LEGISLATIVE COUNCIL

Tuesday 3 July 2001

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

ASSENT TO BILLS

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

Corporations (Administrative Actions),
Corporations (Ancillary Provisions),
Corporations (Commonwealth Powers),
Dental Practice,
Real Property (Fees) Amendment,
Statutes Amendment (Corporations).

BURDON, Mr A.R., DEATH

The Hon. R.I. LUCAS (Treasurer): With the leave of the Council, I move:

That the Legislative Council expresses its deep regret at the recent death of Mr Allan Burdon, a former member for Mount Gambier of the House of Assembly, and places on record its appreciation of his distinguished public service.

I move this message of condolence on behalf of government members and to acknowledge the contribution of Allan Burdon to the then seat of Mount Gambier, the now seat of Gordon, for the period from 1962 until 1975. Allan Burdon was born in Millicent. He was originally elected to Mount Gambier at a by-election in 1962 following the death of a Mr Rolston from the Labor Party. I think that Mr Rolston had taken over the seat after the previous member, Mr Fletcher (who had been an Independent member for Mount Gambier from 1938 to 1958—some 20 years), died in 1958. As I said, Mr Rolston took over the seat and, in 1962, he died.

There was an unfortunate sequence of death of sitting members from Mount Gambier in that particular period. Mr Burdon then held the seat from 1962, as I said, right through until 1975. I would be surprised if the Hon. Terry Roberts does not say a few words in this contribution because the Hon. Mr Roberts knew Allan Burdon from not only a political background but, more importantly, from his industrial and trade union background. Mr Burdon had been a union representative, I am told, for the then Timber Workers' Union from 1939 to 1947 and was a former secretary of the Mount Burr ALP sub-branch.

Mr Burdon had been very prominent in timber politics in Mount Gambier and the surrounding region during that period. He then became involved with the Labor Party and was successfully elected to parliament. He was also prominent in a number of community organisations. It is sad to say—for those of us from the South-East—that he was associated, I understand, with the North Gambier Football Club. For those of us with other connections, obviously, we take a strongly partisan different viewpoint—at least with respect to football allegiance—from Mr Burdon at that time. Mr Burdon also went on to be vice-president of the South-Eastern Border Football League—the football league before the Western Border Football League was established. I saw somewhere—and I cannot turn it up now—that he was also an office holder in the Mount Gambier Cricket Association for a considerable period before he was elected to state parliament.

Mount Gambier had a record of being an independent-type seat. As I said, for 20 years it had been held by an Independent, then Allan Burdon won the seat. Generally, it also has a history of loyally supporting those members of parliament who work hard on behalf of the people of Mount Gambier. Mr Fletcher held the seat for 20 years and Allan Burdon held the seat for 13 years. After that, Harold Allison held the seat from 1985 to 1997. Of course, Mr McEwen now holds the seat as the Independent member for Gordon.

I first knew Allan Burdon not before my involvement in politics but just soon afterwards. As I have indicated before, I joined the Liberal Party in 1973, and I obviously became aware of his work at that time in Mount Gambier as that was my home town. I recall his political demise in 1975. Together with Chris Schacht, I flew to Mount Gambier to act as a party scrutineer for the 1975 election result, when Harold Allison come from nowhere to win that seat, with a swing of 14, 15 or 16 per cent. Together with Chris Schacht working for the Labor Party, I handled the recount and the final scrutineering before the declaration of that result. I give credit to Allan Burdon.

For nearly 30 years now I have seen political candidates and members under the stress of counting situations straight after an election. When you are going through a recount, all sorts of behaviour patterns are well known, I am sure, to anybody who has been involved with political parties. Allan Burdon handled himself with great respect and with great grace during that difficult period. He accepted the advice which Chris Schacht was giving him and which was increasingly bleak from his viewpoint.

The Hon. T. Crothers: Did Schachtty like that?

The Hon. R.I. LUCAS: I don't know whether Schachtty liked it.

The Hon. T. Crothers: I generally call him Darth Vader.

The Hon. R.I. LUCAS: I know you call him that. At that time—before he had that reputation, perhaps—he was a young rising star in the Labor Party in 1975. The point of the story was not to talk about Senator Schacht but to highlight the fact that even under great pressure, at a time when his political career quite unexpectedly looked like coming to a close, Allan Burdon—at least publicly; I am not sure what he was saying and doing privately—handled himself with great grace and in a way that most members would publicly acknowledge as being appropriate given the difficult circumstances he found himself in. On behalf of government members, my condolences to the family, friends and acquaintances of Allan Burdon at his passing.

The Hon. T.G. ROBERTS: I indicate that, along with the leader, the Australian Labor Party offers its condolences to the family and relatives of Allan Burdon. The Leader of the Government outlined Allan's history quite well. The only thing I would add is that Allan had an interest in education, particularly TAFE education. He tried to develop educational facilities in Mount Gambier for people to do further education. He was particularly concerned about government costs in relation to TAFE courses: he foresaw that as a problem in those days. He was concerned that, if the costs for post-trade courses and the costs for people to enter trade courses were not kept down, young people would not be able to gain the benefits of the skills development that extra education would bring.

I guess it is the same argument that we present today, although the government at a federal level has put out an encyclical that states it has a commitment for all these

programs—that Allan would have been happy with back in the late 1960s and early 1970s. Allan Burdon actually lived his politics because, being the member for Mount Gambier in those days, he lived in a town where everyone has access to you. It is different in a city where you have a certain amount of anonymity and you are able to keep your politics and business life a little separate. But Allan Burdon, who lived in the community, was easily identifiable. He was quite a tall gentleman and he mixed freely socially and in sporting groups and organisations, and in particular in his later years he worked to protect amateur fishermen's rights.

On a number of occasions I knocked on Allan's door. I would not go there after 8 o'clock in the evening, but I am sure people knocked on his door much later than I did to try to work through, for example, industrial issues that were occurring in the development stages of the timber industry and its relationship to the forestry industry and the pulp and paper industry. Each time the negotiations were mounted, particularly in relation to the log truck owners and drivers, they were particularly long and drawn out. I will not say they were tedious because there was a certain amount of excitement each time they came around in the lower South-East. Allan stuck at his job and worked with all sections of the forestry industry to ensure that the agreements and the awards in his keeping were negotiated to the best of his ability in relation to his membership, at that time the ATWU.

His parliamentary life was at a time when the government did not have a large majority. Mount Gambier was an important seat in those days and was visited regularly by politicians from both sides, particularly in the late 1960s or early 1970s when Millicent was won or lost by one vote and there was a recount and a tie and a re-election. Mount Gambier was the base from which people mounted their campaigns back into the seat of Victoria because a lot of people had relatives who lived in those seats, and of course you could not campaign in Victoria without actually campaigning to some degree in the seat of Mount Gambier. I think the leader of the government's father may at some time have voted for Allan Burdon.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Well, there is another confession. I hope it was not a wasted vote; I am sure it wasn't. I know that Mr Burdon would have carried out his responsibilities to all constituents and, as I said, to all members of the union in the best possible way he could to ensure that the district and the organisation that he represented from time to time, either through being elected or nominated, were serviced to the best of his ability.

The Hon. T. CROTHERS: I rise, too, to offer my condolences to the relatives and friends of the former member for Mount Gambier in the lower house, Allan Burdon. I did not realise when the leader was on his feet that he was reporting the death of Mr Burdon. Allan Burdon was known to me for many years. He was a member of the Mount Gambier area at the time when the Labor Party had several members in the rural areas of South Australia. If I recall correctly, we had Reg Curren in the electorate of Chaffey in the Riverland; Des Corcoran in Millicent, alongside the Mount Gambier electorate; we had Riches from the urban rural area of Whyalla; and we had one other who used to reside at Jerusalem, a fellow called Hughes who was the member for the old seat of Wallaroo.

There has been a decline in our rural representation since those days. I think we have only two rural members now: one from a semi-rural/urban area, the Hon. Mr Ron Roberts from Port Pirie, and the Hon. Mr Terry Roberts from God knows where—I am frightened to ask. I cannot at this stage recall any other lower house Labor Party members from rural areas. That is a bit sad, because it shows that there is some polarity.

The other thing that it shows quite clearly to me is that there is now an imbalance in the Labor Party. Gone are the days when many orators of the Labor Party were trained in the ways of the trade union movement. They learnt their rhetorical and negotiating skills, such as they were, from the trade union movement. Alas and alack, that has fallen by the wayside. Of course, it is not a new thing. I might add that, at the turn of the century—and it is appropriate to say this at this time because of the anniversary of federation—these people who came from a non-union background were known as 'the frocks', given that they wore the frock coat which was then the a la mode style for the upper classes and aspiring middle-class people who were starting to join the Labor Party.

I am not opposed to that whatsoever—the Labor Party is a party for all people—but I would say that people such as Allan Burdon, if they were here today, would not recognise the form that the party has taken over the past 10, 12 or 20 years or so. That, to me, is not something about which one should rejoice; it is a case for sadness because, if you get people in the party who do not know the history of the party which has been learnt by every old trade union official, then they are condemned to make mistakes in respect of the history and traditions of the Australian Labor Party that would not be made by a trade union official who has earned his spurs and his stripes through the ranks of the trade union movement.

As I said, I make this point because it has pertinence to the late Allan Burdon. When I knew him, Allan Burdon was the Secretary of the Timber Workers Union in the South-East of this state. He will be badly missed by his relatives and friends and also by those of us who knew him all those years ago. I offer my condolences to the family.

Motion carried by members standing in their places in silence.

WHITTEN, Mr G.T., DEATH

The Hon. R.I. LUCAS (Treasurer): With the leave of the Council, I move:

That the Legislative Council expresses its deep regret at the recent death of Mr George Whitten, former member for Price in the House of Assembly, and places on record its appreciation of his distinguished public service.

I rise again on behalf of government members to speak to this motion. George Thomas Whitten was the member for Price from 1975 to 1985. Some members will remember the excitement of the 1975 election. George Whitten was elected at that time, and he retired at the December 1985 election. He was born in Broken Hill. I am sure that members of the Labor Party will be able to speak in much greater detail about his many years of commitment to the trade union movement and the various positions that he held, but he was very active in the Boilermakers and Blacksmiths Union originally, which was the forerunner of the Amalgamated Metal Workers Union. Again, the Hon. Terry Roberts may well have crossed paths with George Whitten prior to his entry into parliament.

He was a boilermaker by trade and was married with four children. He had worked at the railway workshops at Islington since 1939, so he had obviously worked there for almost 30 years prior to taking on a number of positions

within the state Labor Party organisation. A number of *News* and *Sunday Mail* articles (rather than *Advertiser* articles) refer to his holding temporary organiser positions for some 26 months over a three year period within the Labor Party organisation.

I think he was ultimately successful as a permanent state organiser for the Labor Party and then went on as various state secretaries do, as used to be the case, to progress through into state parliament or federal parliament. As I understand it, he went on to take over the State Secretary's position for the Labor Party as well. Ultimately, as I said, he was elected to the state parliament in 1975.

He was very active in the community—a patron of the Port Adelaide Rugby League Club, Vice President of the Port Adelaide District Cricket Club, a member of the Rosewater Bowling Club and sailing clubs and patron of small boat clubs (I will not go through the whole list)—as most lower house members are. He was very actively involved in his community and community associations.

I knew George Whitten moderately well. I observed him in his early days in parliament when I was working with the Liberal Party organisation. I was elected in 1982, so during the last three years of Mr Whitten's parliamentary career I obviously said hello to him in Parliament House. He was a man short in stature but was unfailingly cheerful, it seemed anyway, and courteous in terms of discussions with members of the opposition. I am sure from his trade union background that he had to exchange some hard yards when it was required, but in my brief meetings with him he was unfailingly courteous and was always prepared to have a discussion with a member of the then opposition.

One of the intriguing things about speaking to condolence motions is that inevitably the Parliamentary Library pulls out each election's profile of members and you see the change in the look of the members over the years. Some of my colleagues may or may not remember the indefatigable Chick Hanson—T.J. Hanson—who—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Hon. Trevor Crothers remembers Chick Hanson.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Exactly. Chick Hanson was one of a long list of candidates whom the Liberal Party put up against George Whitten to try to defeat him down there. There is another name listed there: Judy Lawrie even now is still very active in the Liberal Party. I think third generations of Lawries are now candidates for electoral office. But Chick Hanson in 1975 was the Liberal Party's candidate against George Whitten.

The Hon. L.H. Davis: Trevor Griffin was President of the Liberal Party.

The Hon. R.I. LUCAS: Trevor Griffin was President of the Liberal Party and had just taken on the challenges of Brighton or Glenelg.

The Hon. K.T. Griffin: Brighton, in 1970.

The Hon. R.I. LUCAS: In 1970 he took on the challenges of Brighton. George Whitten had a very long history of service to the trade union movement, his party organisation, the parliament and his community. On behalf of government members, I pass on our condolences to his family, friends and acquaintances.

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition seconds the motion. George Whitten was the member for Price from 12 July 1975 until 6 December 1985 and was succeeded by Murray De Laine. In fact, George Whitten had resigned his position. The Australian Labor Party then had an age qualification rule prior to its being made illegal, and he had reached the age at which he could no longer stand for preselection and stood down.

He was the chair of the Public Works Committee—a committee to which he gave a considerable amount of his time and energy. He was very interested in serving on that committee because he believed very strongly in public accountability for government money.

He was a state organiser of the Australian Labor Party. He took over from David Combe, I think in a temporary capacity, when David went to Canberra. Mick Young came back and was then the Secretary of the Australian Labor Party. So, George served with Mick Young and then when Mick Young became the federal member for Port Adelaide George Whitten became the state secretary of the party and it was in this capacity that I knew him personally because, of course, he left parliament at the election in which I entered parliament. We used to see George Whitten come into the parliament quite regularly. Even in retirement he was, I believe, a member of the retired members' organisation and he used to come in quite regularly with people like Geoff Virgo. He was never backwards in telling us, the new chums, how we should run the state. Sometimes we listened and sometimes we didn't.

Very sadly, I understand that his wife died not long ago, and it is very tragic for his family to have both parents die within close proximity to one another. He was a longstanding member of his union, originally the Boilermakers Union which then became the AMWU, of which he was a union official. He was a boilermaker by profession and he was an avid supporter of workers and workers' rights. He was a very ardent local member. He listened assiduously to the views of his electorate and, although in those days the electorate of Price (as it is now) was a very safe Labor seat, he was still very active as a local member. Subsequently, I think, in retirement he maintained his interest in his many outside activities in the rugby league club, the Port Adelaide District Cricket Club, bowling clubs and the Port Adelaide Sailing Club. I understand that at some stage he was vice patron of a small boat club in Port Adelaide.

