey prescribed building unit schemes to convert to a community strata scheme despite the fact that there is not one lot existing above another

Saving Existing Statutory Encumbrances when Prescribed Building Unit Schemes Convert

When a prescribed building unit scheme lodges a plan of community division at the Land Titles Office, and the scheme becomes a community scheme regulated by the Act, all registered encumbrances (except easements) entered on the original certificate for the land will be extinguished, and any related instrument will be discharged. Statutory Encumbrances will also be extinguished because the Act defines 'encumbrance' as including a statutory encumbrance. There is no justification for this, particularly given that statutory encumbrances are not extinguished where prescribed building unit schemes are converted under the *Strata Titles Act* or where there is traditional land division under the *Real Property Act*. Claue 6*(c)* of the bill amends the Schedule so that statutory encumbrances will not be extinguished.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 23—Vesting etc. of lots etc. on deposit of plan

This clause makes an amendment to section 23 that will provide for the vesting of lots on the division of a single allotment that is owned by more than one person.

Clause 3: Amendment of s. 36—By-law as to the exclusive use of part of the common property

This clause makes an amendment to section 36 that underlines the fact that the consent of the owner of a lot is not required for an original by-law which is lodged with the Registrar-General with the plan and application for division.

Clause 4: Amendment of s. 58—Amendment of plan pursuant to a development contract

This clause adds a new subsection to section 58 that provides for consolidation of the common property of a scheme into one title.

Clause 5: Amendment of s. 144—Preliminary examination of plan by Registrar-General

This clause makes it clear that the Registrar-General can look at more than formal matters when making a preliminary examination of a plan under section 144.

Clause 6: Amendment of Schedule—Transitional provisions

This clause amends the schedule of transitional provisions.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Classification (Publications, Films and Computer Games) Act 1995. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This bill makes a number of amendments to the *Classification (Publications, Films and Computer Games) Act 1995*. The Act forms part of a national scheme of classification, and corresponding legislation exists in each Australian State and Territory. The legislation is complementary to the Commonwealth *Classification (Publications, Films and Computer Games) Act 1995*. Under the Commonwealth Act, publications, films and computer games are classified in accordance with a nationally agreed Code and set of guidelines. Under the State and Territory Acts, the classification determines whether and under what conditions the item may be sold, advertised or exhibited in each participating jurisdiction.

This scheme has been operating since 1995. As is commonly the case, experience with the operation of the scheme has led to detection of some limitations and opportunities for improvement. Moreover, the Community Liaison Officers, appointed under the co-operative scheme and visiting each jurisdiction, have reported to Attorneys-General that while awareness and understanding of the national scheme have increased with time, and many distributors take a responsible approach to their legal obligations, there remain some distributors and sellers of classifiable items who are persistently failing to comply with the law. This bill therefore makes a number of changes to the Act to improve its effectiveness, particularly in relation to enforcement of offences.

In addition, the bill adds a new Part to the Act, dealing with internet content. These provisions have been developed at the

national level with the aim of making illegal on-line material which is illegal offline.

I will deal first with the measures to improve enforcement.

At present, the Act requires that before a prosecution can be commenced for an offence in relation to an unclassified item, the item must be classified. This can be problematic because of the cost of classification. Fees range from $100 to $130 for a publication, and are upwards of $510 for a film, and may range as high as $2 590, depending on its length and other factors. If a large number of unclassified films, publications or computer games are seized, as may happen, for example, in a raid on a shop or business, the cost of classifying each item for prosecution purposes can be prohibitive.

Moreover, very often, even though an item has not been classified, it may be fairly clear on examination how it would be classified. For example, all child pornography will certainly be refused classification. In such cases, classification is required, even though there may be in reality no dispute over what the classification would be.

To address this issue, it is proposed to insert a new clause 83A, which would permit the prosecution to serve the defendant with a notice asserting that the item was or would be classified at a particular classification. If the defendant does not dispute this, he or she may sign the notice, which can be tendered in evidence as proof of the classification. This avoids the cost and delay associated with classification, or obtaining a certificate of classification, where it is apparent to all that the item was or would have been classified in a particular way. If the defendant disputes the classification, he or she need not sign the notice. However, in that case, if the prosecution proves that the item was or would have been classified as alleged, the defendant will pay the cost of the classification or certificate required.

To accommodate this procedure, the bill amends section 85 to remove the requirement to have an unclassified item classified before commencing a prosecution. It also removes the requirement to have an item classified where all that is alleged is that at the relevant time, it was unclassified. It is an offence to sell an unclassified film or computer game, even if the item is innocuous and would have received a 'G' classification. In that case, the only issue is whether it was classified or not at the time. The classification it would have received is irrelevant, since there is no allegation that it would have been illegal to sell the item, if classified.

Another measure intended to improve enforcement is proposed clause 80B, dealing with forfeiture. This provides that where multiple products are seized on the same day from the same premises, and the defendant is convicted of prescribed offences in respect of ten or more different items, which are then forfeit, all the other items seized at the same time are also forfeited. (The 'prescribed offences' are the more serious offences, such as selling or possessing for sale items classified X or RC.) However, the owner can apply for the return of any item in respect of which no offence has been proven. He or she must establish that the items sought would have been classified lower than X or RC, or, in the case of a publication, was not submittable, or alternatively that no prescribed offence was committed in respect of the item. These matters are proven on the balance of probabilities.

This provision is intended to act as a deterrent to commercial dealing in illegal items. It goes further than the existing law, which allows discretionary forfeiture of any seized item if the owner is convicted of any offence (section 80(4)). The Government considers it reasonable for the law to assume that if, of a quantity of film titles or magazine issues, for example, seized from the one premises at the one time, at least ten prove to be illegal, there is a good chance that others of the seized items are illegal too. Even if not, clearly the seller is not exercising any proper vigilance to see that only legal stock is sold, and should be punished accordingly.

Thirdly, the bill makes provision for expiation of a number of the less grave classification offences. This measure is intended, not to detract from the seriousness of these offences, but to improve the enforcement of the Act. At present, all offences must be prosecuted. Bearing in mind that many of the relevant offences are committed in the course of business and therefore apply to multiple copies of items, this is time consuming and costly. Many offences, too, are clear cut offences of a technical nature which the defendant may well wish to expiate if given the opportunity.

Of course, not all classification offences are suited to expiation. Some, such as the sale or exhibition of films classified X or RC, are too serious. However, some are suited. For example, it is proposed to permit expiation of the offences of failing to display a notice explaining the classifications, keeping illegal films on premises where legal films are sold, selling a film, publication or computer game without the determined markings being displayed, selling or exhibiting an unclassified film (other than one which would be classified X or RC), selling a Category 2 restricted publication without the required wrappings and markings, and others.

The provisions of the *Expiation of Offences Act* will apply. A person who disputes the allegations will be able to put the prosecution to proof in the ordinary way. Payment of an expiation notice will not amount to a criminal conviction.

Further, proposed clause 80A will make it possible to authorise a Community Liaison Officer to issue expiation notices, in addition to ordinary enforcement by police. These officers, who are funded through the national scheme, make periodic visits to South Australia for the purpose of visiting distributors and advertisers of films, publications and computer games, to publicise the scheme and to help industry participants to understand and comply with their legal obligations. There is a good chance that offences will be detected during these visits, and, if so, it will be possible to deal with the offence on the spot.

The Schedule to the Act amends the penalties set by the Act, converting them from divisional penalties to fixed maximum sums, and adding expiation fees where applicable.

There are other, more minor, enforcement-related amendments.

The powers of the South Australian Classification Council to require information are clarified. At present, the Act does not stipulate any time within which information must be furnished, or a person must attend, or produce an item, in response to a requirement from the Council. This means it must be done within a reasonable time, but there may be room for dispute in individual cases as to how long this is. This could be problematic in case of a prosecution for the offence of failing to comply. For clarity, the bill makes express that the Council may stipulate a particular time. It will then be easier to know whether an offence has or has not been committed.

The bill also seeks to clarify the situation where a parent or guardian takes a minor under 15 to see a film classified MA15+. It is lawful to show such a film to the minor, provided that he or she is accompanied by a parent or guardian. However, the Act provides that the minor does not cease to be accompanied only by reason of the parent or guardian's temporary absence from the cinema. Unfortunately, it seems that some parents are not applying this provision as was intended. Cases have been reported in which the parent accompanies the child into the cinema, but shortly thereafter leaves the cinema to undertake other errands, returning only at the end of the film to collect the child. This defeats the purpose of the provision, which is that the child views the film under parental supervision, so that questions can be answered and concepts explained, either as the film progresses or in discussion afterwards. To overcome this, the provision is reworded so that the parent may be temporarily absent to use facilities provided on the premises for the use of cinema patrons, but not otherwise.

Other proposed amendments seek to strengthen the enforcement provisions dealing with commercial copying and sale of illegal films, that is, films classified or classifiable RC or X. Section 45 is an evidentiary provision which deems that a person intended to exhibit or sell the item if he or she made ten or more copies of it. This is considered a reasonably likely explanation for the possession of ten copies of the same film. However, it is an evidentiary provision only and the defendant may lead evidence to show that in fact he or she did not have the items for this purpose.

The proposed amendment changes section 45 in two ways. First, it reduces the number of copies which are treated as evidencing such an intention from ten to three. This is because, again, it is difficult to explain the possession of three copies other than for commercial purposes. It is true that to fix any particular number is arbitrary. However, since the defendant has the opportunity to prove that there was no illegal intention, it is not considered unfair to adopt a lower limit in the evidentiary provision. It must be remembered that the sale or exhibition of even one of the copies is in itself an offence. While in most other jurisdictions, the figure of ten copies remains in use, it should also be remembered that in many of them, this offence is punishable by imprisonment, whereas, in South Australia, it is punishable by a fine only.

Secondly, it is proposed to extend this to the situation where the person was in possession of the copies, whether or not he or she was also the maker of the copies. This is because, if the defendant was in possession of multiple copies of a film which it is illegal to exhibit or sell, with the intention of exhibiting or selling them, the defendant should be treated as guilty of the offence, whether he or she made

the copies or whether someone else did. Of course, the person who made the copies for the purpose of selling them to the retailer or distributor is also separately guilty of an offence.

Similar amendments are proposed to section 65, which deals with the possession for demonstration or sale of computer games which have been or would be refused classification.

At present under section 46, a person only commits the offence of selling an RC or a submittable publication if he or she knew it to be such. A seller who chooses to remain ignorant of the classification status of the item does not therefore commit an offence. It is considered that a better approach is to provide that the sale of such a item is an offence, but that the seller may establish a defence if he or she reasonably believed that the item was not classified RC or was not submittable. That is also the form of provision used in Victoria for the corresponding offence. The bill seeks to amend section 46 to make this change.

Some minor amendments to the evidentiary provisions have also been considered necessary, so that prosecutions do not fail for technical reasons. For example, the proposed amendments to section 83 make it clear that copy certificates are acceptable, and that a certificate can certify as to past as well as present states of affairs.

Proposed new Part 7A constitutes a significant change to the Act. It would insert into the Act the model on-line content regulation provisions devised at national level to complement the 1999 amendments to the Commonwealth *Broadcasting Services Act 1992,* dealing with on-line services. It is expected that other jurisdictions may enact these provisions in due course. Victoria, the Northern Territory and Western Australia have previously enacted provisions of their own dealing with unlawful internet content.

The aim of these provisions is to deter or punish the making available on the internet of material which is offensive, or which is unsuitable for children. That is, they aim to make it illegal to make available online matter which would be illegal if left in a public place offline. What is offensive or unsuitable is determined by reference to the existing national classification Code and guidelines for films and computer games.

The provisions speak of 'objectionable matter', which is internet content consisting of a film or computer game which is or would be classified X or RC. This could include, for example, sexually explicit material, child pornography, or material instructing in crime or inciting criminal acts. This must not be made available or supplied over the internet. They also speak of 'matter unsuitable for minors', that is, material which does not fall into the X or RC category but is nevertheless appropriate to be legally restricted to adults and is or would be classified R. In the case of the former, the material must not be made available or supplied at all. In the case of the latter, the material may be made available or supplied only if protected by an approved restricted access system, that is, a system which restricts who may access the material, for example by means of a password or personal identification number.

These provisions aim to catch the content provider, but not the internet service provider, which merely provides the carriage service through which the material is accessed, nor the content host who provides the means by which the content is made available. These entities will not usually have the relevant mental element of knowledge or recklessness. Instead, these are regulated by means of the Commonwealth *Broadcasting Services Act*. Under that Act, anyone may report offensive material on the internet to the Australian Broadcasting Authority, which can arrange for the site to be classified. If the site content proves to be illegal, the Authority can require the ISP to remove access to the site. The two sets of provisions are therefore intended to be complementary.

It should be noted that the provisions do not catch material which is not stored and not generally available. Hence, they do not apply to ordinary e-mail which is only made available to its designated recipient, or to real time internet relay chat, which is ephemeral and is limited to the participants in the group at the time. However, if the content of the email or chat were stored and later uploaded so as to be generally available, then it would be caught.

Of course, these provisions cannot be a complete solution to the problem of offensive or illegal internet content, much of which is made available from outside South Australia. Nonetheless, it is appropriate that South Australia do what it can to address the problem of offensive content which originates here.

It is hoped that this bill will improve the operation of classification laws in South Australia. I know that many South Australians are concerned about the sale or exhibition of offensive material in our society. They are particularly concerned about encountering this material when they do not wish to, and most of all about its becoming available to their children. This bill should be of some help in addressing these concerns.

I commend the bill to honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

This clause inserts a general definition of the Commonwealth Broadcasting Act.

Clause 4: Amendment of s. 6—Application

This clause removes the definition of the Commonwealth Broadcasting Act currently contained in section 6 of the principal Act.

Clause 5: Amendment of s. 14—Powers

This clause strengthens the powers of the *South Australian Classification Council* by ensuring they can set time limits within which information or documents must be furnished or provided to the Council.

Clause 6: Amendment of s. 36—Attendance of minor at MA film—offence by exhibitor

This clause clarifies the intent of section 36 of the principal Act.