George Whitten was one of the original Labor stalwarts. We are very proud of people like George in this party, who came from a very working-class background, came up through the trade union movement to serve the party as an organiser and a secretary and, subsequently, as a member of parliament. We will miss George. We will miss him coming in here and talking to us. I pass on the condolences of the Australian Labor Party to members of his family and all his many friends.

The Hon. T.G. ROBERTS: I would like to add my condolences to those of the Hon. Carolyn Pickles. George was of the same era as Allan Burdon. They were approximately the same age and grew out of the same difficult circumstances of the Depression. I think that helped to shape both Allan and George's actions and activities in relation to their participation in the Labor Party. Certainly, George was a flag bearer for a number of other people who followed through the very militant workshops of the Islington railway yards. Just as there are some industrial hotspots in the economy today, the building industry for one, where the work is hard, dangerous and difficult, the organisers in those particular areas had difficulty in making sure that the

occupational health and safety and welfare provisions (that were nonexistent in those days) were carried out by public and private employers alike. Although there was little legislative protection for people in those industries, and that included the timber industry, it was up to organisers at a local level to make sure that workers did have safe and reasonably well paid conditions for them to work in.

So, George's progression through to the Labor Party was a natural progression in those times where secretaries or shop stewards at local level did their time, were introduced by their own patrons and elected by their own members into union offices and then they were filtered through into the Labor Party, either through ambitions of their own or by being anointed by patrons of their own at that particular time. George Whitten certainly paved the way for Howard O'Neill, Bob Gregory and other luminaries of the Labor Party.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: I do not think he was a factional friend of Michael's, but if Michael wanted to knock on George Whitten's door I am sure George would have given him good advice. I will not say what the advice would have been, but it would have been very good advice that George would have given him. There would have been an industrial link between George and Michael because Michael had the same intentions when he entered the political wing of the Labor Party, coming from a different background but with similar sorts of intentions. George was active right up until (and I do not think too many people know this) the last State Executive, State Council and State Convention while he was able to walk freely. He had difficulty in his later years, not being as active and mobile, but he certainly took an interest right up until his death in what was going on in the Labor Party, was actively interested in outcomes and kept his communication lines open.

I pay due respect to him for that and to his family who must have gone through a difficult 40 to 50 years of activism with meetings at all levels and all the responsibilities and troubles that brings into your home life. That was never seen as a burden by him. He just carried out his duties on behalf of his constituents as he saw fit and was certainly a very capable advocate at all levels for protecting and advancing the interests of working-class people in this state.

The Hon. T. CROTHERS: Perhaps it is appropriate as I rise to pay tribute to my late departed colleague, Mr George Whitten, that I mention that in a previous contribution I had forgotten, just by happenstance, the name of the Hon. Robert Sneath as being one of our members from a rural background. It is noticeable that they are all sitting in this Council now. Even I came from a farm in Ireland, but I suppose that is stretching credulity a little far.

Mr Whitten was a great mate of the Hon. Geoff Virgo. Those of us who know the internal workings of the Labor Party would know that, although George Whitten never held any high office in this parliament, he was one of those old trade union people who was held in great respect and reverence by people who had aspirations for advancement because he was one of those people who managed to maintain the internal disciplines of the ALP by a quiet word here and a quiet word there and a judicial usage of numbers here and there. He played an enormously important role within the Trades and Labor Council. He, along with Geoff Virgo and others, ensured that all the tickets put up by the Labor Party were balanced and were composed of erudite people who were capable of getting up and opining on many subject matters. Unfortunately, that is no longer the case in the Labor Party I joined at 14 years of age. We still see some good men and women coming through, but we some other men and women who are what I would have to term 'factional hacks' and they will do the Labor Party no good.

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: Bob Sneath is a very erudite man. They will do the Labor Party no good. When I look (there is some in-fighting on the opposite side of the chamber), as I do, I sadly have to say that the majority of Liberal backbenchers, on a person-by-person basis, are better than the type of younger candidate we seem to be getting coming through the ranks of my still loved but former political party. George Whitten was one of those people—again a trade unionist—who ensured that those internal disciplines that are so necessary for a party to make sure that only its best, bravest and brightest come to the fore to represent the party in respect to leadership, or whatever else, in the foremost forms in the land (in either federal or state parliament) are maintained.

He did it quietly but, for many years, he did it thoroughly. He, of course, served his time in the industrial cockpit, as it was, of South Australia, that is, the Islington rail workshops, which played such a prominent role in the manufacture of war materials during the Second World War. It was, in fact, probably the major industry in South Australia up to recent times. I think that George Whitten was the convener, if my memory serves me correctly, of the shop committee for the unions at the Islington workshops, and I think that he was succeeded—and I may be wrong—by Bob Gregory, who also was a member of this place.

George was the secretary of the Australian Labor Party at one stage and, again, he was succeeded there by Howard O'Neil, who was also a member of this place and who had lots of ability but, dying very young as he did, unfortunately never had the opportunity to display his great natural talent. And so had George Whitten plenty of ability. He chose not to display his. Instead, he chose to use his talent—which was considerable—in respect of the internal runnings of the ALP. His great mate and friend the Hon. Geoff Virgo has recently passed on, too. Of course, he, too, was another union stalwart, having been an organiser, at least, with the Electrical Trade Union in this state.

It is significant that they were such mates in life and that George has passed on not long after the Hon. Mr Virgo. As one of my mates said, 'They loved each other so much in life that George has decided to follow Geoff up to wherever he is in the other world that may or may not exist (some people believe that it exists) and where we purportedly go when we die.'

The Hon. T.G. Roberts: No ticket no start up there.

The Hon. T. CROTHERS: No ticket no start down there.

The Hon. R.K. Sneath: No ticket no stop.

The Hon. T. CROTHERS: Well—

The Hon. L.H. Davis: That is where dead men do go.

The Hon. T. CROTHERS: We are always living in hope. In the words of Al Capone during the Chicago council elections as he got all his henchmen to take the names of dead men off the tombstones, 'Vote early and often.' However, having said that, George Whitten, I am sure, will be remembered fondly by his relatives and friends. He is certainly remembered very fondly by me. George Whitten was a courteous and kindly man. I well remember when he took badly ill and some of us never thought that he would live very long but, through willpower, he recovered pretty well and

toured around Australia with his good lady for many years. He has just simply passed on.

I pay my respects in relation to the work that he did. I hope that his relatives will understand because I am sure that George would not have talked much about his achievements. I just hope that, because of the three speeches that have been made by the Leader of the Government, the Leader of the Opposition and me, people will better understand George's attributes and what a good man he was now that we have given them the light of day. I apologise in terms of the interjection of the Hon. Terry Roberts, but there you go—and maybe there is something to be said about having too many country members in this place as well.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Briefly, I rise, and principally on behalf of my father, to acknowledge the life and work of George Whitten. Two more different characters you would be unlikely to meet, but their common interest, although from different perspectives, was enormous, and they became friends. Dad served in the Legislative Council during the period that George Whitten was a member of the House of Assembly. During the period that dad served in this chamber he continued as chair of Adelaide Brighton Cement, which was in the heart of George Whitten's electorate.

There were always issues in relation to Adelaide Brighton Cement. There were union issues, workplace issues and emission issues with the local residents. George Whitten and dad struck up a good working relationship, and at one time I remember that George suggested to dad and the board that trees should be grown around the boundary fence on Victoria Parade to make sure that the factory and the plant of Adelaide Brighton worked better in terms of the community involvement and the residents opposite. That suggestion was taken up, and one of the proud people at the planting of all these trees was George as local member and the initiator of this tree planting idea. I often go past those trees today on the way down to Port Adelaide and Outer Harbor and think of George and the good working relationship he had with my father and with the company. Goodwill was always shown, and George always appreciated the fact that dad had an open door and wanted to know the issues from the workplace if they were of concern to members and to the trade union movement.

When dad served in this place, one of his friends was actually George Whitten. From time to time, dad found it difficult to find a lot of people that he had interests in common with, coming from a heavy engineering background and always working well with the trade union movement, knowing that it had to be teamwork to ensure that a plant remained viable. Jim Dunford, Norm Foster, Geoff Virgo and George Whitten were odd 'bedfellows' with my father in terms of the common interests that they shared in terms of heavy industry and work force issues in this state.

Dad introduced me to George Whitten because dad used to be in charge of the Port Adelaide polling booths for the Liberal Party, and George used to laugh that there was the Chairman of Adelaide Brighton organising the polling booths, standing there, trying to defeat George, but no Liberal would be going around to provide dad with water, or anything, or with an umbrella if it was raining, or a hat (and dad was bald) if it was hot. George used to look after dad's interests every polling day, and dad used to know that George would be out there to look after him if he forgot his water, hat, sunglasses, suncream or umbrella.

Finally, the relationship extended also to the railways, because George came through the Islington railway workshops, and the SAR was established earlier because the work on the building of locomotives by Perry Engineering, where dad was Managing Director and Chairman at some stage, was taken over by the government in terms of the commonwealth railways and Islington. So they shared that interest as well.

I shared an interest with George who in a funny sort of way looked after me when I came into this place. He was a staunch Port supporter, I was a Sturt supporter, and we used to enjoy talking about the matches. I would like to recognise him today on behalf of my father and personally, and to send my condolences to his family. If I can just say that it is interesting, in terms of politics, how that was one working relationship that worked very easily across party lines because of shared interests, and it was one working relationship that was very constructive, on the work force floor as well as on the floor of this parliament.

The Hon. P. HOLLOWAY: I wish to briefly add my contribution to this motion to note the passing of George Whitten. I first met George when he was Secretary of the Labor Party in the early 1970s. As other members have said, he was a very helpful, courteous and friendly person and he was also a quietly efficient Secretary of the Labor Party. I certainly appreciated the assistance that he gave me as a young member of the Labor Party. In more recent years, he was a member of the retired members association and we would see him in here every month or so. When those members had a dinner we saw George in here. In latter years it was difficult for him to get around because he had to use a walking stick, but George was always friendly and courteous. I enjoyed my chats with him and I will miss him. I pass on my condolences to his family and friends.

Motion carried by members standing in their places in silence.

The Hon. R.I. LUCAS (Treasurer): With the leave of the Council, I move:

That as a mark of respect to their memory the sitting of the Council be suspended until the ringing of the bells.

Motion carried.

[Sitting suspended from 3.16 to 3.21 p.m.]

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos 46 and 74.

BLOOD DONORS

46. **The Hon. T.G. CAMERON:** Following the recent ruling of the Industrial Relations Commission that workers will no longer be entitled to time off to donate blood—

1. What impact will this decision have on blood stores in South Australia?

2. Will the South Australian Government allow government employees time off to give blood?

3. If not, why not?

4. How many Government employees have given blood in the years—

(a) 1995;

(b) 1996;

(c) 1997; and

(d) 1998?

The Hon. R.D. LAWSON:

1. The decision of the Australian Industrial Relations Commission applied to Commonwealth Awards. It has no bearing on employees under State Awards. There is no evidence that this decision has impacted on donor availability in South Australia.

2. Yes. The government's existing policy in relation to its employees seeking time off from work to give blood provides that employees who are requested by the South Australian Division of the Red Cross Blood Transfusion Service to attend a blood-taking centre as a blood donor may be permitted to do so if necessary during working hours. At the discretion of the employing authority, time off with pay is granted for reasonable travelling and attendance time. This long-standing policy will continue.

3. The decision of the Australian Industrial Relations Commission does not prohibit the practice of providing time off with pay for the above purpose; it simply removes this type of leave from the list of matters that may be included in a Federal award. The Government presently has no intention of changing its policy regarding this issue.

4. The Red Cross Blood Transfusion Service does not distinguish government employees from non-government employees on donor records. However, a query of the donor panel by occupation code suggests that 20 per cent of the available donor panel are government employees. A more accurate prediction of the proportion of government employees can be made by analysis of the business address of the donor panel available by telephone which is used in times of emergency to urgently call donors into the blood centre. Of the donors available at any one time, 25 per cent have provided a government address.

HEALTH, RURAL

74. **The Hon. SANDRA KANCK:** In relation to the Finance Department for Country Health—

1. Who are the staff members?
2. What are their roles?
3. How much are individual staff members paid?
4. What are the staffing numbers of each year since 1994?
5. If there has been an increase in staffing numbers since 1994, why?
6. What has been the budget allocation for each year since 1994?

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. There is no Finance Department for Country Health. There is a finance team as part of the Strategic Operations Unit of the Country & Disability Services Division within the Department of Human Services.

The staff positions in the finance team of the Country & Disability Services Division are—

- 1 x Project Manager, Finance and Risk Management ASO8
- 2 x Senior Finance Officers ASO6
- 2 x Project Officers, Finance (1 vacant) ASO5
- 1 x Assistant Finance Officer ASO3
- 1 x Graduate Officer, Finance Support and Research ASO2

2. The role of the Project Manager is to contribute to the effective and efficient financial management of the Country & Disability Services Division, risk identification and analysis, which results in the achievement of agreed outcomes in accordance with relevant legislation and financial accounting standards.

- The Senior Finance Officer(s) role is to contribute to the effective and efficient operation of the Country & Disability Services Division by working as a member of the Finance and Risk Management Group. The incumbents provide high-level budget management and strategic advice to the Directors responsible for the various portfolio budgets within the Division.
- The Project Officer(s), Finance, role is to contribute to the effective and efficient operation of the Country & Disability Services Division by working as a member of the Finance and Risk Management Group. The incumbents provide support in the management of the various portfolio budgets within the Division and undertake financial modelling and projects as required.
- The Assistant Finance Officer's role is to assist in the financial management of the Country & Disability Services Division by undertaking a variety of financial processing, analysis and reporting.
- The Graduate Officer is responsible for providing finance and research support as required in order to assist in the provision of a timely and effective finance and risk management service, including the preparation of information in appropriate formats, research assistance and special projects.

3. The positions in the finance team of the Country & Disability Services Division attract the following rates of pay—

- ASO8: $67 431 – $70 103
- ASO6: $53 944 – $57 253
- ASO5: $46 566 – $52 163
- ASO3: $36 006 – $38 551
- ASO2: $30 916 – $33 462

4. The Country & Disability Services Division was not formed until 1998.

5. The number of staff with financial and risk-management roles since 1998 are—

- 1998-99 = 0
- 1999-2000 = 3
- 2000-01 = 6

The Division was formed in 1998. In 1999 the Department approved a staffing plan of seven full-time employees for the finance team. Recruitment commenced in 1999 and is still progressing on an as required basis.

6. As the finance team within the Country & Disability Services Division did not exist prior to 1998, no budget was allocated.

There is no specific budget allocation for the finance team. The Country & Disability Services Division has oversight of a budget of $613 million, from which finance related money is drawn.

In 1999-2000, $178 700 was directed to the finance team. So far for the 2000-01 period $315 500 has been spent by the finance team.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

- Vocational Education, Employment and Training Board—Report, 2000
- Regulations under the following Acts—
  - Fees Regulation Act 1927—Water, Sewerage Fees
  - Public Corporations Act 1993—Bio Innovation SA
  - Public Finance and Audit Act 1987—TABCO
  - Superannuation Act 1988—Revised
  - Water Resources Act 1997—Murray Plan Extension
- RESI Corporation Charter

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

- Regulations under the following Acts—
  - Associations Incorporation Act 1985—Law Modifications
  - Co-operatives Act 1997—Corporations Law
  - Corporations (Ancillary Provisions) Act 2001—Reference
  - Fisheries Act 1982—
    - Abalone Fees
    - Blue Crab Fees
    - Daily Limits
    - Fish Processor Deliveries
    - General Fees
    - Lakes and Coorong Fees
    - Marine Scalefish Fees
    - Miscellaneous Fees
    - Prawn Fees
    - River Fishery Fees
    - Rock Lobster Fees
  - Gas Act 1997—Codes
  - Legal Practitioners Act 1981—Commonwealth Act
  - Occupational Health, Safety and Welfare Act 1986—Amusement Structures
  - Primary Industry Funding Scheme 1998—
    - Langhorne Creek Wine
    - Riverland Wine
  - Real Property Act 1886—Stamp Duties
  - Sewerage Act 1929—Connection, Other Charges
  - Trustee Act 1936—Inspectors
  - Waterworks Act 1932—Charges
- Rules of Court—
  - District Court—District Court Act—Custody
  - Magistrates Court—Magistrates Court Act—Email
  - Supreme Court—Supreme Court Act—
    - Applications
    - Corporations Law Rules 2000 (South Australia—Review Amendments
    - Custody

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

Regulation under the following Act—
Emergency Services Funding Act 1998—Remissions

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

Regulations under the following Acts—
Building Work Contractors Act 1995—Exemptions
Land and Business (Sale and Conveyancing) Act 1994—Acting for Parties
Liquor Licensing Act 1997—Dry Areas—Meningie
Security and Investigation Agents Act 1995—Auditor

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

Regulations under the following Acts—
Development Act 1993—
Environmental Significance
Extension of System Improvement
Significant Trees—Time Extension
Environment Protection Act 1993—Water
Medical Practitioners Act 1983—Fees
Motor Vehicles Act 1959—National Consistency
Road Traffic Act 1961—
Dictionary Variation
Miscellaneous Definitions
Standard Conditions
South Australian Co-operative and Community Housing Act 1991—
Commonwealth Application
Public Subscription
South Australian Health Commission Act 1976—Fees
Road Traffic Act 1961—Vehicle Standard Rules—Steering

By the Minister for Workplace Relations (Hon. R.D. Lawson)—

Telephone Rental and Calls Allowance—Determination and Report of the Remuneration Tribunal.

SELECT COMMITTEE ON FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL 2001

The Hon. K.T. GRIFFIN (Attorney-General): I bring up the report of the select committee, together with minutes of proceedings and evidence, and move:

That the report be printed.

Motion carried.

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

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

That the bill be recommitted to a committee of the whole Council on the next day of sitting.

Motion carried.

BODY ORGANS AND TISSUE

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement issued today by the Minister for Human Services (Hon. Dean Brown) relating to the retention of organs and tissue.

Leave granted.

QUESTION TIME

GOVERNOR HINDMARSH HOTEL

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Transport a question about the Governor Hindmarsh Hotel.

Leave granted.

The Hon. CAROLYN PICKLES: Some members may have seen the media reports about the problems with the Governor Hindmarsh Hotel.

The Hon. R.I. Lucas: Save the Gov!

The Hon. CAROLYN PICKLES: Save the Gov, indeed. The Governor Hindmarsh Hotel, in particular, has been renowned for many years as a repository for lots of live music with no poker machines. So, it was with a certain amount of reservation that I read and was also advised by a former member of another place, the Hon. Greg Crafter, that the Governor Hindmarsh Hotel was worried about the fact that some residences were to be built close to the hotel and that that might cause future problems with noise emanating from the hotel by way of live music. Clearly, a changed use of a hotel when previously it may have been very quiet and suddenly it has lots of live music and late-night trading is a vexed question, but I think that this hotel is one of South Australia's icons.

My question is: will the minister outline what action, if any, she can take wearing her hat as Minister for the Arts and perhaps encouraging live music to proliferate in South Australia but also at the same time, wearing her other hat, taking into account the difficulties that these hotels have when residences are built close to them?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I appreciate that the honourable member has directed her question to me as the Minister for Transport. However, I suspect that it is essentially in my capacity as Minister for Urban Planning or Minister for the Arts that this issue is most relevant. Over four or five years I have taken up the charge on behalf of the contemporary music industry for having live music in the city and suburbs. The St Leonards Hotel at Glenelg essentially was closed because of residents' complaints, and young people saw a very important venue to them and our musicians close.

The Hon. A.J. Redford: I warned this place about this in 1997, and I wasn't listened to.

The Hon. DIANA LAIDLAW: Yes, you were listened to.

Members interjecting:

The Hon. DIANA LAIDLAW: Well, we never stop listening to the Hon. Angus Redford.

The Hon. T.G. Cameron: We haven't much choice.

The Hon. DIANA LAIDLAW: It may be that we do not have much choice but, with sincerity, he took up this issue and, at that time, meetings were held with the Liquor Licensing Commissioner and the Attorney. Those meetings did not entirely resolve some of these issues, and the problem has become more intense in the city and has extended most recently to the Governor Hindmarsh and the Charles Sturt Council.

There are a couple of broad comments that I will make in a general sense. One is that people cannot come into the city and expect to live in a quiet suburban environment. I find it difficult to understand some of these complaints that are now

arising from most recent residents of apartment blocks when they have come to the city because of the atmosphere. They want the atmosphere and ease of living, the environment and the life, but not life after 9 o'clock at night, it would seem.

I think this is a big issue that I have canvassed with the Capital City Committee, of which I am a member, in terms of a buyer beware campaign. I believe that such a campaign conducted with information provided through the real estate industry and the local councils could reinforce existing use rights that are provided for under the Development Act. That is one matter that I am exploring at the moment.

I am also keen to work with the Attorney on issues related to section 7 of the Land and Business (Sale and Conveyancing) Act which requires various disclosures to a person who is purchasing a property. It may be that we can amend the regulations under section 7 to add references to hotels that conduct live music. I think that much of the difficulty is not related directly to the live music industry but to the patrons who attend and to their behaviour outside the venue.

As the Hon. Terry Cameron says, it may be noise generally. I find it difficult to cope with people who choose to live along a railway line and then complain that there is a tram or train, or along a road and then complain that there are cars or there is a heavy vehicle on an arterial road. There are people who religiously do that sort of thing and expect the politicians and councillors to be sympathetic to their issue. Perhaps the environment of buyer beware should not just be related to hotels, live music and neighbouring developments.

I suspect that I will not get a lot of sympathy from some members of parliament, but I have a passion to ensure that this state does not become a retirement village and close down after 9 o'clock. I have a great deal of difficulty about complaints about the behaviour of young people from older people who deny young people venues and facilities where they can be entertained and be active.

The Hon. R.D. Lawson interjecting:

The Hon. DIANA LAIDLAW: The Minister for the Ageing is having a go at me now. As I said, I would not necessarily please everybody. But there is a difficulty in this state—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: I do not want to ignore the interests of older people, but they were once young, and also young people today are—

The Hon. T.G. Cameron: I am still young.

The Hon. DIANA LAIDLAW: Oh, you're still young.

The Hon. T.G. Cameron: Speak for yourself.

The Hon. DIANA LAIDLAW: Well, I am heading for 50 but I am very conscious that we keep a young state, notwithstanding the fact that I am heading to that age. I feel that as a society we can hardly complain about youth on the streets, young people getting into mischief and behaviours if we do not find, provide and support them in terms of venues and activities. Whether it be from the rollerblade to live music, you often see an intolerance in our community that I find very difficult to accept.

We have to live together. Planning is one unholy nightmare of a portfolio. I just warn members that if at any time they are offered a portfolio to beware of planning. I say that with three years experience, because you can hardly please anybody. What one is prepared to accept for themselves as proper behaviour they are not prepared to accept for a neighbour. The issue that the honourable member has raised—and I know the Hon. Angus Redford, the Hon. Terry Cameron, the Hon. Sandra Kanck and the Hon. Nick Xenophon have raised such matters from time to time in this place—concerns balancing interests and needs.

We must make very sure that we do not close up the town and the city, that we do provide activity for young people and that we respect the needs of others. In fact, we may be able to achieve a better balance in the way we do this by looking at some of the proposals that I have outlined today. We can also work with the EPA in terms of how it applies the measures and powers that are available to it in terms of noise pollution.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Well, I should have finished, yes.

The Hon. A.J. REDFORD: I have a supplementary question. Does the minister agree that there is a high degree of inconsistency bordering on hypocrisy from the Hon. Nick Xenophon in relation to his approach to the Bridgewater Hotel and its entertainment vis-a-vis the Governor Hindmarsh?

The Hon. DIANA LAIDLAW: I am not sure that I wish to reflect on the behaviour of the Hon. Nick Xenophon. Earlier today he asked to speak to me about some matters in the light of his experience—

The Hon. A.J. Redford: He is trying to stop the entertainment at Bridgewater, yet he is out there on the parapets for the Governor Hindmarsh.

The Hon. DIANA LAIDLAW: That might be right, and you may wish to take up that issue publicly and privately with the member. The honourable member has asked to speak to me about the basis of his experience. This is not an easy black and white issue and I am keen to speak to the Hon. Nick Xenophon, as I am with other honourable members, to see how we can get a solution that is great for music and young people and for a lively, vital atmosphere in Adelaide and our suburbs, while respecting, somehow, the rights of residents. I suspect this is not about the live music but the general behaviour outside the venue.

ELECTRICITY INTERCONNECTION

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

Leave granted.

The Hon. P. HOLLOWAY: On 25 June in a press release the Premier announced that the Olsen government would call on the new national electricity market ministers forum to impose a September deadline for the approval to build a new interconnector between South Australia and New South Wales. The press release states:

> Premier John Olsen says that South Australia will seek the support of New South Wales and other States to impose a three-month timeframe on NEMMCO to give the go-ahead to the proposed Riverlink development between South Australia and New South Wales.

Given the Premier's conversion to the Riverlink interconnect, does the Olsen government still support the Murraylink interconnect? What stage of construction has the Murraylink interconnect now reached; and, given the government's new support for Riverlink, has the government made representations to NEMMCO in relation to the status of Murraylink as a committed project?

The Hon. R.I. LUCAS (Treasurer): Too right we support Murraylink: we support all interconnectors. The

government supports Murraylink, and we have given it fast tracking approval. We support SNI, and we have offered it fast tracking assistance. We have supported a number of other proposals for interconnection if they reach the stage where they are—

The Hon. J.S.L. Dawkins: You are not keen on the one from Yarrawonga, though.

The Hon. R.I. LUCAS: Yarrawonga! Which one is the Yarrawonga—

The Hon. J.S.L. Dawkins: Mr Lewis's interconnector.

The Hon. R.I. LUCAS: Well, it is hard to work out what Mr Lewis wants sometimes. I will not publicly speculate on that.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I do not know whether the Hon. Mr Cameron's interjection should be put on the record or not. I think one of the problems with the Labor Party in South Australia, and some of the others, is that there has been too great a concentration on just the interconnectors coming through the Riverland in terms of assisting South Australia's power situation. As we have been trying to educate the Labor Party and the South Australian community, the interconnectors from the Snowy to Victoria and from Tasmania to Victoria are just as important for South Australia and the South Australian and Victorian combined market.

The Snowy to Victoria interconnector is some 400 megawatts of power for both South Australia and Victoria, for $44 million, but it is a bit hard to know exactly how much SNI will cost. The speculation is that it could be somewhere between $100 million to $200 million for 200 to 250 megawatts of power. Clearly, it is evident that one should not be tunnel visioned in thinking that one extra interconnector after the Murraylink interconnector through the Riverland will solve the problems of South Australia's power. It is that sort of tunnel visioned thinking of the opposition that has been sadly evident through its previous history when, in 11 or 12 years in—

The Hon. L.H. Davis: Look at their support for Pelican Point.

The Hon. R.I. LUCAS: They fought in the trenches against Pelican Point. Yet, for some 11 or 12 years when they were in government between 1982 and 1993, no new power station was built by Labor in South Australia, even though they commissioned an inquiry which recommended that they should build a new base load, coal-fired power station by 1993. There was absolutely no action at all from the Labor Party on that particular recommendation. The government supports more and more interconnection but not at the expense of more and more in-state generation: we think there has to be a combination of both. The government has offered fast tracking assistance to both Murraylink and SNI.

I was pleased to receive today photographs of cable being unloaded on the docks of Melbourne for the new Murraylink interconnector, having been shipped from Europe. They have been on the docks at Melbourne for the last few days and photographs on my desk today show that cable being unloaded from the Port of Melbourne to be placed on road transport for movement to Mildura in the next few days. The latest information from the company, TransEnergie, and its public relations group is that it is hoping that by the end of the month the first cable, which has arrived in Australia, will be laid, starting at the Mildura end of the Murraylink interconnector.

The last question from the honourable member is probably superfluous. There has been a whispering campaign from the supporters of SNI to try to torpedo the Murraylink interconnector. NEMMCO has taken the decision that it is a committed project. It has satisfied itself that the people are putting up the significant sums of private money to build that interconnector underground so it does not have the environmental problems that the SNI project, supported by the Labor Party, has. One only has to look at the recent environmental record of the company that Mike Rann, Kevin Foley and the Hon. Mr Holloway have been supporting in terms of the disgraceful environmental behaviour that that company—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway says 'What's this?' I refer him to the Leader of the Opposition and Mr Foley, who have been advised on this issue of the appalling environmental destruction that TransGrid, the company supported by them, has inflicted on the New South Wales environment with one of its recent transmission projects. For anyone interested in the environment, I can only hope that their record in South Australia will not follow the path they have only recently followed in relation to the Labor administration in New South Wales. While the government is prepared to offer fast tracking assistance, we are not prepared to support environmental destruction by a Labor government electricity business.

The Hon. T.G. Roberts: They broke the law to do it.