Clause 7: Amendment of s. 45—Possession or copying of film for purpose of sale or exhibition

This clause proposes to amend the evidentiary presumption contained in section 45 of the principal Act. At present an intention to sell films is presumed when there is evidence that a person made 10 or more copies of a film. Under the provision as proposed to be amended, the presumption would apply where there was evidence that a person was in possession of or made 3 or more copies of a film.

Clause 8: Amendment of s. 46—Sale of unclassified or RC publications

This clause removes the requirement on the prosecution to prove that a person charged with an offence under section 46 knew that a publication was classified RC or was a submittable publication and instead provides that it is a defence for the defendant to prove that he or she believed, on reasonable grounds, that the publication was not classified RC or was not a submittable publication (as the case may be).

Clause 9: Amendment of s. 48—Category 2 restricted publications

This clause amends the penalties applicable for delivering a Category 2 restricted publication in incorrect packaging or publishing such a publication with incorrect markings. Under the amendments it will be possible to expiate such offences.

Clause 10: Amendment of s. 65—Possession or copying of computer game for purpose of sale or demonstration

This clause amends the evidentiary presumption contained in section 65 of the principal Act (dealing with computer games) consistently with the amendment proposed to section 45 (dealing with films).

Clause 11: Amendment of s. 66—Certain advertisements not to be published

This clause provides for certain types of offences under section 66 to be expiable.

Clause 12: Insertion of Part

This clause inserts a new Part as follows:

PART 7A

ON-LINE SERVICES

75A. Interpretation

This clause defines certain terms used in the Part (consistently with the Commonwealth Broadcasting Act).

75B. Application of Part

The Part applies to on-line services other than those prescribed by regulation. A person is not guilty of an offence under this Part by reason only of the person owning, or having the control and management of the operation of, an on-line service or facilitating access to or from an on-line service by means of transmission, down loading, intermediate storage, access software or similar capabilities.

75C. Making available or supplying objectionable matter on on-line service

A person must not, by means of an on-line service, knowingly or recklessly make available, or supply, to another person, objectionable matter. The maximum penalty is a fine of $10 000.

75D. Making available or supplying matter unsuitable for minors on on-line service

A person must not, by means of an on-line service, knowingly or recklessly make available or supply to another person any matter unsuitable for minors. The maximum penalty is a fine of

$10 000. It is, however, a defence for the defendant to prove that access to the matter unsuitable for minors was subject to an approved restricted access system at the time the matter was made available or supplied by the defendant.

75E. Recklessness

This clause defines the concept of recklessness for the purposes of the Part.

Clause 13: Amendment of s. 80—Powers of entry, seizure and forfeiture

This clause—
- gives the police and authorised persons power to enter a place they believe, on reasonable grounds, is being used for or in connection with copying films, publications or computer games for sale; and
- provides for automatic forfeiture of films, publications or computer games on conviction for certain offences against the Act. In other cases the court's power to order forfeiture remains discretionary.

Clause 14: Insertion of ss. 80A, 80B and 80C

This clause proposes to insert new clauses into the principal Act as follows:

80A. Powers of authorised persons in Australian Public Service

This clause allows the Minister to authorise a class of Commonwealth public servants to issue expiation notices under the Act and specifies the powers of such a person. A person authorised under the clause must carry identification in a form approved by the Minister and must produce it at the request of a person in relation to whom the authorised person has exercised, or intends to exercise, powers under the clause.

80B. Forfeiture of other seized films, publications and computer games

This clause provides that if proceedings are commenced for specified offences under the principal Act relating to products that were seized on the same day from the same premises and 10 or more different products are forfeited to the Crown as a result of those proceedings, at the expiry of the prescribed period, any other products seized on that day from those premises are also forfeited to the Crown.

The owner of any products that are subject to forfeiture under this clause may view the products and may, within the prescribed period, apply to the Magistrates Court for an order for return of the products. The Commissioner of Police must be notified of, and is a party to, any such proceedings.

The Magistrates Court may order the return of a product if satisfied, on the balance of probabilities, that the product is classified at a classification other than X or RC (or, in the case of publications, is not a submittable publication) or that a prescribed offence was not committed in relation to the product.

80C. Classification of seized items at request of defendant

This clause provides a mechanism whereby a person charged with an offence may apply to have a seized item classified.

Clause 15: Amendment of s. 83—Evidence

This clause clarifies the provision of the principal Act dealing with evidentiary certificates.

Clause 16: Insertion of ss. 83A and 83B

This clause proposes to insert new clauses in the principal Act as follows:

83A. Proof of classification by consent

If a person is charged with an offence against the principal Act in relation to a film, publication or computer game, the prosecution may, prior to the trial of the matter, serve on the defendant a notice asking the defendant to agree that, on a specified date, the film, publication or computer game—
- was classified at the specified classification; or
- was unclassified but would, if classified, have been of the specified classification; or
- was unclassified.

A person served with a notice must be allowed to view the film, publication or computer game the subject of the notice if requested.

An apparently genuine document purporting to be a notice under this clause in which the defendant agrees that, on a specified date, the film, publication or computer game described in the notice was classified at a specified classification, was unclassified but would, if classified, have been of a specified classification or was unclassified (as the case may be) will constitute proof of the matter so agreed without other evidence (in the absence of evidence that the document is not a notice under this section completed and signed by the defendant).

However, if such a notice is not received, completed and signed by the defendant, by the prosecution within a specified period, the defendant will, if found guilty of the offence, be liable to pay an amount equal to the fee for classification of the film, publication or computer game or the fee for obtaining a certificate under section 83 (as the case may require).

If a person fails to complete and return a notice served under this section in relation to an offence involving an allegation that, on a specified date, a film, publication or computer game was unclassified but would, if classified, have been of a specified classification and the film, publication or computer game is subsequently classified at a higher classification than the one specified in the notice, the clause applies as if the notice had specified that higher classification.

83B. Proof of classification required

Where, in a prosecution, it is alleged that a film, publication or computer game was unclassified at a specified date but would, if classified, have been classified at a specified classification, that allegation must be proved by proof that the film, publication or computer game was subsequently classified at that classification or in accordance with section 83A.

If a film, publication or computer game that was unclassified on a specified date is subsequently classified at a particular classification, then it will be taken to be the case that the film, publication or computer game would, if it had been classified at that specified earlier date, have been classified at that classification.

Clause 17: Substitution of s. 85

This clause substitutes a new section 85 which provides that proceedings for offences under the Act must be commenced within two years of the date on which the offence was allegedly committed.

Clause 18: Amendment of s. 86—Proceeding against body corporate

Where a body corporate is guilty of an offence against the principal Act, each director is guilty of an offence and liable to the same penalty as is imposed for the principal offence when committed by a natural person unless it is proved that the director could not, by the exercise of reasonable diligence, have prevented the commission of the offence.

Clause 19: Further amendments of principal Act

This clause provides for the amendments contained in the Schedule.

Clause 20: Transitional provisions

This clause provides that proposed clause 80B applies in relation to proceedings commenced after the commencement of that clause, whether the offences to which those proceedings relate were committed before or after that commencement.

SCHEDULE

Further Amendments of Principal Act

The Schedule makes minor statute law revision amendments, changes divisional penalties into monetary amounts and inserts various expiation fees.

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

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Construction Industry Long Service Leave Act 1987. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

In 1977, the *Long Service Leave (Building Industry) Act* established the portable long service leave scheme for construction industry workers. Since 1987, the scheme has operated under the *Construction Industry Long Service Leave Act* (the Act). The scheme enables construction industry workers to become eligible for long service leave based on service to the industry rather than service to

a single employer. The scheme provides equity to workers in an industry where employment is highly transient. This portability of service extends to work interstate through a national reciprocal agreement. The scheme is self-funded through employer levy contributions and interest on investments.

The amendments that are proposed by this Bill will make the Act more equitable and reinforce consistency with certain provisions of the *Long Service Leave Act 1987*.

The key features of the amendments are:

(1) To remove the capacity for working directors to claim retrospective benefits and to provide benefits based on actual contributions to the construction industry long service leave fund (the fund).

Many working directors have realised the financial benefits of registering with the scheme, particularly retrospectively. Retrospective registration enables working directors to quickly accrue sufficient service to become entitled to leave, and in so doing to inflate their ordinary weekly pay (used in the calculation of the leave payment). As a result, these people can claim payment in excess of the levies paid on their behalf into the fund.

Under the provisions of the Act, working directors are deemed employees of their companies and therefore must be registered and have levies paid into the fund.

This amendment proposes to extend the existing voluntary scheme for self employed contractors to working directors, thereby requiring them to make fixed contributions in return for service credits in each bi-monthly invoice period. Working directors will only then receive what they pay into the scheme plus accrued interest. Should prior service as a defined worker also apply, this entitlement will continue to be calculated using the average ordinary weekly pay.

Other proposed ancillary amendments are:

- Interest will accrue on contributions using the 90 day bank rate;
- Retrospective registrations will be accepted, but not with a view to reinstating cancelled worker service entitlements;
- Working directors may elect to withdraw contributions paid into the scheme prior to establishing a long service leave entitlement, but not accrued interest.

(2) Reducing the period of allowable absence from three years to two years for those workers with less than five years accrued service. This in effect reduces the long-term liability of the fund.

Under the current provisions, workers can be out of the industry for three years before their service entitlement is cancelled. Under this amendment, the period of allowable absences will be reduced to two years for workers with less than five years' service. The period of three years will be retained for workers with more than five years' service.

(3) Previous long service leave payment recognition to be restricted to the period of service in the construction industry when making a pro rata payment to workers with less than seven years' service entitlement.

Since 1 July 1982, the Act has allowed pro rata payments to be made upon termination to workers with less than seven years' accrued service, provided that they had a previous entitlement to long service leave under the *Long Service Leave Act 1987*, for service as a building worker prior to the inception of the Act. The Act was further amended in 1993 to extend this provision to include reference to the Metal Industry (Long Service Leave) Award, which was relevant to the electrical and metal trades workers who came under the Act in 1990.

These provisions are no longer relevant as the scheme has been in operation in excess of twenty one years and over eight years for electrical and metal trades workers.

The potential exists, through the application of this provision, for the Fund to pay out claims in excess of the income received. This represents a further impost on the Fund's sufficiency.

These amendments ensure that previous long service leave payments from the scheme will only be recognised when making pro rata termination payments to workers with less than seven years' service entitlement.

(4) Service recognition for an absence resulting from a work related injury be limited to two years and employer or WorkCover payments of income maintenance will not constitute remuneration paid to the construction worker for which a levy is payable.

When a worker is on income maintenance as a result of a work related injury, service continues to accrue with employers required to pay the appropriate levy. There is currently no limit to the amount of service which can be accumulated. The original intention of the Act was to only cover short-term absences and provide continuity of service accrual. The open-ended nature of the existing provision places an unfair burden on employers to maintain levy payments indefinitely.

The proposed amendments to the Act will mean that service recognition for an absence resulting from a work related injury will be limited to two years. The amendments provide that employer or WorkCover payments of income maintenance beyond two years do not constitute remuneration paid to the construction worker for which a levy is payable.

These amendments have been discussed with employee representatives on the Board and are supported by these representatives.

(5) To enable workers on allowable absences to be credited with the corresponding period of service.

At present the Regulations under the Act prescribe payments made to a worker in relation to annual leave, sick leave, public holiday, rostered day off work, industry allowance or tool allowance and income maintenance as components of ordinary weekly pay. Long service leave is not included and as such the Fund meets the cost of service credited while a worker is on long service leave.

Workers are credited with one day's service entitlement for each day's allowable absence. This is consistent with the *Long Service Leave Act 1987*.

These amendments ensure that workers on allowable absences are credited with corresponding periods of service. The amendments also ensure that the levies are paid on all allowable absences *excluding* long service leave and employer or WorkCover payments of income maintenance beyond two years.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 inserts a definition of 'the prescribed period' into section 4 of the principal Act. This definition is a mechanism for providing that a construction worker loses his or her entitlement to long service leave if he or she has less than 1300 days entitlement and is out of the industry for 24 months or has 1300 days or more and is out of the industry for 36 months.

Clause 4: Amendment of s. 5—Application of this Act

Clause 4 amends section 5 of the principal Act. These amendments are part of a series of amendments in this Bill to put a construction worker who is employed by a company of which he or she is a director in the same position as a self employed contractor under section 37A of the principal Act.

Clause 5: Amendment of s. 14—Effective service entitlement

Clause 5 amends section 14 of the principal Act. Paragraph *(a)* provides that construction workers will be credited with a day of effective service for each day of allowable absence (annual leave, sick leave etc.) in addition to each day that he or she actually works. Paragraph *(b)* removes subparagraphs (ii) and (iii) of subsection (4)*(b)*. These subparagraphs have now served their purpose and are redundant. Paragraph *(c)* makes the change referred to in the note to clause 3.

Clause 6: Amendment of s. 17—Cessation of employment

Clause 6 makes a change to section 17 that corresponds to the change made by clause 5*(b)*.

Clause 7: Amendment of s. 18—Preservation of entitlements in certain cases

Clause 7 makes a change to section 18 that corresponds to the change made by clause 5*(c)*.

Clause 8: Amendment of s 37A—Self-employed contractors and working directors

Clause 8 amends section 37A of the principal Act. This section provides for the establishment of an investment scheme to provide long service leave entitlements for self employed contractors. New subsections (1) and (1a) inserted by the Bill replace existing subsection (1) and extend the operation of the section to a person who is employed by a body corporate in the construction industry and who is a director of the body corporate. Paragraph *(c)* replaces subsection (3) and inserts subsections (3a) and (3b). These subsections provide for preservation of existing entitlements where section 37A applies to a person who was formerly a construction worker. Paragraph *(o)* inserts new subsection (10) which provides for preservation of entitlements earned under section 37A if the self employed contractor or director again becomes a construction worker to whom Part 3 of the principal Act applies.