The Hon. R.I. LUCAS: The Hon. Terry Roberts is at least frank enough to say that the Labor government's electricity business, supported by the Leader of the Opposition, broke the law that existed. The Hon. Terry Roberts should stay here. It is refreshing to have truth coming from the opposition front benches. We thank him for his support. He was at least honest enough to concede that this company, which is being championed by Mr Rann, Mr Foley and the Hon. Mr Holloway—

The Hon. L.H. Davis: And Mr Xenophon.

The Hon. R.I. LUCAS: —and Mr Xenophon—broke the law and inflicted environmental destruction on sensitive areas of the environment in New South Wales with its last transmission project. As I have tried to highlight in South Australia, there are a number of issues of environmental concern and concerns of landowners in relation to this above-ground project supported originally by the New South Wales Labor government, obviously, and by a number of us in recent times. However, in terms of offering fast-tracking assistance, we can only hope that, should they get to the stage of building above ground (if that is their continued intention), they will at least abide by the laws of South Australia in relation to protection of the environment. We do not see, to quote the words of the shadow minister for—what are you the shadow minister for—the environment?

The Hon. T.G. Roberts: Regional development.

The Hon. R.I. LUCAS: Regional development. The Hon. Terry Roberts, in a very frank admission, conceded that this Labor Government company had broken the law to inflict this environmental destruction on New South Wales. From our viewpoint—and, more importantly, from NEMMCO's viewpoint—it is a committed project and, as I say, there are photographs to prove that it is proceeding. Other projects will now be assessed on the basis that we have two interconnectors—or we have one and one is being built. We have the 500 megawatt interconnector and we will have a 220 megawatt underground interconnector through the Riverland.

We have now the prospect—with the decision by September—by NEMMCO of SNI; and NEM ministers have requested a November deadline for the Snowy to Victoria

interconnector—that 400 megawatt interconnector coming into the combined Victorian-South Australian markets.

The Hon. T.G. CAMERON: As a supplementary question, will the Treasurer provide me with any written information he has in relation to the breaking of the law by TransGrid in New South Wales?

The Hon. R.I. LUCAS: I am happy to. It makes appalling reading. I am sure that the Hon. Mr Cameron, who is known for his sensitivity for environmental matters, as indeed I am, will be appalled when he reads it, but I am happy to get the material for the honourable member and share it. Indeed, if other members are interested—and I suspect that the Hon. Terry Roberts—

The Hon. T.G. Cameron: Obviously, he has already read it.

The Hon. R.I. LUCAS: He may well have already seen it.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Perhaps the Hon. Mr Holloway, but I know—

The Hon. L.H. Davis: Danny Price might like it.

The Hon. R.I. LUCAS: Danny Price and the Hon. Mr Xenophon. I am happy to share the information with those members who have previously expressed an interest in this particular interconnector and this particular New South Wales Labor government company which has, in the words of the Hon. Terry Roberts, broken the law.

ABORIGINAL TRAINEESHIPS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question on Aboriginal traineeships.

Leave granted.

The Hon. T.G. ROBERTS: In 1993 I know that the minister had a direct interest in the building up of policy development for Aboriginal traineeships. I understand that in 1997 a commitment was given to introduce some 400 to 500 traineeships so that young Aboriginal people could train in remote and regional areas and in the metropolitan area to undertake apprenticeships and, generally, to have an affirmative action policy for young Aboriginal people. My understanding is that the government will probably be disappointed with the fact that the target which it set for traineeships has not been reached by any stretch of the imagination. I do not have the figures for the number of traineeships that are operating at the moment. My questions are:

1. Could the minister provide details on the number of young Aboriginal people currently in apprenticeships or traineeships?

2. Could the minister also supply the details on the funding provided to the number of Aboriginal people who have undertaken apprenticeships or traineeships since 1997 and, given that these employment opportunities are vital to stop the alcohol and drug abuse, particularly in remote and regional communities, will the government take up this issue as a priority?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I can assure the honourable member that the issue is a priority for our community and therefore should be pursued by the government. I will pass the questions to the minister and bring back a reply promptly.

STATE TAXATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the leader of the government and the Treasurer, the Hon. Rob Lucas, a question about state taxation.

Leave granted.

The Hon. L.H. DAVIS: My attention was drawn to a recent release from the Australian Bureau of Statistics which made comparisons of state taxation across the six states of Australia. These statistics also included local government charges, but my recollection is that South Australia fared quite well in that comparison of state taxation, notwithstanding some attempts by members of the Labor Party to paint South Australia as a high tax state. Has the Treasurer any information relating to that ABS data, and could he comment on whether that data does reveal that South Australia is a comparatively low cost state for taxation?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question and also for drawing my attention to a recent story in the Melbourne *Age* of 13 June with the impressive headline 'Victoria hangs on to highs of taxation'. That table from the ABS confirms broadly the sorts of figures quoted in the budget statement this year. The figures in the budget statement show that state taxes and charges per head of population are significantly less than states such as New South Wales. The taxes and charges are about 25 per cent less per head of population than those of New South Wales. This ABS calculation, which involves state and local government taxes per head of population, shows a similar record, with it costing $2 149 per head in South Australia and $2 671 in New South Wales. That is some $500 per person or 25 per cent higher in New South Wales. The state and local government taxes and charges in New South Wales are very much higher.

It is important to highlight these figures because members of the Labor Party and others are quick to highlight the current problems with the national electricity market and electricity pricing in South Australia. When one looks at the costs of doing business in South Australia, one sees that electricity is clearly one element. So, too, are state taxes and charges. When we compare South Australia's record with New South Wales in particular, we see that we are 25 per cent per head of population lower in South Australia.

The only other matter that I will take up and on which I will bring back a reply to the honourable member is that this indicates a significant jump in the local and state taxes per head of population in that year between 1998-99 and 1999-2000. If we can, the issue we need to disaggregate from that is the relative contribution for increases in local government charges in that relatively significant increase in those two financial years. Certainly, it may well be, as was being speculated at the time, that local councils during that year saw a significant increase in the rate revenue being collected.

An honourable member interjecting:

The Hon. R.I. LUCAS: The honourable member says that that was soon after the two year rate freeze. It may well be that that has fed through into a reasonably significant jump between those two years. I am having that issue explored by Treasury and, if there is any information of use, I will provide that by way of further response to the honourable member.

GARDNER, Ms T.

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General a question regarding the playing ban put in place by Netball Australia on Adelaide Ravens captain Trudy Gardner.

Leave granted.

The Hon. SANDRA KANCK: Netball Australia is clearly aware that the ban it has applied to national netball league player Trudy Gardner is in breach of the Equal Opportunity Act. In the *Advertiser* yesterday, Netball Australia Executive Director, Pam Smith, said:

> We are aware we may have left ourselves open to a discrimination action, but in evaluating the risks in terms of protecting the organisation and everyone concerned the greater risk was not to have the ban.

In effect, Netball Australia is saying that the potential costs of litigation outweigh the costs of breaking the law. Netball Australia's approach to risk management has put at risk individual rights, however. What is curious is that Ms Gardner could play this weekend in the State League as the Netball Association of South Australia has defied the directive, despite Netball Australia's being the umbrella organisation.

The Equal Opportunity Act 1984 protects women from discrimination on the grounds of pregnancy under section 30 for employment and section 35 for clubs and associations. Given the fact that Netball Australia is in breach of the act regarding both these sections in relation to the ban on Ms Gardner, there is a clear case of discrimination. Under section 93 of the act, the Commissioner has the power to investigate the case of discrimination without a formal complaint being made by Ms Gardner. The Commissioner, with approval from the minister, can apply to the tribunal to investigate a person that may have acted in contravention of the act. According to the commission, this section has never been used. An independent investigation and determination under section 93A of the act would obviate the need for legal action against Netball Australia by Ms Gardner. My questions are:

1. Would the Attorney-General approve an investigation by the Commissioner for Equal Opportunity on this matter if approached by her?

2. Has the Attorney-General been approached by the Commissioner for Equal Opportunity to investigate Netball Australia's ban on pregnant women; and, if so, what has been his response?

The Hon. K.T. GRIFFIN (Attorney-General): My understanding is that the matter of the complaint is actually a complaint to the Human Rights and Equal Opportunity Commission against Netball Australia and that the issue will be resolved at that federal level, relying on the federal legislation rather than state legislation. One of the difficulties has always been that state legislation complements the federal legislation and that in something such as this (which goes Australia wide) a preferable course is to deal with the issue under federal legislation. My understanding is that a complaint has been made under the federal act, not the South Australian act, and that that will therefore be the subject of review by the Human Rights and Equal Opportunity Commission.

So far as the South Australian act is concerned, the Commissioner for Equal Opportunity has indicated that she has not received a complaint. In relation to section 93A (the institution of an inquiry without a specific complaint being lodged), the Commissioner for Equal Opportunity indicates that she believed that this was a case where it was appropriate that an individual complaint be lodged rather than an application being made under section 93A. There are some issues about section 93A which, if the provisions of that section had been triggered, would need to be addressed, but that is hypothetical at this stage. The question raised by the honourable member about whether or not I would approve is, again, hypothetical.

The Commissioner in South Australia generally operates on the basis of a complaint being made, believing that is the better way to deal with these sorts of issues. Conciliation is obviously involved, and if a complaint cannot be conciliated it is referred to the Equal Opportunity Tribunal. Those provisions obviously do not apply in this case because the matter is being dealt with at a federal level. As I said earlier, because of the coverage of this issue across Australia I think that is the better course to follow.

PORTS CORP

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about the Ports Corporation divestment.

Leave granted.

The Hon. A.J. REDFORD: I understand that a firm of interstate solicitors based in Sydney has been appointed probity auditor in relation to the sale of the Ports Corporation. I note that, in terms of the appointment of a probity auditor insofar as the electricity assets of this state were concerned, the government appointed a barrister who was truly independent at the bar in order to avoid conflicts of interest and the like. I also note that the appointment of a barrister enabled the costs of a probity auditor to be somewhat restrained. The probity auditor has issued a memorandum which suggests that potential or actual bidders must not be assisted in the development of bids by parliamentarians, amongst other people. I understand that to mean parliamentarians who are not part of the executive arm of government. In the light of that—

The Hon. K.T. Griffin interjecting:

The Hon. A.J. REDFORD: The Attorney interjects and says it extends to both. There is absolutely no question that probity principles ought to apply to members of the cabinet who ultimately make decisions on these matters. In the light of that, my questions to the minister are:

1. What has been budgeted insofar as the cost of the probity auditor is concerned and how does that relate to the general costs of the probity auditor in relation to the divestment of our electricity assets?

2. To date, have the probity auditors sent in any accounts in relation to the work that they have done insofar as the sale of the Ports Corporation is concerned; and, if so, are they within the budget that was allowed for the payment of the probity auditor?

3. In terms of the appointment of the probity auditor, was there a tender process and was the Sydney firm of Blake Dawson Waldron the cheapest tenderer in relation to the functions of a probity auditor?

4. Has there been any suggestion in any process of divestment of assets over the past seven years of any inappropriate assistance, in relation to bids, by members of parliament?

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

AMUSEMENT STRUCTURES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer a question about the South Australian amusement machine industry and Revenue SA stamp duty.

Leave granted.

The Hon. CARMEL ZOLLO: On 3 May last, I asked the Treasurer a question on behalf of the Amusement Machine Operators Association of South Australia and the recent interpretation of bailment of goods by Revenue SA which is now seeking to collect stamp duty from operators of amusement machines. As previously mentioned, this industry is very concerned because of a new interpretation by the Commissioner for State Taxation that the arrangement for the provision of kiddy rides, pinball machines and juke boxes in South Australian shopping malls, delis and hotels constitute a rental and therefore should be charged stamp duty. I have had reports of operators feeling that they are being bullied into accepting the Revenue SA ruling.

The Treasurer, when commenting on my earlier question, tried to muddy the waters in his somewhat usual style by raising the question as to who might have introduced the legislation, but that is not the point at all. Of course it is to do with a new interpretation by Revenue SA and the possibility of applying the interpretation retrospectively. In answering my previous question the Treasurer made a commitment to obtain legal advice and advice from the Commissioner for State Taxation before commenting further. I have previously mentioned that the industry is already suffering as a result of the introduction of the GST and the inability to pass that on to the consumer.

Representatives of the association have said that their revenue this financial year is down by as much as 30 per cent. Not only is Revenue SA seeking to charge stamp duty on these operations but I am also informed that it will be charged retrospectively for up to five years. In early June the association approached me advising that it had met with the Treasurer and that he was still considering the matter even though he indicated to the association that he had already met with Revenue SA. As a further month has now elapsed, I ask the Treasurer: has he now received the advice he sought from the Commissioner for State Taxation and legal advice from Crown Law in relation to this issue? Can he indicate what decision he has made on this matter and the basis for it? If Revenue SA does enforce stamp duty payments from amusement machine operators, will the government be seeking retrospective payments?

The Hon. R.I. LUCAS (Treasurer): First, it is not a new ruling by Revenue SA. Revenue SA has indicated, based on legal advice that it has received from Crown Law, that it can implement the law only as the parliament passed it. It is not an issue of making up a new ruling; it is an issue of the law passed by parliament. It is a glib response from the honourable member—which sadly we have come to expect during her time in the parliament—when she says that it does not matter who passed the legislation. Of course it matters. If a government introduced the legislation and the parliament ultimately passed it, public servants or statutory officer holders such as the Commissioner for State Taxation can only implement the law introduced by the government of the day.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Tax law is littered with rulings which come many years after the original legislation might have been introduced and which highlights either by legal advice or ultimately by court ruling what the parliament's drafting actually meant. Some court cases last for many years in trying to determine what the parliament actually meant. It is a glib response from the honourable member to say that it does not really matter who introduced the legislation. I wonder why she is saying that. Perhaps she has done the research and found out that it was her party, the Labor Party, who introduced it.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: The Hon. Ms Zollo says it is not the issue. So, has she done the research?

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Was it introduced by the Labor Party?

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: The Hon. Carmel Zollo is very uncomfortable—

The Hon. Carmel Zollo interjecting:

The PRESIDENT: Order! The Hon. Carmel Zollo will cease interjecting.

The Hon. R.I. LUCAS: The Hon. Carmel Zollo is very uncomfortable. She is twisting in her chair at the moment. She will not respond to the question. Was it her party, the Labor Party, which introduced this legislation? It is a fairly simple question that clearly the Hon. Carmel Zollo is not prepared to answer. The Hon. Carmel Zollo cannot come in here with her glib responses saying, 'Do not worry about who introduced this legislation because, even if it happened to be the Labor Party that introduced the legislation that caused the problem, you are the ones who have to accept responsibility to fix it up'. The second part is correct: there are many messes the Labor Party creates that we have to fix up—the State Bank and SGIC, the state's finances, the debt and a variety of other things. I have asked the Hon. Carmel Zollo whether it was her party that introduced the legislation and in a very embarrassed way she is refusing to respond. All I can say is that the commissioner can only enforce the legislation that he has been given. The legal advice is that in relation to these particular areas there has to be the payment of stamp duty.