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

PARALYMPIC GAMES

The Hon. R.D. LAWSON (Minister for Disability Services): I move:

> That this Council congratulates all South Australian and Australian athletes, officials and volunteers who participated in and helped organise the outstandingly successful Sydney Paralympic Games.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ADDRESS IN REPLY

Adjourned debate on the question:

That the Address in Reply, as read, be adopted.

(Continued from 7 November. Page 293.)

The Hon. R.R. ROBERTS: I support the motion and thank His Excellency the Governor for the speech with which he chose to open the Parliament, and I congratulate him on the way in which he has conducted himself in his role as the representative of Her Majesty, carrying out his duties throughout South Australia since his appointment. On many occasions I have had the very great pleasure of enjoying his company and watching him at work within my electorate. The reason why he and his wife are so fondly accepted throughout South Australia is undoubtedly due to his personal attitude to the job.

I also take the opportunity to pass on my condolences to the families of those members who were deceased between the end of the last parliament and the opening of this one.

Whilst I sat listening to His Excellency's speech—which, as we all know, was prepared for him, properly and traditionally, by the government—I was led to think more about what was not in the speech rather than what was. I intend to canvass some of the issues that were raised in the speech, and I do that because I have leave of the parliament tomorrow and I want to make some contribution before we go to the Governor.

In the early part of his speech His Excellency talked about the fact that his government—and remember that this speech was written by the government—will have halved the public sector debt, in real terms, by the year 2001. What was not stated was the fact that, since this government has come to power, it has sold some $8 million worth of assets. We started off with a $7 million debt: we now have a $3.5 million debt, having sold $8 million worth of assets—

The Hon. L.H. Davis: Billions, Ron.

The Hon. R.R. ROBERTS: Billions of dollars—well, it is worse than I thought. The Hon. Legh Davis owns up: it is billions of dollars, not millions. I apologise for my statement. I thank him for exposing himself, although that is not always a pretty sight. So, we have sold off all our assets; we still have a debt of about $3.5 billion; and they are still at it. It was also pointed out that the leasing of the electricity assets meant that there was no need to introduce the power bill increase proposed in the 1999-2000 budget. We all know what that was—the blackmail threat that was introduced and waved over the people of South Australia to try to force them into agreeing to turn around the polls that were showing that about 85 per cent of the people of South Australia did not want us to sell or lease the electricity assets.

That threat was put out and, to their lasting credit, the people of South Australia rejected it out of hand and said, 'Well, if you are going to introduce that tax, we will see you at the next election.' They were not to be intimidated by the bullyboy tactics. What happened was that we saw the other disgusting behaviour of some members of the Australian Labor Party. The government did not sell it but leased it for 200 years. If that is not a sale, well, I do not know what is. The Governor went on to say:

> The disposal of the retail, distribution, generation and transmission assets, including the recent leasing of Flinders Power and ElectraNet SA, has realised gross proceeds of some $5.3 billion, with net proceeds being progressively applied towards the retirement of State debt. This concludes the disposal of the state's major power assets, with the only remaining electricity asset to be sold being the gas trading business, Terra Gas trader.

He was saying that all the previous sales were for the retirement of debt, but following the next round of privatisation—which the people of South Australia hate—there is no guarantee that those moneys that are realised by the state's assets sales will be used to retire debt for the benefit of the people of South Australia. The Governor mentioned the gas trading business of Terra Gas, and current events have shown that it is to be purchased by the Queensland government, which flies in the face of the assertions of this government that we had to get out of that business because governments could not be involved in this particular industry. Yet one of our most progressive states will buy this asset which belongs to the people of South Australia.

The Governor went on to talk about the reduction in the costs of WorkCover 'to business of 7.5 per cent on average, and by our industrial relations record, which is second to none'. That is encouraging. Indeed, WorkCover costs have been contained and the corporation has made a profit. When we discussed the WorkCover legislation in this place some years ago, that was the very reason why this government, with the support of others, diminished the benefits of the WorkCover scheme—so that the victims of WorkCover accidents could meet the costs. Now that the WorkCover Corporation is making a profit, I invite the government to introduce some legislation to return some of the benefits to the workers rather than putting it into the pockets of businesses that in many cases are the reason why workers are getting hurt. The Governor then went on to say:

> My government has introduced what it regards as the highly successful Partnerships 21 scheme.

He obviously read Minister Buckby's press release that so impressed the Hon. Terry Cameron. The minister himself is about the only person in the education area who speaks in such glowing terms of Partnerships 21. The Australian Labor Party and the Hon. Mr Elliott have invited the government to conduct a review of the Partnerships 21 scheme which members of the government say is so successful and so great

and that no-one is being disadvantaged. If that is the case, one would imagine that this sort of review to ensure that these things were right would cause the government no problem. The only problem with having a review of something which you claim is so successful is that there are probably some flaws in it. In his contribution earlier tonight on this subject, the Hon. Terry Cameron said that, if he could be shown where people were intimidated or bullied into going into Partnerships 21, he may be convinced to change his vote in respect of a review.

An honourable member interjecting:

The Hon. R.R. ROBERTS: That is back to front. If we set up the review and those people want to come in, they will not have the protection of the cowards of criticism such as the Hon. Terry Cameron and the Leader of the Government who come in here and criticise the AEU and all the other people in the education industry. They do not have the same ability to come in here with parliamentary protection, but they will make their assertions outside.

If we have a review of Partnerships 21, those people could come into a parliamentary committee and have the same rights and protections as the cowards who condemn them under the cloak of parliamentary privilege, and we would get right to the bottom of this issue. The easiest way to do that is to provide them with the same forum, the same platform, as these people claim for themselves. I make no criticism of His Excellency for that. That is the way in which the system works and he has delivered his speech in the light of that.

The Governor then went on to talk about an interesting issue on which I touched during debate earlier today and which I do not intend to canvass fully tonight. He said:

> In the area of human services, effective treatment for people with a mental illness is a key priority of my government. Under the leadership of the new Director of Mental Health, the reorganisation and strengthening of mental health services in South Australia is underway.

I concur with His Excellency in that that is a very important area, and I encourage members of the government to not just mouth the words. They have been here since 1993. We have had problems in the mental health area and the application of the mental health area for all that time, and there are victims and families out there who have been screaming out for assistance. I have asked in this place on several occasions for a number of reports into mental health issues, but I have always been denied them.

On my last attempt I was told that a new plan was coming out and that all those other plans have been superseded. In other words, I was not going to get them. I make one last desperate attempt on behalf of those families and patients out there and appeal to the government to make this area of mental health a priority and make a concerted effort to do something about it. I am encouraged that money will be made available. I do not divorce the Labor Party from the fact that this problem has developed because it was under a Labor government that deinstitutionalisation was introduced; and I outlined that in an earlier contribution today. But people out there are suffering and they need our help and they need it straight away.

The Governor went on to talk about other things such as the 'Rose Festival to be held later this month'—and I note today that regulations are before this parliament to allow a fee to be set for the citizens of South Australia to enter the rose gardens. The government established this garden on public land from the parklands and now it wants the right to charge members of the public a fee to go on to land that they own to look at an artificial garden.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: The Governor also said:

> Last month's Olympic football tournament is another shining example of maximising the potential of 'one-off' major events.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Well, we all know the history of the football saga at Hindmarsh.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Let them go, Mr President, it does not worry me. They do not worry me one little bit—even the rats squeaking at the back of me do not make much difference to me. We all know the history of the Hindmarsh football stadium and, hopefully, with the support of Dr Bob Such we will get the true story on that. I commend the Hon. Julian Stefani for his relentless pursuit of his colleagues over this issue. The Hon. Julian Stefani is the only one who has kicked a goal in this whole exercise. The Governor also said:

> It is intended that a volunteers protection bill will be introduced before Christmas.

I look forward to that with some interest because I think that is an area that we need to look after. We have volunteers in this state who give their time and effort, along with all that it costs them and their families yet, for the privilege of doing that, we hit them with the same emergency services levy as everyone else. I think that they are entitled to expect some protection from this government more than from anyone else.

His Excellency also touched on the legislation that is about to pass this Council in respect of the ignition interlock scheme in South Australia. Whilst my personal view is that it has some faults, it is an improvement and it does give some accommodation to those people living in country South Australia who are unfortunate enough to find themselves with a disqualification but still with a requirement to travel vast distances to secure an income for themselves and their families. The legislation gives them an opportunity to get back into the work force and carry on with their lives.

The other issue mentioned in the closing section of the address highlighted that his government will introduce the Industrial and Employee Relations Amendment Bill. Here it comes again. If everything else is failing, when the world is collapsing around you and when you are really going bad, let us have a go at the industrial relations system. Let us kick the employees; let us kick the unions; let us introduce another industrial relations bill. I have a particular interest in one issue with respect to industrial relations legislation. What has occurred with industrial relations regulations under this government and Peter Reith's federal government is to put a brake on the ability of industrial commissions in this country to intervene in disputes before they get to a critical stage.

I believe that that is to the detriment of our industrial relations system that is held in such high regard around the world. The industrial relations scheme that has operated in this country for the past 25 years has been held up as a model for industrial relations in many countries in the world. For example, in my home city of Port Pirie a dispute has been raging with Conroy's Meats. As a result of the alterations to legislation we have a situation where the employer is able to lock out employees for periods of time. The employer is

required to give only some short period of warning and he can lock out these employees from their workplace, and for months they are starved into submission.

Under the old workplace relations scheme, the Industrial Commission could have intervened in that dispute and arrived at a resolution that was enforceable, or at least acceptable, to both parties. We have had the disgraceful situation where these people and their families have been deprived of an income for months at a time because they will not bow to the wishes of the employer to work under contracts—which, we were all told, they would never be forced into. But the application of the laws of this and the federal government have allowed this to occur. There was a time when industrial action taken by employees—

The Hon. T.G. Cameron: This is a federal award.

The Hon. R.R. ROBERTS: The government wants to mirror it. It is introducing a bill; read the speech. This persuasion of government is about denying the workers an equal playing field. We have witnessed this disgusting situation in Port Pirie, and I put on the record my great admiration for those 11 employees who are still left and who have had the guts and tenacity, as displayed by their forebears, not to bow to the bully-boy tactics used by the company that employs them. As a trade unionist it is disappointing to see that other members on that site are still working. I do not condemn those workers, because they have been bullied and intimidated into a situation where they know that if they were not to comply they would be locked out and starved into submission.

The government wants to introduce a further Industrial and Employee Relations Amendment Bill, obviously to put more impediments in front of the workers of South Australia. We need encouragement and cooperation with the trade union movement and the ability for the industrial commissions, at an early stage, to intervene and resolve disputes—not wait until we have an industrial dispute on our hands whereby people and their families are suffering great hardship with no equal power at all to negotiate decent conditions for themselves.

With respect to the situation of employees, I also mention that we have privatised many of our industries. We have become more competitive and we are financially much better off. I have not seen one electricity bill that has been reduced and I have not seen one extra job that has been created. In fact, there has been a net loss in employment in the electricity distribution industry since the privatisation of ETSA. Let no-one be fooled that this government has us on the crest of a wave: it has us in a downward spiral. I can only hope that, in the shortest possible time, it will do the right thing and go to the people of South Australia, because I am confident that the people of South Australia are sick to death of being told one thing and being given something else.

The Hon. Terry Cameron, in a speech earlier tonight, talked about putting people before politics. I ask the Hon. Terry Cameron whether he is true to the philosophy he espouses that people are sick of being ignored? He was quoted in the press the other day saying that people are sick of being ignored and they are sick of being taken for granted. I put it to the Hon. Terry Cameron that, when it comes to the ETSA sale, 85 per cent of people said, 'We do not want it sold.' All the polls were showing that. Even with the government's proposed tax, right up to the death knock the majority of people were saying, 'We do not want you to sell.'

People are saying that they do not want us to sell the Ports Corp. People are saying, 'We do not want to dispose of the TAB and we do not want to dispose of the lotteries.' We will see whether these people, who want to stand in front of the press of South Australia and espouse these high principles, put their money where their mouth is and do what the people of South Australia want. The people of South Australia do not want to sell off any more of our assets and finish up with half the debt that this government started with. We have sold \$8 billion worth of assets and we have a \$4 billion debt: if we sell another \$4 billion worth, we will probably finish up with a \$5 billion debt—that is the way this government is going. I commend the motion.

Debate adjourned.

CONSTRUCTION INDUSTRY TRAINING FUND (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. R.I. LUCAS (Treasurer): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend a range of definitional and operational matters associated with the business of collecting and distributing the construction industry training levy. These changes will assist in streamlining the work of the Board: they will create efficiencies and support the move to electronic business. In doing so they will set a very sound foundation for the future of skills development within the State's building and construction industry.

South Australia needs a properly skilled workforce to serve the state's economic needs and to ensure that a sufficient number and breath of job types remain available here for those who wish to pursue them. To this end, the government is committed to the maintenance of training arrangements which ensure that the skills profile of particular industry sectors are developed and maintained.

The construction industry training fund is an example of a very effective training arrangement which was established by industry and which is owned, managed and controlled from within industry. The building and construction industry had the foresight to propose this arrangement. It did so because of various reasons. For example the industry is cyclical in nature, meaning it is hard for an individual employer to commit for a long period of training; and it is made up of micro small business enterprises with very tight margins making it difficult for any single business to provide the sustained and various range of work necessary for multi training.

It was acknowledged that these conditions placed at risk the industry's ability to ensure that skilled labour would be available to meet its future needs. This may in turn result in the loss to South Australia of potential new major contracts. This situation has not occurred, and one of the reasons has been through the supply of training provided through the Fund.

The training benefits accruing from the Fund to the building and construction industry have been substantial. For example, during the 1999-2000 financial year, the CITF Board as administrators of the fund will be committing over \$7.6 million to support training for building and construction workers. This is set to grow in the next financial year, as a result of my approving recently the CITF's plan for over \$9 million worth of investment in training.

The existence of the CITF's various programs have seen workers throughout our State access training courses that were previously not available. Many of those accessing training had not before attended structured vocational training programs. Since the establishment of the CITF, an annual average in excess of 10 000 persons have attended CITF funded training programs.