I have met with the industry and, together with Revenue SA and other representatives of the industry, I am looking at what the various options might be for the government in relation to this issue. We have not yet concluded our deliberations and final decisions on this issue, other than it is clear—in response to the member's question—that the legal advice says that this is a transaction which the legislation states, whichever government introduced it, involves the payment of rental duty. I can operate only on the basis of the legal advice that we are given.

The Commissioner for State Taxation or Revenue SA can operate only on the basis of the legal advice that they are given. It is extraordinarily misleading and glib in the most extreme form—if I can use a convoluted phrase—for the Hon. Ms Zollo to come in here and say that it is the Commissioner who has just decided to interpret it in this way. That is a most unfair reflection on a senior public office holder, the Commissioner for State Taxation, who says to me, 'You the parliament and previous governments passed the laws. I get legal advice and I just have to make the decisions on the basis of that.' And to come in in the way that the honourable

member has done and attack a senior public office holder in a most unfair fashion when he is not here to be able to defend himself and his staff, in the way that she has done, is unfair to that office holder.

What I have said is that that is the legal advice. We accept the concerns the industry has and we are now exploring, in further discussions with Revenue SA, with the industry and, if need be, with Crown Law, what the various options to government are, given that we have now had that legal advice as to what the law says.

The Hon. CARMEL ZOLLO: I have a supplementary question. Is the Treasurer aware that in New South Wales the legal opinion was challenged and the industry was successful in that challenge?

The Hon. R.I. LUCAS: I am aware that in New South Wales the law passed by the government was different from the law passed by the government in South Australia. It is as simple as that. It is not the same legislation: it is different in its drafting, and the legal advice that the South Australian government has is that the provision in the South Australian act is different from that in the New South Wales act. So, it is again glib for the Hon. Ms Zollo to come in here and trot out this argument that, because something has occurred in New South Wales, the inference is that the same thing should occur here. The legislation was passed by a previous government: I will have to double check this as I forgot to do it but, given the discomfort of the Hon. Ms Zollo, I suspect it must have been introduced by a Labor government. I will check that. I thank the honourable member for reminding me of it.

The law introduced by a previous government in South Australia is different from the New South Wales law, so there is not much point in saying, 'This does not occur in New South Wales.' The law is different in New South Wales. A previous government in South Australia passed the law in a different form from the New South Wales legislation. Revenue SA and the Commissioner for State Taxation have to implement South Australian stamp duty law, not New South Wales stamp duty law.

HOUSING TRUST, RENT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, questions regarding family allowance for grandparents and South Australian Housing Trust rental.

Leave granted.

The Hon. T.G. CAMERON: Our candidate for Reynell, Jenny Hefford, was recently approached by a constituent who is a grandparent and who is concerned that the South Australian Housing Trust regards family assistance as income when calculating rent. An increasing number of grandparents are being left to bring up their grandchildren when their parents have been unable to cope or are in jail, or just do not want them. Grandparents on a pension are entitled to family allowance from Centrelink of approximately $55 per week when caring for their grandchildren.

Because this is viewed by the South Australian Housing Trust as income, it is then added to their pension and taken into account in the calculations for the grandparents who rent from the South Australian Housing Trust. This leaves them as little as $40 per week to bring up a child. In many cases, the grandparents are left to look after two to three children, and even more. These grandparents have brought up their own children and are now faced with bringing up a second generation. My questions are:

1. Considering the important and compassionate assistance grandparents are providing by taking care of their grandchildren, as well as saving the government considerable expense, will the minister as a matter of urgency review the current process of taking into account family allowance when calculating South Australian Housing Trust rental for grandparents?

2. What would be the estimated cost to government if the South Australian Housing Trust did not count the family allowance as income?

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

ROADS, BLACKSPOT FUNDING

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking a question of the Minister for Transport on federal blackspot funding.

Leave granted.

The Hon. CAROLINE SCHAEFER: For some years I have represented our minister on the Blackspot Funding Committee, which prioritises the applications for blackspot funding in South Australia. That committee is chaired by Senator Ferguson and is represented by key players such as the RAA, the Insurance Association, local government, the Bicycle Association, transport department officers and so on. Each year we apply for a number of blackspot funding measures to help finance some of the areas that are seen as most likely to be dangerous areas for driving, and they are assessed on either crash record or road safety audits. Each year we apply for a number of these. We are sometimes more successful than others. We apply in about March and at about this time of year the announcements are made. Will the minister give details of how successful our committee was this year in its application for some $3 million worth of blackspot funding?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am pleased to advise the honourable member that every one of the projects identified by the blackspot consultative committee in March for funding for this financial year for South Australia was approved by the federal government. That announcement came through late Friday: 37 projects were nominated from South Australia and all 37 have been funded to an amount of $3 million. That allocation is higher per capita than the allocation for other state governments. It is interesting to note the federal government's response to the funding approvals for the blackspot program this year.

It notes that, since the program was reintroduced by the federal government in 1996, a total of 158 road safety blackspot projects valued at more than $18.5 million have been funded in South Australia since the commencement of this program. I note that the federal government, which initially introduced this program for some four years after the Labor Party had scrapped it earlier last decade, has overall invested more than $228 million across Australia in eliminating black spots on our road network.

Every location recommended for funding has a serious road safety or road trauma record and in each instance where the investments have been made by the federal government on the recommendation of, in our instance, the South Australia blackspot consultative panel, there has been a huge

return on that investment in terms of lives saved, crashes avoided and injuries reduced. That is the goal arising from the investment by the federal government and the work undertaken by the Hon. Caroline Schaefer and other members of the committee in assessing projects submitted by local councils in rural, regional and metropolitan South Australia, with representations from various government departments.

HOLDFAST SHORES

In reply to **Hon. M.J. ELLIOTT** (14 November 2000).

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has provided the following information:

1. The full details of the state government's involvement in the Holdfast Shores Development have been provided to the Economic and Finance Committee.

I have been advised that the Minister for Transport and Urban Planning has responded by letter dated 20 December 2000, with regard to questions 2, 3 and 4.

METROPOLITAN FIRE SERVICE

In reply to **Hon. IAN GILFILLAN** (31 May 2001).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has provided the following information in relation to the SAMFS appliances:

The protracted issues with the Receivers of Lowes Industries was finalised through negotiations with Scania to secure the remaining ten Cab Chassis. (Note Lowes Industries were contracted by the State Supply Board to complete sixteen SAMFS Fire Appliances with the sixteen Cab Chassis being supplied to Lowes by Scania) A mediation session occurred between South Australian Government representatives and Scania in Auckland to establish a final outcome. The mediation was overseen by Sir David Tompkins, a retired New Zealand High Court Judge.

Negotiated Outcome

The mediation process resolved in an amount of $A600 000 being paid to Scania in exchange for free title of the ten Scania Cab Chassis. The payment covered the full warranties offered by Scania under normal sale conditions. It was agreed that any additional cost including GST and import and transportation cost would be the responsibility of the South Australian Metropolitan Fire Service.

The original Lowes Contract was for an amount of $A5.51 million (which increased to $5.68 million due to agreed variations). Following settlements of all claims and payment of services of Barristers, legal costs and insolvency experts, including the cost to complete the three partially complete Cab Chassis and an estimate to complete the remaining seven appliances, the final estimated cost to complete all sixteen Appliances is $A5.94 million. That is, approximately $A260 000 will be incurred by SAMFS as a result of the collapse of Lowes Industries. This is well down from the initial exposure of $A1.89 million as at the time of Lowes collapse.

Current Status of Remaining Appliances

The three partially completed appliances (of the ten remaining) were completed early this year and are now in operation. The remaining seven appliances have been the subject of a recent tender call to complete the body build construction on the SAMFS Cab Chassis, with a planned construction completion early in 2002.

Steps in Place to Manage Procurement Risks

Since the establishment of the original Lowes contract, there has been a major procurement reform initiative across all government departments, covering, amongst other issues, the management of procurement risks. There is a stronger focus on understanding the financial viability of companies contracting with government and there are processes in place to ensure appropriate financial due diligence is undertaken at the tender evaluation stage.

However, it is acknowledged that no matter how rigorous processes may be, there will always be a risk of corporate failure which will be entirely unpredictable. The important point is that processes are in place that aim to minimise and/or manage the risks identifiable at the contracting stage. Good contract management processes are also in place to manage contracts through to their completion to ensure government receives the goods and services for which it has contracted.

PAYDAY LENDING

In reply to **Hon. CARMEL ZOLLO** (16 May 2001).

The Hon. K.T. GRIFFIN: As I indicated when the honourable member raised this issue on 16 May 2001, there have been relatively few complaints received in relation to pay day lenders by the Office of Consumer and Business Affairs. The Commissioner has advised me that he estimates that eight inquires have been received this year and none has developed into a formal complaint file. However, he points out that he would not necessarily expect consumers to bring their concerns to his office. Those facing difficulty with pay day lending arrangements are much more likely to take their concerns to the Legal Services Commission or a welfare agency such as the Adelaide Central Mission, where financial counselling is available. Like the Office of Consumer and Business Affairs, these organizations do not keep statistics on the number of complaints specifically relating to pay day lenders.

GENETICALLY MODIFIED FOOD

In reply to **Hon. T.G. ROBERTS** (3 May 2001).

The Hon. K.T. GRIFFIN: The Deputy Premier, Minister for Primary Industries and Resources, and Minister for Regional Development, has provided the following information:

All dealings with genetically modified organisms currently operate on the basis of voluntary compliance with guidelines developed by the Gene Manipulation Advisory Committee (GMAC) at the national level, although this will cease on 21 June 2001, when the *Commonwealth Gene Technology Act 2000* comes into operation. At that time, and under the provisions of that Act, the Office of the Gene Technology Regulator also commences its operation to licence all dealings, set the terms of those dealings, and to monitor and enforce compliance. This Government deplores the lack of attention shown by some bioscience companies to the experimental management guidelines provided by GMAC, and welcomes the new national regulatory scheme.

The Deputy Premier is confident that the *Gene Technology Act 2000* has the potential to provide a nationally consistent, rigorous and effective regulatory system, but advises that all States and Territories should, through the associated Ministerial Council, be unrelenting in ensuring that it operates at all times with the greatest professionalism and competence, and that the Regulator has a clear policy climate in which to operate. The Ministerial Council is establishing not only an expert technical committee to assist it, but also ethics and community consultation committees as well to ensure that it, and the Regulator, appropriately reflect community interests and standards.

EDUCATION, EARLY CHILDHOOD

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Education, a question about early childhood spending.

Leave granted.

The Hon. M.J. ELLIOTT: I draw the minister's attention to an article appearing on page seven of the *Age* newspaper of 14 June this year. The article refers to an OECD report that finds that Australia is lagging behind most other OECD countries on public expenditure on pre-primary education. The report found that Australia spends just over .03 per cent of GDP on early childhood education, whilst Britain spends .42 per cent and the US spends .36 per cent. In its analysis of early childhood education in Australia, the report drew attention to the poorer working conditions experienced by staff in early childhood compared to other educational levels.

The report notes that, as a consequence, there is a high turnover in staff and difficulty in recruiting teachers. The report also notes the low numbers of Australian men in Australian pre-primary services. My questions to the minister are:

1. What is the South Australian expenditure on pre-primary education as a percentage of GSP?

2. What is the state government doing in South Australia to address the poorer working conditions that act as a disincentive to prospective pre-primary educators?

3. What initiatives has the state government in mind to encourage more men into pre-primary teaching given the positive impact of both male and female role models on a child's development?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the minister but, in doing so, I might say that I think that the honourable member will not be surprised to know that, in many areas, South Australia leads the nation in pre-primary education in terms of its commitment; and that the OECD figures to which the honourable member refers, I think, based on my recollection, are dragged down by the very poor performance, I think, in the ACT and one other state in terms of expenditure on pre-primary education. However, I will be delighted to refer the honourable member's question to the minister and bring back a reply and, if it is as I have suggested, I am sure that the Hon. Mr Elliott will loudly proclaim those figures from the rooftops and congratulate the government on its commitment in this area.

INDEPENDENT GAMBLING AUTHORITY

The Hon. NICK XENOPHON: Will the Treasurer indicate what steps have been taken to constitute and staff the Independent Gambling Authority and, given the increased powers of the IGA compared to the Gaming Supervisory Authority, the level of resources and staff the IGA will have compared to the GSA to undertake its statutory responsibilities? Finally, will the Treasurer give a likely time frame for the IGA to be operational?

The Hon. R.I. LUCAS (Treasurer): The GSA, of course, which is the IGA by another name in its present incarnation, is working very actively at the moment. So, it is not as if we are waiting for something to happen. The GSA is operating and operating very effectively in a number of areas. In relation to some of the issues raised by the honourable member, I will certainly take advice in terms of what the timetable will be. There have been some discussions about staffing. There is an acknowledgment that there will need to be some resourcing for the authority and, as Treasurer, I have acknowledged that on behalf of the government. We are still working through a process with the authority in terms of how we can assist. We have already taken one or two decisions in anticipation to provide some additional resourcing or at least give some comfort to the authority that some additional resourcing would be available to undertake new found responsibilities.

The honourable member raised one or two other issues about the time frame and I will take formal advice on those. I have recently seen some notification about the time frame. A couple of issues were raised in relation to the implementation of various aspects of the legislation that was passed by the parliament, and we have to ensure that we are in readiness to proclaim those sections of legislation. There is a lot of activity occurring on that front at the moment.

ROADS, BLACKSPOT FUNDING

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I erred earlier, as part of my reply to the Hon. Caroline Schaefer, in not seeking leave to have incorporated in *Hansard* without my reading it a table of the projects that won federal road safety blackspot funding for the year 2001-02.

The PRESIDENT: Are you seeking to table the document?

The Hon. DIANA LAIDLAW: To incorporate.

The PRESIDENT: Is it purely statistical?

The Hon. DIANA LAIDLAW: Yes.

Leave granted.