The Construction Industry Training Board has demonstrated their commitment to regional enterprises. Approximately 25 per cent of the CITF's effort is focused into regional areas, and the Board of the CITB meets twice yearly in a regional location.

Young South Australians have been a major beneficiary of the CITF's programs. Already in 1999-2000 the CITB has supported the training and employment of over 850 apprentices and trainees. This number is set to continue to grow. Much of this growth will be possible because of the existence of the CITF.

The CITF has also established a new VET in Schools project which currently links 115 participating high school students to some 250 building and construction businesses, with the program being piloted in six schools across the state. Students who graduate successfully from this project are expected to be able to gain employment with either the enterprises which are a part of project or with the various Group Training Companies operating in metropolitan and regional South Australia. The Board estimates that participant numbers in this program are set to double each year for the next five years. This augurs well for an industry which, research tells us has an aging workforce.

The Construction Industry Training Fund Act has been in operation since 1993 and needed to be reviewed. The result of this work is a series of recommendations which have been widely supported by industry and which have been encapsulated in this amendment Bill.

The amendments will provide greater clarity for industry about how the levy will be applied and will provide better direction for the Construction Industry Training Board which is required to administer the Act.

The structure of the Construction Industry Training Board remains unchanged. Indeed, the Government commends all those persons who have served on the Board for their tireless effort on behalf of their industry. The Government would especially like to commend Mr Richard McKay, the Board's Presiding Member since its inception, for his strong leadership. The Bill does allow the Minister to ensure that nominations for appointment to the Construction Industry Training Board are made in a timely fashion.

The Government is determined that enterprises who are embarking on major building and construction work are clear about their levy obligations at the commencement of a particular project. Confusion about levy obligations provides difficulties for the Board and consternation for enterprises that need to comply with the requirements of the legislation.

The Bill clarifies these obligations by providing specific guidelines for the application of the levy.

Issues surrounding the treatment of plant and equipment have been clarified by this Bill. The amendments highlight the Government's intention that plant and equipment should by leviable where that plant and equipment constitutes an integral part of the building and construction work. Where plant and equipment is not essentially an integral part of a building or structure, it will not be leviable. However its installation will be leviable.

The effect of the amendment then is that plant and equipment which is necessary for the conduct of a business and which does not form an integral part of a building or structure construction work will not be levied.

The Bill raises the levy threshold. It is not the Government's wish to impose an unnecessary administrative burden on builders who are undertaking projects that are low in value therefore the levy threshold has been increased from $5000 to $15 000. This amendment will have the effect of decreasing the fund's training income by 3 per cent but the advantage for industry will be that there will be in the order of 27 per cent fewer levy payments as a result. It is the Government's view that this will minimise administrative overheads for the Board and for small operators as well as maximising the total expenditure available for training.

The Board needs some flexibility in the manner by which project owners are able to pay the CITF Levy. This will support the growth of E-commerce and allow the Board to adopt improved administrative arrangements. Similarly, the Government would want the Board to be able to allow flexible payment arrangements in circumstances where enterprises are able to demonstrate real financial hardship. The Bill provides for these arrangements.

The majority of building and construction work carried out by State and Local Government Authorities is contracted out. Therefore the Government is of the view that the exemptions previously granted to these authorities are no longer appropriate. Indeed, already both state and local government have directly benefited from the training programs available thorough the CITF, with many of their building and construction workers having attended the various courses offered through the Fund.

The Board has a range of legislative requirements relating to assessment and collection processes that need to be fulfilled and reported on to the Auditor General. The Government needs to be satisfied that these processes are being applied in such a way as to guarantee the equitable application of the training levy across all enterprises that are required to pay it. The Bill covers arrangements that will assist officers of the Board in carrying out this work.

The relevant amendments relating to the collection of information require a person to answer questions posed to them by authorised officers. If the person objects to doing so, the person's answers are not then admissible in criminal proceedings other than proceedings with respect to providing false statements or in the nature of perjury.

It is the Government's view that this amendment will better provide for the Board's levy collection responsibilities under the Act but will limit the likelihood of prosecution proceedings while at the same time protect the individual's common law privilege against self-incrimination.

The Bill also provides for a further review of the Act to be undertaken early in 2003. This will provide industry and the Parliament with the opportunity to once again reassess the future of the CITF.

I am pleased to be able to report that, during the review process associated with this Act, there was almost unanimous agreement by industry that the training levy be continued in its current form. Indeed, during the period of the review, both the Australian Capital Territory and Queensland have introduced a training levy for their building and construction industries. The ACT has structured its arrangements on the South Australian model.

In short, the building and construction industry is to be commended for its continued support of the Construction Industry Training Fund. All South Australians will certainly continue to benefit as a result.

I commend the bill to the house.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Interpretation

The definitions of 'building approval' and 'local council' are to be revised to refer to more recent legislation. The definition of 'project owner' is to be revised to remove the particular reference to building or construction work carried out by or on behalf of a government authority, and to provide that the concept of 'project owner' may include a person who is engaged to carry out (or to cause to be carried out) substantially all of the building or construction work associated with a particular project.

Clause 4: Amendment of s. 5—Composition of the Board

Section 5 of the Act is to be amended so that the Minister will be able to act if the industry associations recognised under the Act fail to make a nomination for a vacancy on the Board.

Clause 5: Amendment of s. 22—Estimated value of building or construction work

The levy under the Act is imposed with respect to a specified percentage of the estimated value of building or construction work. The estimated value is currently determined under the regulations. This matter is now to be dealt with under new schedule 1A of the Act.

Clause 6: Amendment of s. 23—Exemptions

An exemption currently exists for work if the estimated value does not exceed $5 000. This amount is to be increased to $15 000. An exemption for certain government work is to be removed from the Act.

Clause 7: Amendment of s. 24—Liability of project owner to pay levy

The Board will be able, with respect to a particular project owner, or project owners of a particular class, to allow a levy to be paid in monthly instalments, or in other periodical instalments determined by the Board.

Clause 8: Amendment of s. 26—Notice of variation

Clause 9: Amendment of s. 27—Adjustment of amount paid

These are consequential amendments.

Clause 10: Amendment of s. 34—Powers of entry and inspection

It is intended to amend the Act so that a person will not be excused from answering a question or producing a document under the Act on the ground that to do so might incriminate the person or make the person liable to a penalty. However, if a person makes an objection, the answer or document is not admissible in criminal proceedings, other than for an offence with respect to false or misleading statements, information or records, or for perjury.

Clause 11: Amendment of s. 38—Review of Act

Another review of the Act must be conducted after 1 January 2003.

Clause 12: Amendment of schedule 1

The list of items in clause 1 of schedule 1 will no longer be exhaustive. Certain clarifying amendments are also to be made.

Clause 13: Insertion of schedule 1A

The scheme for determining the estimated value of building or construction work is now to be dealt with under a schedule to the Act. Issues surrounding the treatment of plant and equipment are to be clarified.

Clause 14: Amendment of schedule 2

References to relevant employer associations in schedule 2 are to be updated.

Clause 15: Amendment of schedule 3

References to relevant employee associations in schedule 3 are to be updated.

Clause 16: Revision of penalties

Schedule

The penalties under the Act are to be revised and expressed as monetary amounts.

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

PROSTITUTION (REGULATION) BILL

Adjourned debate on second reading.

(Continued from 7 November. Page 300.)

The Hon. L.H. DAVIS: This has become a high order issue for some people in our community and I have a great respect for their right to express a view. I have received more correspondence, e-mails and telephone calls on this than any other matter, almost, in my time in parliament. It is not the most important issue to me personally. However, obviously there are others who regard it as an important issue. I would have thought that there are other issues in this community which are more grave. For example, taking a more global outlook one could look at the enormous challenge of AIDS which is sweeping through huge communities around the world.

One could look at a whole range of social and economic issues which are of great importance. Tonight, I want to put some perspective into the debate on prostitution which, I suspect, ranks as one of the classic conscience votes in the parliament. If one looks at the conscience votes that we have had in this parliament since the parliament of South Australia was formed in the last century, there are six subject areas which come to mind as conscience issues. One of those is abortion, and there has been legislation before this Council in the past three decades on that subject. Capital punishment is another issue which has again been a much vexed question down through the ages. I believe that all states of Australia have now abolished capital punishment.

The Hon. T.G. Cameron: About 30 years ago.

The Hon. L.H. DAVIS: Indeed. The last person who was hanged in Australia was, I think, Ronald Ryan and that was in 1967, a generation ago. Homosexuality is another subject where a conscience vote is applied when the matter is debated in the parliament. Gambling is another issue which is, of course, a regular subject in this parliament. Again, members have a variety of views on that matter. Euthanasia is also a subject which has attracted some publicity and legislative consideration in recent years in this parliament. And now before us—

The Hon. T.G. Cameron: You forgot about abortion.

The Hon. L.H. DAVIS: I have mentioned abortion—is this matter of prostitution. I am aware that some states of Australia (New South Wales, Victoria and more recently Queensland) have legalised prostitution. I will touch on that point later, but I just want to talk about the reality of prostitution in this century—if we still believe we are in the twentieth century, which I happen to believe—and also the reality of prostitution in the nineteenth century.

In preparing for this debate, I was interested to look at the *Advertiser* of Saturday 4 November, because we are dealing with reality much as people might not like it, and I think it is important that, as legislators, we deal with the real world. On Saturday 4 November in the *Advertiser* there was exactly one page of advertisements which were styled either 'adult phone services' or 'adult relaxation services'. I had not looked at them in any detail before, but I did count them and, surprisingly, they totalled 373. That is a large number. It surprised me that there were so many.

I suspect that, if you rang 'Jade, strawberry blonde with a Bali tan—private party for you only', you would not get to talk about the emergency services levy. That advertisement was listed under 'adult relaxation services'. 'Mistress from hell strictly by appointment' with a telephone number was another. And so it goes on. That is the real world. There was even a new word 'sugardelic', which I had not heard before and which was used to tempt one into making a telephone call. This is the real world in the year 2000.

The morning newspaper, the *Advertiser*, owned by the Murdoch group, is obviously making some money out of classified ads for adult phone services and adult relaxation services. This is the same newspaper which, paradoxically, preaches against poker machines but is not averse to advertising on its billboards free X-Lotto tickets and encouraging people to buy more copies of the newspaper to get more opportunities to win X-Lotto. This is the same newspaper which has on Melbourne Cup day a 20 page lift out on the racing form for the Melbourne Cup and racing around Australia. So, the real world is full of paradoxes.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: Indeed, we do not have to look too far. I just want to look at what the real world was like in South Australia back in the 1850s, the 1860s and the 1870s. In 1859, the parliament—of course, by then, the South Australian parliament had two houses and we had been granted responsible government—introduced the Offences of a Public Nature Statute Law Consolidation Act which set out penalties for various crimes including offences against public peace, morality and economy, but neither prostitution nor the keeping of brothels were mentioned in either the bill or the discussion, although it was clear that some of the measures in that legislation were directed towards those subjects.

In 1863, the Police Act of that year included sections under which it was an offence for any 'common prostitute or street walker to solicit importune or accost any person or persons for the purpose of prostitution in any public street, road or thoroughfare, or place or within the view or hearing of any person passing therein'. The penalty was a maximum fine of £2 or imprisonment for up to a month. Being a prostitute and also being noisy was decidedly worse, because if you fell into that category 'any common prostitute, who, in any street or public highway, or being in any place of public resort, shall behave in a riotous or indecent manner' won the title of 'an idle and disorderly person within the meaning of the act'. There was no option of being fined, only imprisonment for up to two months with or without hard labour.

Even a quiet and discrete prostitute appearing in a public place could be deemed idle and disorderly in the same way and with the same punishment if her presence annoyed members of the public. The offence for that under section 56 of the Police Act was 'every common prostitute or night walker, loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation, to the annoy-

ance of the inhabitants or passengers'. In case a shop or a hotel might not be interpreted as a public place, the act further specified that any person keeping a place where refreshments could be sold or consumed could be fined £5 for allowing prostitutes (or other undesirable characters) to 'meet together and remain thereon'.

This was a clear reference to the Licensed Victuallers Act, which was passed in the same year and which contained a penalty of up to £20—which was a lot of money in those days—if a hotel licensee should 'knowingly suffer prostitutes, thieves, drunken or disorderly persons to assemble at, or continue in or upon his premises' (section 47 of the Licensed Victuallers Act). The courts did not apparently interpret this provision in a strict sense to prevent prostitutes from having a drink at the local pub after work but rather to prevent a prostitute from setting up shop in a hotel. This was made clear in the debate much later in 1880 when a Mr Rees, a member of the House of Assembly, in defending prostitutes' rights to assemble said:

> . . . from time to time spasmodic fits of morality afflicted the Adelaide people, which stimulated correspondence in the daily papers, an example of which had recently been afforded by the great discussion on the social evil—

for that, read prostitution. They did not talk about prostitution, they called it 'social evil'—

> and the Saddling Paddock.

I think that the Saddling Paddock was a special room within a particular hotel, because Mr Rees then went on to assert:

> . . . the provision of the Saddling Paddock in an admirably conducted hotel was a great boon to the City of Adelaide, and supplied accommodation for an unfortunate class who demanded a sympathy which was often denied to them. . . What was the position of these unfortunate people? They were driven from post to post with the endless 'Move on'. . . They were either continuously 'moving on' or were charged before [a stipendiary magistrate of the time] Mr Beddome with the crime called, in the euphony of the police circles, 'loitering'.

That, of course, was a phrase that even engulfed Dawn Fraser, who was picked up on a loitering charge many years ago in Norwood, as I remember. The charge was later dropped.

> One saw these unfortunates slinking away, escaping up the back streets, shrinking into crime, and lingering and dying, he might say, from nameless diseases.

In those days, soliciting on a street or in a public place was illegal but prostitution within a brothel was not. Under the Police Act of 1863 police had the power to search theatres and hotels, remove prostitutes and other rogues and reputed thieves, but these people were charged only if they refused to leave. If brothels were offensive to neighbours in the area, then under the Police Act the neighbours could petition the police to have the brothel closed down and moved elsewhere.