The Federal Road Safety Black Spot
Project Information Report
Projects in South Australia included in program year 2001-02

Local Government	Reference	Location	Treatment	Estimated Cost $
Adelaide City Council	S00182	Hutt Street Flinders Street	Installation of traffic signals including mast arms	60 000
Adelaide Hills City Council	S00290	Adelaide-Mannum	Seal shoulders; widen pavement; install guard fence; speed signs; curve alignment	156 000
Adelaide Hills City Council	S00292	Adelaide-Mannum	Seal shoulders; widen pavement; install guard fence; speed signs; curve alignment	156 000
Adelaide Hills City Council	S00293	Adelaide-Mannum	Seal shoulders; widen pavement; install guard fence; speed signs; curve alignment	150 000
Burnside City Council	S00306	Greenhill Road Glynburn Road	Modify three approaches and central island to provide two lanes	45 000
Burnside City Council	S00315	Glynburn Road From Rosalind Street to Greenhill Road	Painted median; turn bay; marked parking lane; two pedestrian refuges	30 000
City of Charles Sturt	S00313	David Terrace From Torrens Road to Port Road	Painted median with bicycle lanes and a pedestrian refuge near shops	35 000
City of Playford	S00314	Coventry Road Dalkeith Road	Installation of a stagger cross intersection	125 400

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Local Government	Reference	Location	Treatment	Estimated Cost $
City of Port Adelaide Enfield	S00304	Prospect Road From Junction Road to Regency Road	Install painted median and pedestrian refuges	50 000
City of West Torrens Thebarton	S00195	Mooringe Avenue Morphett-Marion	Improve sight distance; parking; street lighting and access points	40 000
City of West Torrens Thebarton	S00299	James Melrose Road-Warren Avenue Morphett-Tapleys Hill Road	Improve site distance; signage; parking; street lights and access pits	52 400
City of West Torrens Thebarton	S00308	Richmond Road From Railway Terrace to Anzac Highway	Ban right turns into Marlow and provide a protected lane into Eton Road	30 000
Clare and Gilbert Valleys Council	S00291	Main Road North	Shoulder sealing; audio tactile edgeline	175 000
Clare and Gilbert Valleys Council	S00294	Lochiel-Clare	Seal widening edgelines and delineation	110 000
Franklin Harbour District Council	S00296	Lincoln Highway	Upgrade and seal shoulders (for 1 km)	50 000
Gawler Corporation Town	S00298	Overway Bridge Road 12th street-15th Street and Ryde Street	Install crash barriers; improve kerbing; signing; delineation and lighting	69 000
Light District Council	S00297	Seppeltsfield Road Stonewell Road	Intersection treatment to create a staggered T layout	165 000
Marion City Council	S00305	Marion Road Sturt Road	Install mast arms on south and west legs of intersection	18 000
Marion City Council	S00316	Sixth Avenue John Street	Install roundabout	27 000
Mitcham City Council	S00302	Springbank Road From Goodwood Road to Ingrid Street	Install painted median with bicycle lanes	20 000
Mitcham City Council	S00307	Goodwood Road Cross Road	Install mast arms on south and west legs of intersection	18 000
Mitcham City Council	S00312	Belair Road Angas Road	Remove left turn slip lane and install entry threshold treatment	32 000
Mount Barker District Council	S00288	Exhibition Road From Alexandrina Road to Hutchinson Street and Hampden Road	Non skid surface; delineation; edgelines; parking; pedestrian	39 000
Mount Barker District Council	S00289	Mount Barker-Flaxley Road	Seal shoulders; widen pavement; install guard fence	150 000
Mount Barker District Council	S00295	Adelaide Road Druids Avenue	Install traffic signals; left side lane two rights turn lanes and one left turn	200 000
Onkaparinga District Council	S00309	Chandlers Hill Road Kenihans Road	Install roundabout	200 000
Port Augusta City Council	S00287	Footner Road-Harris Street-North Terrace	Boom gates Footner and Harris; flashing light at North Terrace; lighting	200 000
Salisbury City Council	S00300	Waterloo Corner Road Bolivar Road	Modification to roundabout; blister islands; increase diameter of centre	20 000
Salisbury City Council	S00310	Bagsters Road Diment Road and Langford Road	Channelisation; closure of crossing; traffic provision for left turn lane	40 000
Salisbury City Council	S00311	Commercial Road Fisher Road and Kettering Road	Roundabout modifications at this location	50 000
Salisbury City Council	S00317	Nelson Road Wright Road	Modify approaches to existing roundabout	40 000
Salisbury City Council	S00318	Commercial Road Bagsters Road	Modify approaches to existing roundabout	40 000
The City of Norwood Payneham and St Peters	S00036	Rundle Street College Road	Improve sight lines College; west median at College; east left in/out	25 000
Tumby Bay District Council	S00319	Lipson-Ungarra Road	Survey design construct and seal 8 km of gravel road	200 000

The Federal Road Safety Black Spot
Project Information Report
Projects in South Australia included in program year 2001-02

Local Government	Reference	Location	Treatment	Estimated Cost $
Unincorporated area S.A.	S00301	Hiltaban-Iron Knob	Remove vegetation and cutting on the crest and first curve after crest	25 000
Unley City Council	S00303	Greenhill Road Unley Road	Install mast arms on both approaches of Greenhill Road	18 000
Wattle Range Council	S00200	Princes Highway Glencoe-Kongorong	Staggered cross intersection	120 000
		Total estimated cost for year 2001-02		3 000 800
		Total estimated cost		3 000 800

SCHOOLS, SUNSHADES

In reply to **Hon. CARMEL ZOLLO** (17 May 2001).

The Hon. DIANA LAIDLAW:

1. The construction of sunshades or canopies is Development under the Development Act 1993 and therefore must comply with the 'Building Rules'. South Australia has adopted the Building Code of Australia 1996 (BCA) as 'Building Rules', and the BCA requires that buildings or structures achieve an acceptable level of safety and serviceability, as set out in the Performance Requirement of the BCA. Compliance with the structural Performance Requirement can be achieved if a structure is designed in accordance with the prescribed Australian Standards for loading and materials. This means that a steel structure must be designed and constructed in accordance with AS 4100 *Steel Structures*.

The BCA does not directly reference an Australian Standard for shade material. However, the performance of the material selected must still comply with the BCA Performance Requirement.

2. I am advised by Planning SA that the agency is only aware of the two incidents of sunshade collapse noted by the honourable member—and as reported in the press.

3. A copy of the report has not been made available to Planning SA, or to me as minister.

4. There are no existing powers under the Development Act 1993 to make such a direction. The owner of property that has such shade structures installed, may have a duty of care to warn of the dangers of climbing such structures. However, the installation of signs would be at the property owner's discretion.

5. The State Coroner in his report on the tragic death of a young girl last year, recommended that an Australian Standard be developed for sunshade structures. While Planning SA has not received a copy of the Coroner's Report—nor any request from the Attorney-General's office to instigate the actions as recommended by the Coroner—the agency has sought a copy and will initiate discussion with the Attorney-General's office, if relevant.

For the honourable member's interest, advice is also being sought from the Minister for Education and Children's Services in relation to this matter, and a response will be provided in due course.

ROAD SAFETY

In reply to **Hon. CARMEL ZOLLO** (31 May 2001).

The Hon. DIANA LAIDLAW:

1. The most effective signs with road safety messages are those which provide a link to an immediate action through the display of complimentary information. For example, the "Drowsy Drivers Die" message, now in place on signs on the Dukes, Barrier and Stuart Highways, supports the other information on the signs about the next town or rest area, the distance and the fatigue related services that are available. The signs are installed on highways that are known to have long distance travellers, where fatigue is likely to be a problem. All feedback on those messages, from travellers and local communities, is positive.

2. Between 1999-2000 to 2000-01, the government through Transport SA invested over $1 million to improve roadside rest areas, road safety signage and other fatigue measures on National Highways and Arterial Roads, which comprise the Barrier, Dukes, Sturt and Stuart Highways.

3 & 4. In 2001-02, the following National Highways have provisional funding to upgrade rest areas and signage—

- Dukes Highway – $20 000
- Sturt Highway – $40 000
- Stuart Highway – $300 000

In addition, $200 000 has been provisionally allocated to upgrade rest areas on Arterial Roads—with better signage plus attractive amenities and surroundings. In the meantime, Transport SA is finalising a strategy that will identify specific Arterial Roads for upgraded rest areas and signage, including—

- Port Augusta – Port Wakefield Highway
- Princes Highway
- Lincoln Highway
- Eyre Highway
- Flinders Highway

MURRAY RIVER, FERRY OPERATORS

In reply to **Hon. R.K. SNEATH** (16 May 2001).

The Hon. DIANA LAIDLAW:

1. Four contracts have been renewed.

Contracts at other crossings will expire and be called as follows—

- Cadell, Purnong & Narrung in March 2002.
- Morgan in April 2002.
- Mannum, Walker Flat & Swan Reach in January 2003.

2. At Tailem Bend the current operator was successful.

At Wellington the current operator did not tender.

At Waikerie and Lyrup the current operators were unsuccessful.

3. Transport SA has awarded six contracts.

Zone	Contractor
Eyre Peninsula	RPC Roads
Mid North	Civil Construction Corporation
Metro North Area	RPC Roads
Flinders	Aztec Services
Yorke	CSR Emoleum Road Services
Mallee	RPC Roads

4. While five of the contracts have been awarded to companies with an interstate head office, RPC Roads (which has won three of the contracts) manages all of its South Australian operations entirely from its Adelaide office.

5. Aztec Services is a South Australian company with its head office in Port Lincoln.

RPC Roads (formerly Robert Portbury Constructions) operates in both South Australia and Victoria. RPC Roads has been operating in South Australia for five years—and has based all of its design, purchasing, tendering and operational management for South Australian contracts in North Adelaide. It has established Depots in Port Lincoln, Cowell, Streaky Bay and Walkley Heights.

The Civil Construction Corporation is a Tasmanian based entity affiliated with the Tasmanian Government. The personnel for its operations have been recruited from within South Australia.

CSR Emoleum Road Services is a national company that operates in all States.

TRANSPORT, B-DOUBLE TANKERS

In reply to **Hon. T.G. ROBERTS** (17 May 2001) and answered by letter on 26 June 2001.

The Hon. DIANA LAIDLAW:

1. At both sites, Transport SA carried out an assessment of the crashes and concluded that the condition of the road was not a contributing factor. After the clean up carried out by emergency

services, Transport SA also ensured that the road surface was safe before allowing traffic to resume travel.

Transport SA is aware that SAPOL has prepared a report on the crash at Loxton.

2. Transport SA's on-site assessment did not address the issue of emergency services' ability to handle fuel or toxic material spills.

For the honourable member's interest, advice is being sought from the Minister for Police, Correctional Services and Emergency Services in relation to this matter, and a response will be provided in due course.

ABORIGINES, SUBSTANCE ABUSE

In reply to **Hon. T.G. ROBERTS** (14 March 2001) and answered by letter on 26 June 2001.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. An accurate answer to this question is not possible due to the unreliability and age of Aboriginal and Torres Strait Islanders (ATSI) data collections. More accurate and statistically reliable data is expected to be provided after the 2001 Census of Housing and Population and the 2002 Indigenous Health Survey.

The National Household Survey conducted by the Australian Institute of Health and Welfare during 1998 obtained drug related information from 10 030 respondents aged 14 years or older including 231 indigenous respondents. Respondents were asked a range of questions about their patterns of drug use, perceptions of harm related to drug use, knowledge of drugs and attitude toward drugs and health status.

Of the 831 South Australians who took part in this survey only 5 identified themselves as indigenous respondents. This small South Australian sample size for the indigenous population cannot provide reliable estimates for alcohol and other drug consumption patterns by indigenous South Australians.

However, it is noted that—

- A survey on the Anangu Pitjantjatjara Lands conducted by Nganampa Health Council in November 1999 found 111 individuals were sniffing petrol.
- Data from the Drug and Alcohol Services Council (DASC) showed that 1.079 per cent of the South Australian indigenous population attended a DASC Unit in 1998-99, compared to 0.284 per cent of the total population. This means that, as a proportion of their populations, 3.8 times as many Aboriginal people used DASC services in 1998-99 as non-Aboriginal people.

2. As far as can be ascertained at this time, there has been no allocation for South Australia of commonwealth government diversion funds for petrol sniffing. It is understood that $1 million was recently allocated by the commonwealth government for petrol sniffing programs in the Central Desert Region of the Northern Territory.

3. The state government, through the Drug and Alcohol Services Council, funds Nganampa Health Service $68 250 for a petrol sniffing project.

The Aboriginal Drug and Alcohol Council of South Australia (ADAC) has produced a comprehensive manual covering all aspects of petrol sniffing and other solvent use in indigenous communities. The manual consists of a number of illustrated booklets which target a range of audiences—family members, community members, community decision-makers, health and community development workers. The booklets contain basic health information, examples of successful programs, strategies for the development of appropriate responses, teaching resources and information about where to go for further assistance. The manuals are being distributed free to indigenous health and substance misuse services.

The South Australian government's main drug and alcohol service provider is the Drug and Alcohol Services Council (DASC). It shares the responsibility for providing appropriate alcohol and other drug services to South Australia's indigenous population with numerous other government, non-government and indigenous organisations.

DASC has outreach workers located in 12 metropolitan and 13 rural locations, who offer counselling, community development, health promotion and awareness programs which are accessed by indigenous people. With additional funding provided by the State Government in 1999, DASC employed two workers to provide services to indigenous clients. DASC has also employed two project workers to advise senior management on the coordination of indigenous policy and service development and implementation.

Aboriginal communities within South Australia are located within metropolitan, country and remote rural locations. Each of these areas have local generalist and/or Aboriginal community controlled primary health care services that respond to health related issues. Some Aboriginal community controlled services provide counselling assistance for individuals with substance misuse problems.

Examples of programs and services for indigenous people with substance use issues include—

(This list may not be exhaustive and does not include other human service government and non-government organisations such as education, welfare, police and corrections that also respond to drug use issues with indigenous people as part of their general services).

Aboriginal Sobriety Group Inc

Self-help for Aboriginal and Torres Strait Islander people with alcohol or other drug related problems. Services include counselling, referral, a gymnasium and a Mobile Assistance Patrol. Emergency shelter and housing are available at two metropolitan community hostels: Cyril Lindsay House (men only) and Allan Bell House (women and children only).

Kaingani Tumbetin Waal

Residential rehabilitation and lifeskills development program for young people aged 12–18 with alcohol or other drug problems and resultant legal problems, or youth at risk.

Mobile Assistance Patrol

Transports people under the influence of alcohol or other substances from public places to places of care, safety and support.

Nunkuwarrin Yunti

Health care for Aboriginal people, including assessment, treatment, counselling and referral for clients with alcohol or other drug related problems. The centre provides welfare, youth, media resource, HIV/AIDS services and a clean needle program. Services are also available at a number of local clinics.

Done Support Group

Support group for any Aboriginal person on a methadone program.

Nunga Users HIV Intervention Team (NUHIT)

Clean Needle Program.