Finally, there was a provision, again under the Police Act, under which 'the occupier of a house which shall be frequented by reputed thieves, prostitutes or persons who have no visible lawful means of support' could be deemed to be 'idle and disorderly', and that was applied against brothel keepers rather than the prostitutes.

In 1866 a Destitute Persons Relief Bill was introduced to consolidate the existing acts, and in debate on that bill reference was made to:

> . . . a Reformatory school (for children with criminal convictions) and an Industrial school (for children sentenced to the care of the Destitute Board for being neglected, uncontrollable or orphaned) were set up under the new act.

The definition of a neglected child included children found living in brothels (unless a parent lived there too), found living with a thief, prostitute, drunkard or vagrant (and not with a parent) or found begging. In 1866 there was a court of inquiry into the organisation of the police force. That in turn was followed by a House of Assembly select committee.

During the select committee of the House of Assembly, police Senior Sergeant Andrew Etheridge stated that prostitution in Adelaide was not being policed. He alleged that a plan to clean up brothels had 'all ended up in smoke' and that individual police officers had not prosecuted brothel-keepers or prostitutes because 'a face has always been set against it' and that 'prominent men, including one justice of the peace, frequented theatres in the company of prostitutes.'

That was a quote from Mr Etheridge in evidence to the select committee, and again he made the observation that it was only when householders protested against the local brothel that police intervened. They had 'instructions to assist in such cases; but individually we do not interfere.' Then in 1867 the Hon. H.B.T. Strangways, who was a member of the House of Assembly, moved:

> That it is desirable that the government should obtain and lay on the table separate reports from the Colonial Surgeon, the Police Magistrates, the Commissioner, Chief Inspector and Inspector of Foot Police, and the Chairman of the Destitute Board, as to the best means of lessening the evils of prostitution.

Mr Strangways in the debate decried what he described as the 'open displays of prostitutes in Adelaide,' but recognised that it would be impossible to stamp out prostitution. His aims were, rather:

> . . . to remove prostitutes from the streets, lessen threats to health, remove young girls from the practice and reduce offensive behaviour.

The reports presented to the house by these various people (the colonial surgeon, police magistrates and so on) were written independent of each other and their suggestions were not consistent. Their suggestions included:

- youth be prevented from frequenting brothels;
- alcohol be prohibited or restricted in brothels;
- prostitutes be registered and undergo weekly medical examinations;
- children and young girls convicted of prostitution be sent to a reformatory;

And strong hints were given that gentlemen of office who frequented brothels should have their commissions withdrawn.

Pregnant prostitutes and women who had 'fallen repeatedly' were cared for at the Destitute Asylum but, during 1867, the newly appointed Chairman of the Destitute Board, Mr Reid, set up a separate lying-in-home for pregnant women who had 'fallen once'. The separation seems to have been based on fear of moral rather than medical contagion, because the commission appointed to report on the Destitute Act said this in 1883:

> Before this separation of the two classes took place, a marked contrast was noted between the deportment and bearing of these women at the time and after their admission and retention there for a month, in consequence of their association with women of a lower grade of character. . . The majority of women admitted to either facility were domestic servants, but one in 10 was a prostitute.

In 1869 the Attorney-General (Hon. H.B.T. Strangways) introduced a Contagious Diseases Bill, which passed the Assembly but was blocked in the Council. This was based on English legislation that had been claimed to have decreased the ravages of disease by as much as 60 or 70 per cent

amongst the soldiers and sailors. It is very interesting that in that 1869 debate there was reluctance in the parliament to deal with the matter 'through the constant postponing of the debate but also from their aversion from straight speaking.'

Although members were reassured that the galleries could actually be cleared for the debate—just imagine that—the bill was one which, although it might be fully discussed in parliament, was not generally reported in the press. That was an observation from the Hon. J.T. Bagot in the Legislative Council. And the bill could be dealt with through select committee.

But it was one of those matters which a majority of persons would not feel disposed to discuss, according to the Hon. Mr Strangways, and that was also backed by Mr Glyde, a member of the House of Assembly, who said that the bill dealt with a subject that was almost impossible to discuss in the house. Several members made reference to that, so the delicacy of the members in dealing with this subject very much limits the usefulness of what actually appeared in *Hansard*.

Mr Fisher, who was also a member of the House of Assembly, expressed the view that 'in reference to the evil with which they wished to deal, men were by far the most blameworthy and, unless the bill was made to deal with them, he felt inclined to vote against it.' Mr Fisher proposed an amendment to allow the court to order any man alleged to have infected a woman with a contagious disease to be examined and punished if found to be diseased, on the ground that 'what was sauce for the goose was sauce for the gander.'

But the Attorney-General saw that as outrageous and defeated it. And so we move to 1872. Another board of inquiry was appointed to look at the management, this time, of the metropolitan police force. The police in evidence stated that suppression of prostitution was difficult because:

> . . . the moment a policeman appears on the scene, that moment everything is quiet, and the naked women vanish.

As for the suppression of brothels:

> . . . all the power we have is this—according to the act two respectable householders must lay an information, and then the police do all they can to gather evidence, but otherwise we have no power to suppress them. It is a very difficult matter to get a conviction against a house of ill-fame.

More disturbingly, evidence was tendered that detectives were keeping logs of gentlemen who attended brothels.

I move to 1880, where again reference was made to women living in the Destitute Asylum. Pregnant women and single women without means were hospitalised at the Destitute Asylum's maternity hospital. After the birth they were 'put out to nurse in the back streets' and, according to Mr Darling of the House of Assembly:

> Too often the only thing left to her [the young mother] was to swell the fearful ranks of prostitution.

In 1883, following an uprising in Victorian England against the evils of prostitution, where there had been a large number of petitions presented in the House of Lords, this flowed through to the House of Assembly, and a large number of petitions were presented there, asking that the law be amended so as to more effectively provide for the protection of the virtue of young girls and women. In South Australia a Social Purity Society was formed and soon had branches in most towns. The society sponsored petitions to the parliament, which by the end of 1883 had been signed by almost 14 000 people in South Australia alone. The Hon. Mr Colton moved in the House of Assembly:

> That in the opinion of this house the laws relating to social morality should be amended, giving greater protection to young girls. . .

The same Hon. J. Colton later became Premier of South Australia. Mr Colton said he had raised the issues in the interests of the Social Purity Society and that:

> The society had information which could be relied on testifying that numbers of girls below the age of 16 years were parading the streets of the city up to 11 and 12 o'clock at night. Most of these girls were engaged in employment during the day and I do not blame them so much as their parents and protectors.

In a very long debate, speakers opposed to the bill in the House of Assembly argued:

> . . . moral laws should be governed by the church, not the parliament, that the bill would increase police powers which were already adequate, and that raising the age of consent to 16 in such a hot climate was unreasonable (15 might be acceptable).

In 1884 there was evidence given in further debate on new government legislation, the Protection of Young Females Bill:

> . . . that most under-age prostitution took place outside brothels.

The Hon. H. Scott, who was a member of the South Australian Legislative Council, stated that brothels:

> . . . must exist, and if prostitution was not allowed to concentrate itself it would spread through all the streets of the town. They had seen what happened sometime ago when an attempt was made to suppress the brothels in the town. The only result was that many of the suburban hotels were used as places of assignation.

Then, finally, I might just refer to 1885, having covered a period of some 30 years. A new bill was introduced in 1885 which clearly recognised that it was impossible to abolish brothels and put a stop to the vice of prostitution. Prostitution had now been recognised 'as an effect and not a cause,' according to Dr Cockburn of the House of Assembly. There was a Mr Davis, a member of the Destitute Board, who saw the reformatory and asylum as:

> . . . a breeding ground for prostitution in Adelaide. When a sudden influx of girls arrived at the reformatory—including nine who arrived diseased and *enceinte* [which is French for pregnant]—the accommodation could not be stretched any further, and five girls were sent to the Destitute Asylum.

Mr Davis said in 1883 in the report of a commission which was appointed to report on the Destitute Act:

> I am determined to put a stop to this perpetual system of raising recruits at the expense of the government to swell the ranks of prostitution.

I have spent some 20 minutes summarising what happened in the nineteenth century because it really does highlight that prostitution was very real and an ever present subject of debate in the parliament of South Australia. In other states, of course, there has been much debate about prostitution, principally in Victoria, where I have read several articles in the *Age* over recent years, which commented on the impact of prostitution, following the legalisation of prostitution by the Cain government in 1984 and then, again, expanded on by the Kennett government in 1994. The evidence there, from what I have read, certainly would suggest that the number of brothels has jumped following legalisation, and the illegal industry has continued to flourish. Indeed, the board which had been formed to regulate the prostitution industry had actually been abolished in 1998.

The inquiry by the *Sunday Age*, following extensive interviews with police, major brothel owners and the Prostitutes Collective, had found that the number of legal brothels had increased from about 40 in 1989 to 94 in 1999, over a period of a decade. In further evidence given by the

Age there was an interesting comment in an article of February 1999 about what had happened as a result of legalisation in Victoria and, according to a project worker with the Prostitutes Collective of Victoria, one Ms Jocelyn Snow, in an article in the *Age* of 28 February 1999:

> The view is very mixed. Half said the Prostitution Control Act had improved their workplace and half said it hadn't.

It seemed to be a fairly common view that working privately and in brothels was considered safe by prostitutes but that escort and massage work was dangerous, and street prostitution was very dangerous. One could intuitively guess that that is what most people would have felt. The Centre for the Study of Sexual Diseases also did a profile of brothel workers. It surveyed 321 female brothel workers. About a quarter of the women said they had been sexually abused as children, and several said that they had begun working as a prostitute to get back at men.

The Deakin University study, also quoted in that same edition of the *Age* of 28 February 1999, had done a detailed survey and found that there were two types of brothel client: 60 per cent visited prostitutes in a straightforward, business-like way; some wanted to have an emotional involvement with a sex worker. The study was undertaken by the university's Professor of Psychology, Ms Marita McCabe, and she found that one of the groups that was visiting prostitutes were socially inept, shy and withdrawn. The other group was the type of client who saw it as a business transaction. In the article, Professor McCabe observed the following:

> The socially inept went to prostitutes for relationships because they found it difficult to perform them normally. Men with difficulties with social interaction may escape into using prostitutes rather than developing social skills.

It is an area that should not be neglected and I will mention more of that in a moment.

Having read fairly extensively, I believe that 15 years after prostitution was legalised in Victoria in 1984, illegal parlours, drug use, exploitation and gang warfare crime continues in Melbourne. There does not seem to be any doubt that legalisation has not altered the difficulties that were endemic in the industry when prostitution was illegal. This is one of the paradoxes we have in debating this very difficult issue. One may well advocate that there is more merit in leaving something which is technically illegal than making it legal. I suspect there is an argument looking at all—

The Hon. Diana Laidlaw: Why do we elect legislators then?

The Hon. L.H. DAVIS: That is right. However, I am just making the point that, paradoxically, legislators may well say that legalising something can have a down side that outweighs the upside. It is a judgment call that legislators are here to make and it is a tough call. Professor McCabe, an expert in human sexuality who has conducted studies on men who visit prostitutes, made the following observation on 1 March in a major series in the *Age* (and one can say that the *Age* has real investigative reporters who do have a few black notes on their keyboard):

> With legalisation, it has become more acceptable; prostitutes are seen as serving a larger number of different roles in society. I think there were more ordinary blokes going to prostitutes. Twenty years ago they would have been a lot more sleazy or pretty inept socially. Now you would be quite surprised who goes to prostitutes; decent blokes with good social skills.

Chief Inspector Ashby who, in his role as a policeman, has been involved in the trade both before and after legalisation of the industry, made the following comment in the same article:

> I suppose there was this utopian view that legalising prostitution would minimise street and illegal prostitution . . . It clearly has not done that and the problems with illegal prostitution are issues that the community has to address.

He was concerned about the proliferation of illegal type problems in the months leading up to this article in March 1999. That is the view from Melbourne.

I have some sympathy for some members of society who, because of their disability and lack of social skills or confidence, are driven to seek out prostitutes. A poignant article in the *Link* magazine, of which Jeff Heath is the director, examines the issues from the perspective of the disabled. This issue of prostitution has been discussed seven or eight times in this place since 1980, and in an article going back a little while he recapitulated what he had said in April 1991 on this subject, as follows:

> Some people can clearly benefit from access to prostitutes. People who have just become disabled, those with long-term disabilities and some spouses of people who are disabled, have a great need for the services of a prostitute. The vast majority of men and women undergo great emotional trauma when they become disabled. A common worry is the loss of sexuality and the ability to enjoy an active and rewarding sex life. In many cases, an experienced prostitute can help to establish a new sexual identity. Without fear of rejection or the inhibition of placing existing relationships at risk, the newly disabled person can experiment with a variety of ways of expressing themselves . . .
>
> If not for prostitution, many of these people would not have the opportunity to take part in an activity that so many of us now take for granted.

Some people might shrink from that type of statement and say, 'Well, that is just terrible', but anyone who knows Jeff Heath and can identify with what he is saying would empathise with it.

More recently according to the *Link* magazine of September 1998, which I have kept in my file on this subject, Jeff Heath had researched 30 workers and disabled clients from all the mainland states to explore this subject further, and there were some very poignant stories about paraplegics as well as blind and deaf people who have benefited and had their lives made less difficult and their confidence returned because of dealings with a prostitute. That is a point some people may not like but we are dealing with reality—something we should not forget.

So, where does all that leave me in this question of the bill before us? Personally, I do not see it as a high order issue. I do not believe that it is something that I have ever spoken on before in this chamber. I have read extensively on the subject because, quite clearly, I had a responsibility to the people who have an interest in this.

I see it as very important that this parliament has already taken very important steps, to me at least, in reforming existing legislation by introducing laws which have just taken effect in the past few months—I think from July this year—to prevent the exploitation of young people and other adults in the sex industry. I think that was a practical step to recognise the reality of under-age people being exploited. I saw that as something which was very positive and, of course, I refer to the amendments contained in the Criminal Law Consolidation (Sexual Servitude) Amendment Act. I see those amendments, which pick up a range of issues, including exploitation for the purpose of pornography, as very positive steps to recognise the possible exploitation and degradation of young people in particular.

I also recognise that, in planning terms, to make the Development Assessment Commission the vehicle for the location of brothels, to involve local councils in decision-making in this area, will inevitably introduce the old NIMBY principle and, whether or not the decision is made on moral grounds or emotional grounds, grounds that there might be an election around the corner—whatever the reason might be (and we have already seen the reaction of councils), in the end we will have a situation where nothing changes. We recognise that there are already brothels in metropolitan Adelaide, and in the city of Adelaide itself—

The Hon. Diana Laidlaw: Councils have not chosen to close them down.

The Hon. L.H. DAVIS: Exactly, and that has always been the way. I should say that I have not visited a brothel in my time, for research or other purposes. I have never been in one. During a previous debate on this back in the 1960s, I recall seeing a photo of Robin Millhouse looking in the bathroom of a brothel and there was no soap. I am aware that other members of parliament have visited brothels. I have had brothels pointed out to me as I have driven along; and I am aware that there was a brothel opposite me when I lived in Norwood, although I was unaware of it for some months until someone said, 'Don't you know what that is?', because I was surprised that there were comings and goings at different times of the night. That, of course, is reality.

I think the nineteenth century observations, from the records of *Hansard*, dealing with the facts of the time, would suggest that the real world is that prostitutes have existed in South Australia since European settlement in 1836, and that there is no place in the Western world that has effectively been able to stamp out prostitution. That is reality. I am not my brother's keeper, and I think it is important in dealing with this debate that we deal with reality.

I believe that this bill has significant defects, which is not surprising, given that it was cobbled together in fairly hasty fashion in the House of Assembly when it was debated there. I indicate that, at this stage, I will support the second reading of the bill and consider my final position during the committee stage and at the third reading.

The Hon. SANDRA KANCK: The Hon. Legh Davis's history has been very interesting and, of course, it does show—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: No, the history of prostitution as this parliament dealt with it 100 years or so ago. It does show that prostitution is something that has ever been with us and it is a question now of how we deal with it and whether we are able to deal with it in a realistic fashion. I will be supporting the bill but, in so doing, I do not advocate for an increase in prostitution activities in this state. As a woman I am never comfortable with the objectification and commodification of women's bodies. I believe that it does a disservice to women. I thought it was quite an irony that some weeks ago I went to the briefing that the Hon. Caroline Schaefer organised with Linda Watson, who was formerly a madam in a very successful Perth brothel. We were given a copy of *Who Weekly* from 23 August 1999. We were talking, in a sense, because of her activities, about the commodification of women and there, on the front cover of that magazine, were three women, two of whom were in bikinis and one of whom was not in a bikini but was in a very seductive pose with her mouth open and a 'come hither' look. It illustrated the fact that, no matter what we do, we do not seem to be able to get away from the commodification of women's bodies.

While I do not like it, I know it is happening and our job as MPs is to find a way to deal with it that creates the least harm. I want to ask members who are intending to oppose the legislation whether we create the least harm by criminalising those who provide sexual services in brothels but allowing those who work as escorts to go unapprehended. Do we create the least harm when we effectively disallow some disabled men, some lonely men and some socially inept men the only sensual contact that might be possible for them? I wonder who it was that decreed that sexual relations must always be offered by a woman, gratis. What is the offence that occurs when an honest, upfront payment is made for sexual relations?

I want to make some comment about what we have heard in this chamber in the past couple of weeks about this bill and also respond to some of the organised lobbying against the bill. The Hon. Robert Lawson said that the bill encourages the setting up of cottage industry. I do not understand where he got that idea because I would hardly think that eight rooms in a brothel is a cottage industry, so I am wondering whether he did, in fact, read the bill. The Hon. Robert Lawson spoke about what the police have had to say about the unworkability of the current situation. He dismissed that comment with a little bit of cute rhetoric that sounded good but had no substance to it.

When the Social Development Committee was investigating this issue, the police came along, effectively from what is now called the vice squad but at that stage was Operation Patriot. They told the committee that the current legislation and the current laws are unworkable. The police enforce the laws in some locations some of the time and in some cases, because of security gates and locks, they cannot even enter the brothel without the operator letting them in. Their solution to the whole thing, however, was to ask for increased powers to let them deal with prostitution. So, I asked them how much of their resources would be needed to stop prostitution in the state. The answer that the police gave, the answer that Operation Patriot gave, was that they could turn 100 per cent of South Australia's police resources over to trying to prevent prostitution and they would not succeed. That is something worth considering. What is it that we are trying to achieve; and is it possible to achieve it? The police said that they would not be able to achieve it.

We have been told that the police need more powers. I know that the Hon. Trevor Crothers is one of those who say that we need more powers and the Hon. Terry Cameron says that we need more powers. I want to draw members' attention to section 67 of the Summary Offences Act under a general heading of 'Police powers of entry, search, etc.' It has a heading 'General search warrants' and provides:

> (1) Notwithstanding any law or custom to the contrary, the commissioner may issue general search warrants to such members of the police force as the commissioner thinks fit.

It provides that when the commissioner issues such a warrant it will 'remain in force for six months from the date of the warrant or for a shorter period specified in the warrant'. Under subsection (4) you get an idea of how much power the police can have. It provides:

> (4) The member of the police force named in any such warrant may, at any time of the day or night, exercise all or any of the following powers—

and remember this is the current law—

(a) the member may, with such assistants as he or she thinks necessary, enter into, break open and search any house, building, premises or place where he or she has reasonable cause to suspect that—
- (i) an offence has been recently committed, or is about to be committed; or
- (ii) there are stolen goods; or
- (iii) there is anything that may afford evidence as to the commission of an offence; or
- (iv) there is anything that may be intended to be used for the purpose of committing an offence;

Obviously, members can imagine that products such as condoms would be included in that. Subsection (4)(b) provides:

The member may break open and search any cupboards, drawers, chests, trunks, boxes, packages or other things, whether fixtures or not, in which he or she has reasonable cause to suspect that—
- (i) there are stolen goods or;
- (ii) there is anything that may afford evidence as to the commission of an offence; or
- (iii) there is anything that may be intended to be used for the purpose of committing an offence;

(c) the member may seize any such goods or things to be dealt with according to law.

I do not understand why people are saying that we need more police powers: they have them and they use them from time to time.

I think it was at the end of 1995 that one of the best operated brothels in Adelaide, a brothel called Baby Dolls, was repeatedly trashed by the police. They went in night after night and raided this brothel. I say it was a good brothel because it was immaculate and the woman who ran it was highly respected by sex workers. She herself had not come through the sex industry but she had great respect for the women and she made sure that they had very good occupational health and safety backgrounds within that particular brothel; it was an attractive place and she made sure that those women were properly paid. Certainly, the women who worked there found it the best place (some of them said) they had ever worked. The police went in and trashed the best brothel. I am not talking about the showiest brothel but, rather, the best brothel that gave the best and cleanest conditions. The police went in and trashed that. They did not need any other powers than those they already had in order to do it. They broke everything in that brothel. They pulled taps off walls. Anything they could break they broke. Only in the past two weeks have I discovered that the police singled out this brothel because the partner of the woman who ran this brothel was Asian. This is the way our current law is applied. It is applied at the whim of the police officers.

The Hon. Trevor Crothers has said that one aspect in any bill that is passed that is important to him is that we must have severe penalties for the use of a minor in prostitution. As the Hon. Legh Davis has mentioned, we dealt with this aspect earlier in the year when parliament passed the Criminal Law Consolidation (Sexual Servitude) Amendment Act. I invite the Hon. Mr Crothers to look at that act in detail to see the penalties, which are so very tough.

It has been said in the lobbying that I have received that the Victorian reforms have not worked. The Hon. Legh Davis addressed this in part, but I would like to talk about why they have not worked. There is certainly validity to the claim, and we need to determine what the stumbling blocks have been. It is because, in my opinion, the Victorian legislation is flawed. It is based on a system that requires anyone wanting to set up a brothel having to apply to their local council to do so. It is a system that ensures that anyone who wants to know where brothels are located will be able to find out.

If people want to compare our legislation to the Victorian legislation, it shows that they have not done their homework. Our legislation is much less brazen and, from that perspective, I think that those who oppose any sort of decriminalisation of prostitution might find this a more appealing model than some of the others because it is more subtle. If you do not like prostitution occurring then a model that does not put on the record the name and address of everyone who is working in the industry would surely be more preferable. If people are worried that their sons and husbands will find the brothels, then a model that is discreet (as this one is) would surely be more preferable, because the sons and the fathers would obviously be less tempted to use the services of a sex worker if they do not know where they are located.

In addition to the more up-front approach encouraged by the Victorian legislation (and this is where the fatal flaw appears in the Victorian legislation), local government was given the power of veto over every application, which power it has duly used on every occasion but one to my knowledge. There is recourse to an appeal, and that is through the Administrative Appeals Tribunal, but who can afford that? You need to be able to pay for lawyers. The only brothel applicants who are able to afford to do that are the large, glitzy, neon light franchise-style operations.

The one or two person operations cannot afford it and, as a result, they have opted to work illegally under the guise of massage parlours. Also a flaw in the Victorian legislation is that women who are clearly on drugs are not allowed to work in the brothels. That means that those women who are supporting a drug habit—and we are talking about some women who are supporting a $300, $400 even $500 a day drug habit—have no way of working in a legal brothel. Because they are so desperate to get their custom and to fund their habit they resort to street prostitution.

Those MPs who think that giving local government the same power of veto with the South Australian legislation are naive, have not done their research, or they are deliberately arguing this case in the hope of making the bill as unworkable as possible. Quite a large number of the letters I have received make the claim that their teenage daughter will be sent off to a brothel for work experience or that Centrelink will force her to work in a brothel on pain of losing her benefits. That is absolute nonsense. It is a common theme in many of the letters, and clearly these people have been encouraged to say this. But it does show that the writers of the letters have been very badly advised by those encouraging them to write. The Criminal Law Consolidation (Sexual—

The Hon. Diana Laidlaw: That is deliberately so.

The Hon. SANDRA KANCK: I am sure it has been deliberately so; I think some of these people do not want the facts to get in the way of a good argument. Section 66 of the Criminal Law Consolidation (Sexual Servitude) Amendment Act provides:

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

If the victim is under 12 the penalty is life imprisonment, over 12 and under 18 years of age the penalty is imprisonment for 19 years and over 18 years of age the penalty is imprisonment for 15 years. I do not think that employees of Centrelink, or any other job agency, would be so stupid as to threaten their own livelihood and future as to send a young person, or any person of any age, out to work in a brothel on pain of losing their unemployment benefits. Section 68 of that act provides:

A person must not employ, engage, cause or permit a child to provide or continue to provide commercial sexual services.

There goes the theory that brothel work could be part of work experience. The people who are encouraging these gullible members of their churches to write letters in this vein are simply scaremongering. The Hon. Julian Stefani told us in his speech that the women who work in prostitution are victims. If that is true, where does he stand on keeping these victims as victims? Because once convicted under our current laws these women can never obtain a job in the Public Service. They would never be able to stand for parliament if they had a criminal conviction recorded against them. In some cases they will be prevented from entering countries if they travel overseas. They are marked for life.

If you believe that women are victims of prostitution, voting against this bill and entrenching the current laws in no way offers a solution to their being victims. It keeps them as victims. The Hon. Paul Holloway asked what benefit this legislation can bring, and he said that we must look at this issue from the point of view of the overall good of society. I agree, and perhaps he can also tell us of the social benefit of needlessly turning some women into criminals.

I express great disappointment that the Minister for Disability Services intends to vote against the bill. I gave him information about disability that I thought might have encouraged him to consider a different viewpoint. I quoted to him evidence a sex worker gave before the Social Development Committee, as follows:

I see it from the client's point of view because people with disabilities have very few avenues to express their sexuality. Some of my clients have not had a sexual experience since the time of their accident or even from the time they were born if they were born with a disability. To go to someone and feel safe and to know that they will not be treated like a piece of dirt will enhance their sexuality, it will enhance their social abilities.

The Hon. Legh Davis referred to an article in *Link* magazine from September 1998. He referred to it in passing, but I would like to read into the record some of the comments from the women who do provide sexual services to mostly disabled men. A few men provide services to disabled women, but they are very much a minority. Lotus said:

I sense from the majority of my customers that I'm the first female that they can talk to openly and freely about those problems that they see for themselves. It seems to be an emotional release coming to see me because they do feel accepted and they can talk. I know that some of them have been in counselling after their accident or after operations, but I don't think that it has had that emotional content that they were looking for.

Certainly, conversation has been a big part of their visit. Sex really is a very small part of the service to these gentlemen. I say that because I have got to know them, and you sense from a person what they find most value in. I think that people who have a long-term disability are functioning on a more sensitive level than people who have not gone through that type of trauma. They are looking far beyond sexual content to make themselves better.

But it is not just men who benefit from Blossom's work. I see a bisexual lady who's had very, very bad burns. She is very self conscious and for a long time it was very difficult for her to take her clothes off in front of me. This tragedy has really affected her confidence. A big part of my visit is just touching her and making her feel okay about herself.

Petal and Violet like to work as a team. When a person is newly disabled, sex really helps in all kinds of ways. A good example is a guy that was very disabled after an accident. He was paralysed on one side of his body. He was young and had lots of anger and low self esteem. For months we used to work with this guy together, because it was too difficult for one person to move him around the bed.

I really think that the acceptance and love and support that we gave him helped him to have faith in himself and get on so successfully with his rehabilitation.

Another woman, Hannah, who describes herself as a sex counsellor, said that the disability field was full of hypocrisy. She said:

They talk about empowerment and least restrictive environment but draw a line at paid sex.

I think I will leave that one to talk for itself in regard to the Minister for Disabilities' position on this bill. What is the impact of members voting against the bill? Those who vote against the bill are voting for the current position. This means that they will be voting for a system where the men, without whose demands prostitution would not exist, are not arrested but the women are.