Kalparrin Inc

Kalparrin Rehabilitation Farm

A residential program for Aboriginal people with alcohol or other drug related problems.

Arnold Gollan Wailie

An overnight and short-term emergency shelter/hostel.

Aboriginal Services Division (Department of Human Services)

Provides advice and support through consultation to Aboriginal community controlled health services and mainstream health services.

The Aboriginal Housing Authority maintains a service which identifies aboriginal people with alcohol and other drug problems and maintains links with agencies that provide treatment services.

Aboriginal Health Council of SA

Peak community body on Aboriginal health within SA. Aims to raise the health level of Aboriginal people by coordinating health programs throughout the State. Also engages in policy formulation and research into Aboriginal health needs.

Aboriginal Drug & Alcohol Council (SA) Inc

Research, planning and policy; alcohol and other drug awareness workshops; substance misuse strategies; advocacy; education, training and resources; support, networking and development of new strategies. Support for other indigenous services and field workers.

Port Augusta Sobering-up Centre

A 24-hour sobering-up service which also provides counselling, referral and support for people with alcohol or other drug related problems. A clean needle program is also offered. The service also provides transportation for intoxicated people to a safe environment. This is not an indigenous specific service, but has a large proportion of indigenous clients.

Ceduna Sobering-up Centre

A 24-hour sobering-up service which also provides counselling, referral and support for people with alcohol or other drug related problems. This is not an indigenous specific service, but has a large proportion of indigenous clients.

Ceduna/Koonibba Aboriginal Health Service

Primary health care for Aboriginal and non-Aboriginal people, including clinical treatment, antenatal care, children's health, health education, substance abuse services, counselling, assessment and

referral, departmental and community liaison. Home and community care, clean needle program.

Pika Wiya Health Service

Comprehensive treatment and preventive health service, primarily for Aboriginal people.

Yalata/Maralinga Health Service

Alcohol and Other Drugs Program

For Aboriginal people who are directly or indirectly affected by alcohol or other drug related problems (eg petrol-sniffing). Provides crisis care, counselling, advocacy, community education and resources, departmental and community liaison, supports youth programs and rehabilitation strategies. Also provides diversionary programs (eg camping trips).

Port Lincoln Aboriginal Health Service

Substance Misuse–Education & Drop-in Centre

For people who are directly or indirectly affected by alcohol or other drug related problems. Services include alcohol counselling and support, an alcohol and other drugs awareness program for families (5 consecutive half-days) and diversionary programs (eg fishing and camping trips, youth gym and aerobics).

Riverland Aboriginal Alcohol Program

An alcohol and other drug abuse prevention and rehabilitation service with one community house for the Riverland Aboriginal community.

Aboriginal Prisoners & Offenders Support Services Inc

Provides support to Aboriginal offenders and their families to minimise distress, sense of isolation and alienation by facilitating, visitation, provision of referral, information and advocacy services as well as pre-release support and training for prisoners, offenders and their families.

Other Programs

While not an indigenous specific service, the Salvation Army Sobering Up Unit (Adelaide) caters for a significant number of indigenous clients. The current Drug Court Trial in South Australia includes funding of $200 000 for Aboriginal specific services.

4. The Minister for Human Services is supportive of holistic health promotion in Aboriginal communities which addresses drug/alcohol/tobacco use, and prevention/early intervention. Examples of current programs include—

- The ADAC—Makin Tracks Project—funded by the Office of Aboriginal and Torres Strait Islander Health (OATSIH).
- Many Aboriginal community controlled services conduct alcohol and other drug education awareness programs within their local communities. These initiatives regularly receive support from ADAC and/or DASC staff.
- The Alcohol. Go Easy Program and the National Illicit Drugs Campaign Health Programs provide sponsorship funding for local initiatives.
- A field research project in tobacco control, focussing on the issues as they are faced in Aboriginal Communities, is being conducted under the auspices of The Aboriginal Health Council, SA. This project is designed to build on previous work and expand it to ensure that QUIT programs offered by Aboriginal Health Workers are culturally appropriate and therefore more effective.

5. Yes, when Aboriginal substance misuse education awareness materials are produced it is generally the practice to involve Aboriginal people with relevant expertise in the alcohol and other drugs field in the design and production phases and, indeed, traditional languages should be used in the promotion of these programs.

QUEEN ELIZABETH HOSPITAL

In reply to **Hon. R.R. ROBERTS** (3 May 2001) and answered by letter on 26 June 2001.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

Mr Peter Campos did not commence his role as Chief Executive Officer of The Queen Elizabeth Hospital (TQEH) on 1 May 2001. He began his new role as Chief Executive Officer of TQEH on 16 May 2001. The originally announced starting date for Mr Campos did not completely address the process of his relocation from Western Australia. The starting date of 16 May was mutually agreed upon by TQEH and Mr Campos and is ratified by contract.

FESTIVAL OF ARTS

In reply to **Hon. CAROLYN PICKLES** (29 May 2001).

The Hon. DIANA LAIDLAW:

1. The overall result of the 2000 Adelaide Festival was a deficit of $1 152 000. The Festival Board approved the use of available reserves, thereby resulting in a deficit for the Adelaide Festival Corporation of $883 000 at the end of the 1999-2000 financial year.

2. The Adelaide Festival Corporation does not have any reserves to apply to the 2002 Adelaide Festival. However, the Adelaide Festival has a risk management strategy in place for the 2002 Adelaide Festival whereby there are increased contingencies in each production budget plus a further contingency of $250 000 for the entire Festival.

3. The $883 000 shortfall is totally attributable to the 2000 Adelaide Festival.

4. The Adelaide Festival of Arts is a cutting edge festival which by its very nature has high risks, but high rewards. As a consequence of the lessons learned from the 2000 Festival, the Board of the Adelaide Festival has modified its risk management strategy to ensure effective financial and operational monitoring of the 2002 Festival, subsequent festivals and other activities. In addition, the Adelaide Festival and Arts SA will commission a review of the Adelaide Festival Corporation's operating structure to be completed by 31 July 2001 with the aim of ensuring that operations are efficient and cost effective.

5. The gross box office revenue for the 2000 Adelaide Festival was $2 432 000, including merchant fees and BASS charges of $143 000.

COONAMIA RAILWAY STATION

In reply to **Hon. R.R. ROBERTS** (31 May 2001).

The Hon. DIANA LAIDLAW: As the honourable member is aware, the Coonamia Rail Siding is located on the outskirts of Port Pirie and currently has a toilet block and a round concrete tank type construction—used as a train passenger shelter. Unfortunately, these facilities are often vandalised because of the isolated location of the siding.

The siding includes a hard stand area where the train's coaches pull up, as required. This arrangement involves the "on train staff" placing an aluminium foot step on the hard stand area, enabling easier boarding to coaches via the stairs. Great Southern Railway (GSR) has advised that this facility is considered satisfactory for passengers either joining or alighting from the Indian Pacific or Ghan trains.

The Australian Rail Track Corporation (ARTC) has a contracted security company which monitors its property and facilities in the area. Their number one priority is to meet the out bound Ghan and Indian Pacific trains arriving at Coonamia, and this is usually the case unless the ARTC Train Control has tasked them to another location as a result of an incident.

Last year, the Port Pirie Regional Council agreed to forward to me a suggested proposal to improve the area around the Coonamia Rail Siding. Transport SA has recently contacted the Council to ascertain its progress in developing the proposal. Apparently, there has been some confusion in regard to what was expected. This has now been resolved and Council will forward to me a suggested proposal for this area in due course.

STATE LIBRARY DIRECTOR

In reply to **Hon. CAROLYN PICKLES** (31 May 2001).

The Hon. DIANA LAIDLAW: Ms Bronwyn Halliday has been appointed to undertake a management consultancy for Transport SA—not Arts SA.

2. Ms Halliday's employment contract includes a right of private practice for a period of up to 10 per cent of the working weeks or 23 days. The contract obliges Ms Halliday to return 10 per cent of income from the consultancy to the State Library. The consulting right is limited to engagements which are broadly compatible with her position as Director of the State Library. This entitlement is a relatively standard condition for appointments in universities and the leaders of cultural institutions are considered to be in an analogous position.

3. The Transport SA consultancy has a value of $14 400 plus out-of-pocket expenses and is primarily concerned with organisation design of Transport SA's middle management.

It was not subject to tender because the delegations do not require it for consultancies valued below $50 000.

HOUSING, EMERGENCY

In reply to **Hon. SANDRA KANCK** (1 May 2000) and answered by letter on 26 June 2001.

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. There are currently 407 women in category 1 (applicants with highest needs, including women who have experienced domestic violence) on the waiting list.

2. From 1 December 2000 to 28 February 2001, the Housing Trust housed 285 women from category 1. The average waiting time for these women was 3.4 months.

3. The Women's Housing Association Inc, which provides medium to long term housing for women, is registered with and funded by the South Australian Community Housing Authority (SACHA) which is a government statutory authority. It is one of eight community housing organisations that receive funding additional to that generated from rent collection.

In the 2000-2001 financial year, SACHA provided the Women's Housing Association with additional funding of $84 000 to fund the Association's 1999-2000 operating deficit, $140 000 in annual recurrent funding and approximately $10 000 to fund the emergency services levy. In addition, the association will generate approximately $274 000 for operational purposes and $66 100 for major property maintenance from rent collection. This totals approximately $574 100 to fund the association's operation. The Women's Housing Association is an independent organisation which determines its level of operation including staffing.

SACHA has also provided the Association with two additional four-bedroom properties during this financial year.

4. In 2000-01, the Housing Trust is expecting to complete construction on 159 properties at a cost of $17.8 million. It is projected that this will increase to 200 properties at $19.9 million in 2001-02.

AIR TRAFFIC CONTROL

In reply to **Hon. CAROLYN PICKLES** (6 June).

The Hon. DIANA LAIDLAW:

1. The proposal to relocate the Adelaide Terminal Control Unit to Melbourne is still under consideration by Airservices Australia. I am advised that the feasibility study has now been completed, and Airservices Australia is currently seeking approval from the Federal Minister to proceed to the consultation phase. I have made representations to the federal minister. If the decision is taken to proceed to this phase, I have been assured that Airservices Australia will consult extensively with all stakeholders, including the South Australian Government, prior to any decision on the proposal. Key considerations of any decision will be safety and the impact on the industry.

2. I have been advised that safety is not an issue in this matter as any proposal will be subject to a rigorous safety analysis by Airservices Australia and the Civil Aviation Safety Authority. Any proposal which does not satisfy safety requirements will not be allowed to proceed.

I am very concerned about the possible loss of jobs.

Equally, I am aware that for some time Airservices Australia charges at Adelaide Airport have been amongst the highest in Australia. These charges impact on the development of international air services and tourism, not to mention higher costs to our regional airlines—and passengers overall.

MEN'S HEALTH

In reply to **Hon. SANDRA KANCK** (4 April).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

The completed policy and planning framework for men's health is expected to be in place by the end of June 2001. The State Budget has allocated $100 000 in support of the policy to invest in prevention, early detection and intervention strategies, and to ensure the provision of accessible, accurate and up-to-date information on men's health issues.

The Men's Information and Support Centre (MISC) has received funding of $14 750 in various amounts since November 1999 through the Minister for Human Services' Special Grants, together with funding of $15 000 in 1999-2000 and $26 800 in 2000-2001 from Community Benefit SA. MISC also receive ongoing funding of $4 500 per annum, confirmed to 2003, under the Family and Community Development Program.

The commonwealth government has officers that can assist agencies with commonwealth funding applications. The state office of the Family Relationships Services Program of the Commonwealth Department of Family and Community Services would be able to assist in this instance and to determine eligibility for funding under national guidelines. (Contact: Mr Paul Ford).

Since 1984, the Men's Contact and Resource Centre, known since 1999 as the Men's Information and Support Centre, has played a valuable role in providing both men and women with information and referral to other services.

ORTHOPAEDIC SURGEONS

In reply to **Hon. J.S.L. DAWKINS** (17 May).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. The report is accurate.

2. Country regions face great challenges in retaining orthopaedic specialists, who have been the highest surgical specialty moving to Adelaide. The Riverland Health Authority commissioned the Brennan Report in 1997 which acknowledged the need for a resident orthopaedic surgeon as one of the highest surgical priorities for the region. In response to the Brennan Report, the Riverland Health Authority engaged the services of Dr John Penna as the Brennan Report implementation officer. In May 1999, support in principle was obtained from the visiting orthopaedic surgeons to recruit a resident orthopaedic surgeon.

In early 2000, following a nationwide call for a resident orthopaedic surgeon, Dr Rob Burness contacted the region, and the Riverland Health Authority subsequently arranged for him to visit the region, in July 2000. Following detailed discussions in December 2000, arrangements were made for Dr Burness to again visit the region in February 2001.

A further meeting was scheduled in March 2001 with the visiting orthopaedic surgeons to meet the prospective resident orthopaedic surgeon, Dr Burness, to discuss how to best complement a resident orthopaedic surgeon service with visiting orthopaedic surgeons.

In 1999-2000, the region spent $565 000 on patient transport/transfers to Adelaide. The appointment of a resident orthopaedic surgeon should result in a reduction of transport costs for each health unit, thereby enabling additional and new services to be provided locally.

The Riverland Health Authority offered Dr Burness employment in May 2001, and Dr Burness commences on 23 July 2001.

3. Having specialists in general surgery, anaesthetics, obstetrics and gynaecology, and now orthopaedics, the Riverland caters (with the support of general practitioners) for the major specialties required by the local community as identified in the Brennan Report.

RAIL SERVICES, OVERLAND

In reply to **Hon. J.S.L. DAWKINS** (5 June).

The Hon. DIANA LAIDLAW: I refer to my undertaking on 5 June 2001 to provide the honourable member with figures on the increased patronage associated with the Overland Rail Service.

In the following table the patronage figures for 2000 represent the trial period, and are compared with the equivalent period in the prior year.

Numbers (000's)	May	June	July	Aug	Sept	Oct	Nov	Total
2000	4 734	6 521	8 560	5 199	7 672	6 964	6 223	45 873
1999	4 127	4 059	7 157	4 666	6 709	6 739	5 583	39 040
Per cent Increase	15 per cent	61 per cent	20 per cent	11 per cent	14 per cent	3 per cent	11 per cent	18 per cent

As can be seen, the trial daytime service and subsequent marketing campaign has resulted in a considerable 18 per cent rise in patronage during the trial period. It must also be pointed out that the above table has no adjustment to represent that the Overland Service operated five services per week during the 1999 year, and only four services during the trial period.

HALLETT COVE, TOWN HOUSES

In reply to **Hon. T.G. CAMERON** (15 May).