Those who vote against this bill will be voting for a system where being on premises known to be frequented by prostitutes is illegal, where receiving money from prostitution is illegal, but where the act itself is not illegal. Those who vote against this bill are voting for a system of part-time enforcement that occurs at the whim of the Vice Squad. The police do their policing some of the time and, when they are doing it, police resources will have been diverted from dealing with real crime, such as housebreakings.

The law we have is bad law, because it makes a joke of the police and it makes a joke of our courts. It is 20 years since Robin Millhouse introduced his prostitution legislation. After 20 years we now have an opportunity to show that we can get beyond our personal likes and dislikes, beyond our prejudices and judgmental natures. I urge members not to bury their heads in the sand in the hope that, if they vote against this bill, prostitution will go away. It will not.

Let us recognise that prostitution exists. For those who are offended by it, let us find a way to deal with it, a way that is humane, even Christian; that recognises the right to dignity that sex workers have; and that does not unnecessarily turn them into criminals. We can show our maturity by voting to support this bill.

The Hon. M.J. ELLIOTT: I support the second reading of this bill. I do not as a matter of course seek to impose my will on the actions of others, so long as those actions are those of competent, informed and consenting adults. I would support legislation that does not seek to encourage prostitution, which some people would seek to misrepresent the legislation before us as doing; some people almost suggest that it is being made compulsory.

I do support legislation that seeks to regulate an activity that is with us, has been with us forever and will be with us forever, no matter whether people like that or approve of that. In my view, that regulation should seek to ensure that prostitution is not encouraged and that issues of coercion be addressed; that children not be involved; that, indeed, when I talk about competent, informed, consenting adults, that is what is being allowed under regulation and not anything else. Consistent with those sorts of views I can give other examples.

Those people who have been in this place for some years will remember that I joined with Bernice Pfitzner and Carolyn Pickles in getting legislation and changes in relation to magazine covers and advertising displays for magazines, etc. My view was not that consenting adults should not be allowed to appear within those magazines or that consenting adults could not see those magazines, but I had a very strong view that those should not be forced onto other people. So, it was the issue of consent.

I did not want to go into a service station with my children and have those magazine covers and displays inflicted on either me or my children. I was not consenting to it and certainly was not consenting on behalf of my children. I found it offensive personally, and I very strongly supported the moves to ensure that those sorts of displays, those magazine covers, etc, were removed.

I can take something like the consumption of tobacco, which is again something that I personally have nothing to do with, but I am prepared to acknowledge that some people, for reasons I do not understand, largely to do with addiction, I suppose, choose to consume tobacco.

The Hon. Diana Laidlaw: A reasoned decision by consenting adults?

The Hon. M.J. ELLIOTT: I hope the minister does not think that I am blowing my argument with her right now. The important thing is that the issue of consent comes in. If a person chooses to smoke in the company of other people who do not want them to smoke there, then there is an issue of consent. I have supported laws about the consumption of tobacco in public places, workplaces, etc, because there are very important issues of consent there.

If non-smokers are not consenting to have smoke inflicted upon them, they have a right to do so. Nor am I prepared to support people encouraging people to do things that I consider likely to be harmful. For that reason, I introduced a private member's bill quite some years ago, which I think was the third Democrat bill along those lines, to ban the advertising of tobacco, because there, as I saw it, a third party (in this case the tobacco companies) was seeking to coerce people actually to use the product.

Again consistent with the line that I take on these sorts of issues, I very vigorously opposed tobacco advertising. I give those by way of examples of where I would seek to intervene and where I do not. I personally do not find prostitution attractive as a client, as a retailer or whatever else. It is just something that I do not find personally appealing, but I am not going to set myself up as a judge of those who choose to participate.

I am not going to sit in judgment of those people. I am, however, prepared to judge those who seek to impose their views about prostitution on others, for example, by having television advertisements coming into my home, telling my children about prostitution. I would find that absolutely and totally unacceptable, because then it is breaching those same sorts of rules that I was noting before.

I find ads generally offensive enough, without having those sorts of ads beamed into my home. So, I am prepared to sit in judgment of those or sit in judgment in relation to brothels that have signs out the front sitting on a main street proclaiming for everyone to see.

The Hon. R.D. Lawson: Out of sight, out of mind; is that what you're saying?

The Hon. M.J. ELLIOTT: I am not saying that at all. What I am saying is that for those adults whom it offends, it should not be in their face and it should not be in the face of their children, either. They are not consenting to it being done to them, and I understand those sensibilities and support them.

I am prepared to judge those who engage children in prostitution. I am prepared to judge those who take people into prostitution against their will. The legislation that we pass should indeed seek to ensure that those things are tackled. What I find interesting is that many of those who seek to tell people how to live their lives I am sure would not want others to tell them how to live theirs. They would not want others to inflict their morality on them and yet they choose to inflict their morality upon others. What a wonderful certainty it must be for some people to know that they are absolutely right and that others are wrong and that they can tell others what they should do. What an incredible certainty they have, and yet how abhorrent they would find it if others chose to pass laws which actually required them to behave in a way that others wanted.

I am sure that some of those, not all, who have been wound up in this issue, if they had the political power would choose to intervene, not just in relation to prostitution but they would get into everybody's lives on a whole lot of things. They would be stoning the adulterers. They would be doing all sorts of things. I suppose what may or may not be interesting is that my personal moral views are probably not that different from theirs, but in terms of the way I live my life and the way I want my children to live theirs there is probably not a great deal of difference. The important difference that I am stressing at this stage concerns where one chooses to start intervening into other people's lives, where it is appropriate and where it is right to do so and where it is not.

I think that perhaps some people need to realise that morality is not just about matters which pertain to sex; that there are an awful lot of other issues in this community which I think are moral issues and which, at the end of the day, probably overlap this issue of prostitution. I find it upsetting personally that many of these people choose not to get involved in these other moral issues, the moral issues of having, within our total community, subsets, small communities, who are bedded and trapped in poverty and trapped in inadequate education, yet we have a political system at this stage which is continuing to keep people in that state, people who have dysfunctional lives.

If people are upset about prostitution and see it as dysfunctional I think they should see it as a final product of things that happened before, and they are getting caught up in trying to tackle the wrong end of the problems, and I wish to goodness that these people who wish to tell other people how to live would actually get out there and help in an active sense, that they would get out there and work in the community actively with people, rather than spending all their time trying to tell other people how to live their lives, which so many of these people do. But they do not help; they just spend their time telling people what they should be doing.

There are some major problems in our community; there is no question about it, and one of the reasons why prostitution is at the level it is at the moment and one of the reasons why we have drug problems and many other things gets back to the reality of the way that the distribution of wealth appears in our community, and a whole range of other things. If people do not see that there is morality involved in that and that, indeed, many of the problems that come later on are actually symptoms of that, then I think they have really missed what is going on. They should be getting out there and mixing with the people who really have it tough and doing everything they can to provide personal support. That is what so many people need. They need personal support. They do not need people to tell them what to do. They need people who are honestly going to be out there working with them and helping them.

The Hon. R.D. Lawson interjecting:

The Hon. M.J. ELLIOTT: The honourable member was not listening; he just pipes in. Your own speech was so riddled with inconsistency I decided not even to take it on. I was really disappointed; I thought you were better than that. Anyway, that's an aside.

Members interjecting:

The Hon. M.J. ELLIOTT: I only said I was disappointed. One can't help but express disappointment from time to time. I think it would have to be admitted that, unfortunately, in our society many marriages end up being not much more than prostitution, too. There are people who are trapped in relationships which are abusive, which involve coerced sex, where the only reason that the woman stays in the relationship is that she desperately needs shelter and food for herself, and particularly for her children. We know that that is going on, and there is a very clearly abusive relationship, which some people want to pretend does not exist, and in fact say that the sanctity of marriage is so important that society should keep its nose out of those sorts of things. Again, that is a blatant and incredible hypocrisy.

I suppose what may be most shocking is that there are many people involved in prostitution who are not unhappy about it, who have gone into it willingly, not just the clients but in fact those people working in the industry. As I said, I do not understand that, that is not my way of thinking, but the fact is that there are many people who, indeed, are quite satisfied with that. But then I do not understand Port Power supporters, either, so there you go.

It is also true that there are people engaging in prostitution who would rather not be, but the problem at the end of the day is not prostitution. If they do not want to be there, why are they there, whether it happens to be legal, illegal, regulated or whatever? Again, as I say, one has to get back to the real root causes and stop trying to tackle things after they have gone wrong.

The Hon. Sandra Kanck interjecting:

The Hon. M.J. ELLIOTT: Even the fact that there is demand can be a simplistic notion, because there are many reasons for demand. The Hon. Sandra Kanck talked about the fact that there are people with disability, for instance. Some people might choose to tell them, 'Well, I'm sorry you should live your whole life as a celibate,' but some people who have tried to live a life as a celibate have in fact ended up being terribly abusive, and that is clearly on the record. So the demand may be, I would argue, a quite legitimate demand, such as that. The demand might involve people who are perhaps socially dysfunctional, and in some sense it may not be helping them, but if indeed at the end of the day it is nothing more nor less than satisfying a sex drive perhaps it is better that they are doing it this way than some of the other alternatives which are far more shocking again.

So I think that there are some things we can do to reduce demand. Some people are saying, 'Just increase the penalties,' but they are not living in the real world if they think they can decrease demand by increasing the penalties on those who are using the service. The demand will be met one way or another. That is the way markets tend to work. At the very least there are many enthusiastic amateurs at work on Friday and Saturday nights who will continue to meet demand one way or another. People might not like that, but that is the real world that we live in.

The Hon. T.G. Roberts: It is not illegal, either.

The Hon. M.J. ELLIOTT: Yes, it is not illegal. What I am looking for in legislation is something, if I just go through this in summary, which seeks to regulate the industry, not encourage it, or allow it to be encouraged, legislation which I think protects those people who do not want it in their face in terms of advertising, in terms of soliciting, in terms of buildings with signage all over them proclaiming that here is a brothel and whatever else is going on inside, and legislation which tackles issues of recruitment.

I think the Hon. Sandra Kanck has already debunked the suggestion that people would be forced by way of employment agencies, etc. into it. That is just such an amazing nonsense, but obviously it has been told to people and they have repeated what they have been told. The legislation must tackle any way, any form of public recruitment, or any form of coercion to enter the industry. I am very supportive of moves to keep big business out of it. I am wondering whether perhaps we could not tighten up this area of the bill further, and I am just sort of exploring that at this stage.

It is absolutely imperative that we do all we can to keep minors out of prostitution. Advertising has been mentioned earlier and we will have to watch that there are no loopholes such as sponsorships; the tobacco companies stopped advertising and then sought to sponsor various things. We may need to look at that area of the bill to ensure that advertising cannot be conducted through the backdoor by way of sponsorships. I do no think the bill has tackled that issue at this stage.

In my view, another deficiency throughout the bill is that the penalties imposed are not high enough. If we are trying to put boundaries around prostitution—which I think this bill is endeavouring to do—we must ensure that the penalties for moving outside those boundaries are such that they will have a real effect and I believe that the penalties should and could be higher—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I am just floating the areas of concern: there are not a lot of them but this is the final area of major concern. I have been exploring other existing legislation in relation to coercion in order to satisfy myself that it is adequate at this stage. The issue is not covered within the bill itself but it is covered under legislation, and I want to be satisfied that it is made as tight as it could be.

I support the second reading recognising that prostitution will continue to be with us. I do not pretend that there will not be problems with the legislation; anyone who pretends that there are no problems now is kidding themselves. Anyone who says, 'All we have to do is get the police to be tougher on the people who use prostitutes' is kidding themselves.

This legislation is significantly different from that in New South Wales and Victoria, which I believe is flawed. At the time that legislation was being debated, the Democrats in South Australia were saying that there were flaws within it and some of the things that have happened since have not come as a surprise.

In summary, I will not impose my morality on others and, as long as we are talking about competent and informed consenting adults—which I think this legislation is directed towards—I will not intervene in other people's moral decisions. Hopefully, other people will see the sense in that, because many people would be offended if someone else's morality was inflicted on them: indeed, that is what some people seek to do.

The Hon. R.I. LUCAS secured the adjournment of the debate.

RETAIL AND COMMERCIAL LEASES (GST) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 October. Page 275.)

The Hon. CARMEL ZOLLO: On behalf of the opposition, I support the second reading of the bill. It seeks to tidy up and clarify the effect of the GST on commercial lease agreements. It is a worry that three months after the introduction of the GST the parliament is considering legislation aimed at clarifying the impact of the GST.

The opposition is happy for the bill to proceed to the second reading stage. However, I understand that possible amendments are currently being negotiated but I do not intend to enter into the detail of those amendments but simply indicate that there may be amendments.

I appreciate that under the current provisions of the Retail and Commercial Leases Act 1995, the GST recovery clauses commenced before 8 July 1999 or, in some cases, before 2 December 1998 and are currently invalid. This means that the GST-related rent review could not take place because the current act prohibits the adjusting of base rent more often than once every 12 months. This is a rather impractical consequence of the current legislation which requires remedial action.

I note that the Australian Retailers Association fully supports this legislation. Will the Attorney advise in committee whether other states are dealing with similar matters and, if so, will he advise the action they have taken?

I read with some interest the contribution of the Hon. Ian Gilfillan on behalf of the Democrats. Whilst the opposition very much agrees with the need to protect small businesses and their needs being taken into consideration, I am somewhat surprised at the stand taken by the Democrats on this bill—a GST amendment bill. I say that because it was the Democrats who facilitated the advent of the GST. It is a reality under our current taxation system. So, I am puzzled by the direct objection to the second reading of this bill. As I have indicated, I support the second reading on behalf of the Opposition and, as previously mentioned, possible amendments are being negotiated which the Opposition may file.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

In Committee.

(Continued from 7 November. Page 298.)

Clause 8.

The Hon. NICK XENOPHON: I move:

Page 4, line 11—Leave out 'The following section is inserted after section 139F of the principal Act' and insert:

Section 139F of the principal Act is repealed and the following sections are substituted:

Offence to hinder, etc. inspector

139F. A person who—

(a) addresses offensive language to an inspector exercising powers under this Act; or

(b) without reasonable excuse, hinders or obstructs an inspector exercising powers under this Act,

is guilty of an offence.

Maximum penalty: $1 250.

In its current form, the bill provides that 'an inspector who addresses offensive language to any person or without lawful authority or a reasonable belief as to lawful authority, hinders or obstructs or uses or threatens to use force in relation to any person is guilty of an offence' and faces a maximum penalty of $1 250. For the sake of consistency, I move this amendment which provides that a person who addresses offensive language to an inspector exercising powers under this act and who hinders or obstructs an inspector exercising powers under this act without reasonable excuse is also guilty of an offence with an identical maximum penalty of $1 250. I would have thought that it makes sense that, if an individual behaves in the same way as an inspector, they should be subject to the same penalties. That is why I move this amendment. I look forward to the government's response.

The Hon. DIANA LAIDLAW: I have had a number of discussions with the Hon. Mr Xenophon on this matter. I see the rationale for the amendment. I suspect that the honourable member is being mischievous, but I am not entirely confident that that is his motivation.

The Hon. Nick Xenophon: Why did you say it then?

The Hon. DIANA LAIDLAW: Because I have said that to your face and because I wanted to put on the record what I said to your face. There is some validity in what the honourable member says, but this matter is already addressed by the Summary Offences Act in the civil law. I was alerted to this yesterday by the Hon. Mr Cameron in a brief discussion about the possibility of this amendment, and I confirm that today—

The Hon. T.G. Cameron: I will have to stop helping you.

The Hon. DIANA LAIDLAW: It was a tip-off that was helpful—thank you. I confirm that that is the course today, and I highlight that the provision in the bill is one which, for one reason or another, the parliament for some 18 years has accepted in various pieces of legislation—and it is now in 20 pieces of legislation. It has been accepted by the Bannon and Arnold governments and the Brown and Olsen governments in the form that we find in this bill today. It is also part of training manuals and a whole range of other things which, over time, have been developed based on the matters that we in this parliament have addressed and approved in terms of the behaviour of inspectors to the general public as public servants.

The inspectors that I have spoken to in Transport SA do not believe that it will make any difference to the way in which they work. They seek never to be offensive. They know that they have to hold their tongue, even though the work can be very provocative. There is nothing new that they will learn in terms of language from people whom they stop, but it is part of the trial and error and heat of—

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: Yes, and part of the occupational task. So, I suspect that, whether it is the provision in the bill or the amendment moved by the honourable member, nothing will change on the roads when a person is picked up and they do not like the fact that an inspector has stopped them and that they may have been caught. That is part of the hurly-burly of their business.

I oppose the amendment because I believe that, if an inspector is offended in the circumstances of their job, they could take action under the Summary Offences Act. My understanding is that they have never exercised that provision to date. So, I do not believe that this further measure moved by the honourable member is necessary.

The Hon. P. HOLLOWAY: The Opposition will not support the amendment moved by the Hon. Nick Xenophon for essentially the same reasons that it will not support new section 139G in the bill. I gave my reasons for that last night when we were discussing that amendment.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The opposition does not support new section 139F, nor does it support new section 139G. In our view, it is unnecessary in an act to include a section about regulating an inspector's behaviour. If an inspector is offensive to a client, that person will complain and there are plenty of administrative measures that could be used to regulate that sort of behaviour. We do not believe that it is necessary to include this sort of provision in an act. It is demeaning to the hard working officers who have to enforce these measures. We do not believe that two wrongs make a right. So, to go further and support the amendment of the Hon. Nick Xenophon in our view would only exacerbate the sin.

I can well understand, given that the government seeks to insert section 139G, why the Hon. Nick Xenophon may wish to go further and at least make it a level playing field, if I can use that term. We would then have a situation where inspectors cannot use offensive language to any person and neither can any person use offensive language to inspectors. I really think we have adequate measures under other acts to deal with that sort of behaviour, and it is far better that we should deal with them there. For that reason, we will not support either the original clauses proposed by the government nor the amendment moved by the Hon. Nick Xenophon.

The Hon. T.G. CAMERON: SA First indicates that it will be supporting new section 139G. Although I did have some reservations initially, it was the contribution by the Hon. Paul Holloway that convinced me that I should support new section 139G. He explained that he could understand the reasons why the Hon. Nick Xenophon proposed new section 139F. I appreciate that the Hon. Nick Xenophon proposed new section 139F without realising that it had been covered elsewhere under the Summary Offences Act. The Hon. Paul Holloway stated that he could understand why the Hon. Nick Xenophon proposed new section 139F in view of the government introducing new section 139G. We have now discovered that proposed new section 139F will actually apply, but it is set out under the Summary Offences Act.

In view of the need to create a level playing field, it would appear that proposed new section 139F, relating to members of the public, is covered, so, to keep that same balance, the same for each that the Hon. Paul Holloway was talking about, I have been persuaded to support new section 139G, but I will not support the amendment regarding proposed new section 139F, only because it is dealt with elsewhere.

The Hon. SANDRA KANCK: I indicate that the Democrats will not support the Hon. Nick Xenophon's amendment. I regard both new section 139G and proposed new section 139F as unnecessary.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 137.)

The Hon. T.G. ROBERTS: I rise to indicate that the opposition will be supporting the government's bill, and I also indicate that it is the second time around. The bill has been with us for some considerable time. The stakeholders have been adequately notified. The stakeholders with whom I have consulted have indicated that they are quite amenable to supporting the changes to the act. It is a simple bill which does not have many clauses. Its main intention is to increase the divisional fines in relation to breaches of the Occupational Health, Safety and Welfare Act. There are two other clauses in the bill, one of which is an increase in relation to employees responsibilities, which the representatives of employees are not very happy about because the percentage increase is much higher than the penalty increases of those being imposed on employers.

In the case of occupational health and safety, employers certainly have more responsibilities in relation to taking reasonable care to protect the health and safety of workers than perhaps the responsibilities that an employee has. An employee certainly has the responsibility of protecting his fellow work mates, and certainly no-one likes to see bullying or careless acts of frivolity that may turn into dangerous acts. That must be discouraged, but in relation to the principles of occupational health and safety, as I said, the main responsibility lies with employers in providing safe workplaces.

The main responsibility for government is to ensure that employers provide safe workplaces, and it does that by providing inspectors who in an informed way are able to identify those parts of an employer's premises that are dangerous and work practices that are dangerous. They try to influence an employer into changing work practices or the work premises by eliminating, as far as possible, the dangers in which employees find themselves on a day-to-day basis.

I have not made comment in recent times about the state of play in relation to employers and unsafe practices, but recently I was given some details of employers who are thumbing their nose at the legislation, the penalties and their responsibilities to employees. I have also been given information about other employers who have set up safety committees, have involved employees and have overcome a lot of the difficulties associated with workers' compensation payments, absenteeism, retraining and the training of new employees, because that particular industry had a historical problem associated with dangerous work practices and lots of minor and, in some cases, major accidents.

To the minister I say that nothing much has changed. I believe that increasing the penalties, as I have said in contributions in other debates, will in part impact on those employers who are out there doing the right thing; and those employers who continue to do the wrong thing by absolving themselves of any responsibility and not complying with any of the legislation that governments bring in will not be affected by this measure because inspectors rarely visit their workplace and so they are never brought to heel. They use all sorts of methods to ensure that injured workers do not see the light of day as a result of the way in which injuries are reported. They are dismissed out of hand and they are not followed up. They do not become statistics: they just become victims.

Those practices still operate out there because we do not have enough inspectors in the field; and in many cases we do not give enough accolades to those employers who do have safe workplaces and who encourage the setting up of occupational health and safety committees and work in a way that encourages the democracy of a workplace. That is

something that governments should look at in a positive light, and I would hope that the minister would look at that as an important part of his duties in order to try to bring about a cultural change in some of the premises where dangerous work practices are allowed to operate on a daily basis.

The Hon. M.J. ELLIOTT: The Democrats support this bill which seeks to increase penalties in the occupational health, safety and welfare area. In closing the second reading debate or when the committee stage commences, I ask the minister to give an indication as to how much enforcement is occurring. If the minister can provide statistics on how many prosecutions have occurred under any of these provisions, I would be interested because, at the end of the day, it does not matter how big the penalties are, if there is no real risk of prosecution, it will not be terribly effective. I would be interested in getting from the minister, before we vote on the third reading of the bill, statistics in relation to the level of enforcement and, in particular, the number of prosecutions that have taken place.

Certainly, I note in reading reports from bodies such as WorkCover that I do not think that the accident record in South Australia is improving to any significant extent. That is of great concern. From the very beginning, under the Labor government close to 15 years ago, we had both workers' compensation and occupational health and safety legislation coming into parliament and being handled together. Certainly, I have argued that, so far as the government's seeking to achieve savings, it should do so by improving the occupational health and safety record in this state. I am not seeing a great deal of evidence at this stage that that is really being achieved. I would be pleased if the minister could show me to be wrong and show that there is a substantial record of improvement. On data I have seen, that does not appear to have been the case.

I touch on a matter that has been raised by way of amendments moved by the Hon. Nick Xenophon on a previous occasion, that is, the issue of enforcement by parties other than the government agencies themselves. I do believe that there is a case for enforcement by others. There has been some discussion outside this place and I wonder whether the minister is in a position to put anything on the record in this place on that matter at this time?

The Hon. NICK XENOPHON: I support the government's bill. This bill is identical to a bill that was before this place previously—I believe that it has been on previous *Notice Papers* for some 15 months now. I will be moving amendments identical to the amendments to the bill under Private Members' Business relating to the Occupational Health, and Safety and Welfare Act. There are too few prosecutions. This bill seeks to increase penalties, which is welcomed. The question must be asked why this government has not moved more quickly to deal with the issue of penalties given that it has had notice for a number of months in relation to the proposed amendments.

I look forward to this matter being dealt with in committee so that amendments can be debated to give this act some real teeth rather than the pathetically low number of prosecutions at the moment: 12 or so prosecutions a year seems to be entirely disproportionate to the number of quite serious industrial accidents that occur with likely breaches of the act.

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

PARALYMPIC GAMES

Adjourned debate on motion of Hon. R.D. Lawson:

That this Council congratulates all South Australian and Australian athletes, officials and volunteers who participated in and helped organise the outstandingly successful Sydney Paralympic Games.

(Continued from page 347.)

The Hon. R.D. LAWSON (Minister for Disability Services): In supporting this motion, I think it appropriate that we should pay tribute to all South Australians and Australians who participated in the 2000 Sydney Paralympic Games. I include in that the 28 South Australian athletes, team managers, coaches, trainers, supporters, parents and families of athletes. I include also members of the South Australian Paralympic Committee and others who have supported our athletes at Paralympic Games. This year's Paralympic Games were an outstanding success. Over one million people attended the games in Sydney. More than 3 800 competitors participated in 18 sports—which was a record—and 123 countries took part—again a record.

Australia, the Australian team and its athletes were singularly successful, winning in all 149 medals, which was the largest number of medals of any team at the games. A number of South Australians had outstanding results. Neil Fuller won four gold medals and Tania Modra and Sarnya Parker from South Australia won two gold medals. Katrina Webb was a silver medallist and Daniel Polson won a gold medal in cycling. There were some outstanding performances by a number of South Australian athletes but, in addition, many South Australians performed with distinction without being rewarded with medals.

For example, Anthony Clarke, a vision impaired judo expert, who won the gold medal at the recent World Championships, competed. On this occasion Anthony came seventh—whilst obviously not a medal it was an outstanding performance. David Gould again played with distinction in the wheelchair basketball team with Graham Gould; Fred Heidt was the manager of the Australian team. I will not mention all the competitors but Libby Kosmala and her husband Stan both competed in shooting with distinction. Sue Twelftree, a power lifter and a person who is prominent in the South Australian disability community, also performed with distinction and had a great time in this event.

The Premier and the Lord Mayor hosted a reception at which many people in the community were present. Each of the South Australian para-athletes was applauded and presented with certificates of recognition by both the government and the city council. They were very warmly received by the South Australian community. I did have the pleasure of attending the Paralympic Games, and one of the great things one observes in it is the diversity of disabilities catered for. The various gradings and classifications of sports mean that people with all degrees of disability are able to participate.

They were most exciting games, well supported and attended, and they showed to the Australian community the great ability of our athletes notwithstanding some of their disabilities. I am a great supporter of people with disabilities being able to express themselves in whatever fashion they wish, whether it be through creative, cultural, sporting or recreational activities, or whatever. The Paralympics is a fine opportunity to showcase talent and skills and to enable people with disabilities to meet their athletic aspirations.

The fact that Australia hosted such a wonderful games is, I think, a signal tribute to a large number of people who have been great supporters of the Paralympics over a number of years. I mention the South Australian Paralympic Committee, Marie Little and Nick Dean, both of whom are prominent in the movement and very strong supporters of our athletes and our team. I thank all South Australians who supported the team, whether through donations or physical and financial support. It was good that the South Australian government, through the Office of Sport and Recreation, did make financial contributions to enable our athletes to participate.

I also congratulate the federal government, which made significant contributions on behalf of the Australian community for their part in ensuring that these games were highly successful not only for our athletes but for the athletes from all parts of the world. I urge members to support this motion.

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

MARITIME SERVICES (ACCESS) BILL

Received from the House of Assembly and read a first time.

HARBORS AND NAVIGATION (CONTROL OF HARBORS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

BARLEY MARKETING (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

ASSOCIATIONS INCORPORATION (OPPRESSIVE OR UNREASONABLE ACTS) AMENDMENT BILL

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

SOUTH AUSTRALIAN PORTS (DISPOSAL OF MARITIME ASSETS) BILL

Received from the House of Assembly and read a first time.

RACING (TRANSITIONAL PROVISIONS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

ADJOURNMENT

At 11.37 p.m. the Council adjourned until Thursday 9 November at 11 a.m.