The Hon. DIANA LAIDLAW: Planning SA has undertaken an investigation of the issues and discussed the matter with the City of Marion. It is understood that the site has been surrounded by security fencing to prevent, as far as possible, trespass on to the property.

For the honourable member's interest, this matter is the responsibility of the City of Marion and it would be inappropriate of me to interfere with actions taken by the council pursuant to the Development Act. Since the issuing of the stop work order by the council on the grounds that the developer, the Moore Corporation, had not taken out housing indemnity insurance before commencing work and work was not in accordance with the development approval, the Council has sought legal advice as to its options. The Development Act provides the following mechanisms where work has not been completed or development has not been undertaken in accordance with an approval:

- Section 55 of the Development Act provides the opportunity for a Council to apply to the Environment, Resources and Development Court for an order to require the removal or demolition of any building which has not been completed within the time prescribed by the development regulations. Where the person does not comply with the order they are guilty of an offence, and the council can undertake the work and recover the costs from the person.
- Section 56 of the Development Act also allows the council to serve notice on the developer requiring the work to be completed. If the developer fails to comply with the notice the council may cause the work to be carried out and the costs recovered from the owner.
- Section 85 of the Development Act allows the Council (or any person) to apply to the Environment, Resources and Development Court to remedy a breach of the Act. The court may direct the developer to make good the breach which in this case may be to construct the development in accordance with the approval and legal requirements.

Council is aware of these options and has sought extensive legal advice. Its view, in these particular circumstances, would appear to be that any action in the court would be extremely costly and, at the end of the day, unlikely to result in the building being demolished or completed by the developer. It does not consider it appropriate to spend considerable amounts of its rate payers' money on what it has been advised is likely to be a fruitless exercise. Council considers that at some stage the developer will have to determine a way to complete the development or realise the asset by selling it.

I am unable to direct the City of Marion as to what action it should take in this matter. It will need to continue to determine the most appropriate course of action, taking into account its legal advice and the impact on its ratepayers.

BIODIESEL FUEL

In reply to **Hon. T.G. CAMERON** (29 March 2001).

The Hon. DIANA LAIDLAW: The Minister for Environment and Heritage has provided the following information:

A life cycle study comparing biodiesel and petroleum diesel use in buses was undertaken for the US Departments of Energy and Agriculture. The study found the following exhaust emissions reductions: hydrocarbons 37 per cent, carbon monoxide 46 per cent, and particles (PM10) 68 per cent.

Taking into account production emissions, the use of biodiesel resulted in 78 per cent less carbon dioxide, 35 per cent less carbon monoxide, 8 per cent less sulphur oxides, and a 32 per cent reduction in particle emissions. This must be balanced against overall increases in hydrocarbon emissions by 35 per cent and nitrous oxide by 13 per cent.

It is the need to make these balancing assessments of the effects on health and the environment that requires such careful consideration and research to determine the value of alternative fuels.

2. The Department of Industry and Trade is managing a scoping study on issues relating to carrying out verification trials on canola and biodiesel fuels. Among other issues, the scoping study addressed how the use of seed oils (canola etc) relates to South Australia's interests and identifying the possible benefits, including economic benefits. However, the main objective of the study was to make recommendations on key industry and government participation in trials (measuring engine wear, material compatibility, exhaust emissions, etc) using biodiesel fuels. A South Australian Government Agency Reference Group has been formed to consider the results of the study.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable me to move two motions without notice relating to leave to introduce bills.

Motion carried.

COOPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act relating to administrative actions by commonwealth authorities of officers of the commonwealth under the Agricultural and Veterinary Chemicals (South Australia) Act 1994, the National Crime Authority (State Provisions) Act 1984 and other state cooperative scheme laws; and for other purposes. 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 is part of a legislative response to the decision of the High Court in *The Queen v Hughes* (2000) 171 ALR 155 and other related matters.

The decision of the High Court in *Hughes* has cast doubt on the ability of Commonwealth authorities and officers to exercise powers and perform functions under State laws in relation to several intergovernmental legislative schemes. In *Hughes*, the High Court indicated that, where a State gave a Commonwealth authority or officer a power to undertake a function under State law together with a duty to exercise the function, there must be a clear nexus between the exercise of the function and one or more of the legislative heads of power of the Commonwealth Parliament set out in the Commonwealth Constitution. *Hughes* also highlighted the need for the Commonwealth Parliament to authorise the conferral of duties, powers of functions by a State on Commonwealth authorities or officers.

The object of this Bill is to deal with doubts cast by the decision in *Hughes* on the ability of Commonwealth authorities or officers to exercise powers and perform functions under State laws in relation to the following inter-governmental legislative schemes:

(a) the co-operative scheme for agricultural and veterinary chemicals; or
(b) the co-operative scheme for the National Crime Authority; or
(c) any other co-operative scheme to which the proposed Act is applied by proclamation.

This Bill ensures that functions or powers are not imposed on Commonwealth authorities and officers in connection with administrative actions under the schemes if their imposition would exceed the legislative powers of the State, and validates any such previous invalid administrative action.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Definitions

This clause defines certain words and expressions used in the proposed Act. The expression invalid administrative action is defined as an administrative action taken by a Commonwealth authority or officer pursuant to a function or power conferred under a co-operative scheme established by a relevant State Act to which the proposed Act applies, and that is invalid because its conferral on the Commonwealth authority or officer is not supported by a head of power in the Commonwealth Constitution.

Clause 4: Co-operative schemes to which this Act applies—relevant State Acts

This clause defines the relevant State Acts to which the proposed Act applies, namely, the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*, the *National Crime Authority (State Provisions) Act* and any other State Act declared by proclamation of the Governor. The clause enables the relevant commencement time for the validation under the proposed Act to be declared by proclamation.

Clause 5: Administrative functions and powers conferred on Commonwealth authorities and officers

This clause ensures that a relevant State Act is construed as not conferring a duty on a Commonwealth authority or officer to perform a function or exercise a power if the conferral of the duty would be beyond the legislative power of the Parliament of the State. In the case of the co-operative scheme for agricultural and veterinary chemicals, the clause complements the Commonwealth *Agricultural and Veterinary Chemicals Legislation Amendment Bill 2001* (which seeks to authorise the conferral of duties on Commonwealth authorities and officers by State law to the fullest extent that is constitutionally possible).

Clause 6: Invalid administrative actions to which Part applies

This clause provides that the proposed Part applies to previous invalid administrative action, namely any such action taken or purportedly taken under a relevant State Act before the commencement time in relation to that Act (the relevant commencement time).

Clause 7: Operation of Part

This clause deals with the operation of the proposed Part. Clause 7(1) provides that the proposed Part extends to affect rights and liabilities that are or have been the subject of legal proceedings. Clause 7(2) provides that the proposed Part does not affect rights and liabilities arising between parties to legal proceedings heard and finally determined before the relevant commencement time to the extent to which they arise from, or are affected by, an invalid administrative action.

Clause 8: Legal effect of invalid administrative actions

This clause provides that every invalid administrative action to which the proposed Part applies has (and is deemed always to have had) the same force and effect as it would have had if it had been taken by a duly authorised State authority or officer of the State. The clause does not in terms validate administrative actions taken by Commonwealth authorities and officers, but rather attaches to the actions retrospectively the same force and effect as would have ensued had the actions been taken by State authorities and officers (a similar distinction was drawn in *The Queen v Humby, Ex parte Rooney* (1973) 129 CLR 231).

Clause 9: Rights and liabilities declared in certain cases

This clause complements clause 8 and does not affect the generality of clause 8. The clause declares that the rights and liabilities of all persons are (and always have been) for all purposes the same as if every invalid administrative action to which the proposed Part applies had been taken by a duly authorised State authority or officer of the State.

Clause 10: This Part to apply to administrative actions as purportedly in force from time to time

This clause ensures that the proposed Part does not reinstate administrative actions that, since the action was taken, have been affected by another action or process. For example, if a decision has been altered on review, the proposed Part does not reinstate the decision in its original form. The proposed Part applies to the decision as it is affected by later actions from time to time.

Clause 11: Act binds Crown

This clause provides that the proposed Act binds the Crown.

Clause 12: Corresponding authorities or officers

This clause provides that it is immaterial for the purposes of the proposed Act that a Commonwealth authority or officer does not have a counterpart in the State, or that the powers and functions of State authorities or officers do not correspond to the powers and functions of Commonwealth authorities or officers.

Clause 13: Act not to give rise to liability against the State

This clause provides that the proposed Act does not give rise to any liability against the State.

Clause 14: Regulations

This clause empowers the making of regulations for the purposes of the proposed Act.

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

CRIMINAL LAW (SENTENCING) (SENTENCING PROCEDURES) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988; and to make related amendments to the Summary Procedures Act 1921. 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 amends the provisions of the Criminal Law (Sentencing) Act 1988 dealing with sentencing procedures, and also makes consequential amendments to the Summary Procedure Act.

First, the bill would amend s.7A of the Criminal Law (Sentencing) Act, being the provision which allows a victim of an indictable offence to furnish to the court a statement about the impact of the offence on the person and his or her family. At present, while the Act permits a victim to read the statement aloud to the court, it does not appear that the vulnerable witness measures which are available in the Evidence Act to protect certain witnesses while giving evidence, can be used. That is, there is no statutory provision for the victim in reading out this statement to be screened from viewing the defendant, to read the statement via closed-circuit television, or to have a support person present. These measures are only available when the victim is giving evidence.

The government considers that there is no persuasive reason why the court should not be able, in its discretion, to permit the use of these measures at a sentencing hearing when the victim reads out a victim impact statement. This may make it possible for a victim to read out the statement, when otherwise he or she would be too intimidated to do so. There is no need to limit these measures to a victim who would have qualified to use these measures when giving evidence. It is appropriate that they be available, in the court's discretion, to any victim who chooses to use s.7A. This is because, regardless of the nature of the offence or the age of the victim, this can be a confronting situation. Of course, as always, the use of the measures is in the court's discretion. The court will need to be satisfied in the particular case that there is good reason to permit the use of a measure.

Second, the bill would insert a new s.9B into the part of the Act dealing with sentencing procedures. It is the normal practice of the superior courts to have the defendant present during sentencing. This section stipulates that a defendant who is to be sentenced for an indictable offence must be present in court throughout all proceedings relevant to the determination of sentence, and when the sentence is imposed. This would include, for example, being present when a victim impact statement is read out in court, and when the sentencing judge makes any sentencing remarks. The government believes this is what the public expects. It is obviously a desirable thing that the defendant be there, in part so that he or she can challenge any disputed factual material being put to the court as a basis of sentencing and, in part, so that he or she can hear first hand any victim impact statement and any sentencing remarks. In this way, the impact of the crime can be brought home to the offender.

Of course, there may be some exceptional instances in which the defendant should not be required to be present. An example might be where the parties have agreed that a date set for some part of the sentencing process should be merely adjourned to another date, for example because an expert report is not ready. For this reason, the bill permits the prosecution and the defence to agree that the defendant may be absent. However, where there is no agreement, generally, the defendant must be present.

The other exception is where the court considers it necessary to exclude the defendant from the courtroom in the interests of safety or for the orderly conduct of the proceedings. Of course, this will be

rare. More often, I expect that the courts would deal with a problem of this type by placing the defendant under restraint, or by a short adjournment. Cases where misbehaviour on the part of the defendant should lead to him or her being excluded from the court will no doubt be very exceptional. However, where this occurs, the bill provides that where it is practicable to do so, the court is to make arrangements for the defendant to see and hear the proceedings by video-link. It is accepted that this may not always be practicable, of course.

In some cases, a company may be guilty of an indictable offence. An example would be where a company commits the offence of intentional and serious environmental harm, under s.79 of the Environment Protection Act. In that case, the bill requires that a director or some other representative of the company be present in court. However, either the prosecutor or the court may waive this requirement. For example, a waiver might be appropriate where the company has no local presence (as for example where the offence is committed by a vessel visiting South Australian waters).

The bill makes clear that the court has power to do what is necessary to compel a defendant to attend for sentencing proceedings. This includes a power to issue a warrant to have the defendant arrested and brought before the court.

However, the bill does not invalidate a sentence which is, for whatever reason, passed in the absence of the defendant. In particular, it does not prevent a defendant from being validly sentenced where he or she has absconded or cannot be found.

Finally, the bill makes consequential amendments to sections 103 and 105 of the Summary Procedure Act. Those sections deal with the procedure where a person charged with a minor indictable offence is tried summarily. As that Act presently stands, those defendants, unless they otherwise elect, are tried in the same manner as if charged with summary offences. As a result, under s.62C, if the court intends to impose a sentence of imprisonment, or a licence disqualification, the defendant must be given the opportunity to attend, but if he or she does not do so, the court may proceed in the person's absence. Attendance is, by implication, not compulsory. This procedure is inconsistent with what this bill intends in the case of minor indictable offences. Clause 4 makes clear, therefore, that the compulsory attendance requirement imposed by this bill is to be applied by the court in trying an indictable offence summarily.

I consider that the measures in this bill are matters of common sense. Once it is accepted that a victim should be at liberty to read out a statement, it is reasonable that he or she should be able to have this process facilitated by the use of vulnerable witness measures where appropriate. Likewise, I believe the public expects a defendant who has been found guilty of an indictable offence to be required to attend court during sentencing proceedings, and to hear any victim impact statements and any sentencing remarks which the court may address to him or her. The object is to bring home to the defendant, as directly as possible, the consequences of the offence and the way in which it is viewed by the court.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 7A—Victim impact statements

This clause amends section 7A of the principal Act which deals with victim impact statements. A victim is entitled under this section to read the statement to the court. This amendment empowers the court to exercise any of the powers that it has to protect vulnerable witnesses to encourage or assist a victim in the exercise of this right.

Clause 3: Insertion of s. 9B

This clause inserts new section 9B into the principal Act. New section 9B requires a defendant who is to be sentenced for an indictable offence to be present throughout the sentencing proceedings. The prosecutor may, however, allow the defendant to be absent during the whole or part of the proceedings and the court may exclude the defendant from the courtroom if it is necessary to do so in the interests of safety or to prevent the defendant from disrupting the proceedings. If the defendant is a body corporate, a director or other representative of the defendant satisfactory to the court must be present (subject to a provision that allows either the prosecutor or the court to waive the requirement). The court is empowered to make any order necessary to secure compliance with the requirements of the new section and, if necessary, to issue a warrant to have the defendant arrested and brought before the court.

Clause 4: Amendment of Summary Procedure Act 1921

This clause makes consequential amendments to the Summary Procedure Act 1921. The purpose is to make it clear that the sentencing procedures apply where a minor indictable offence is dealt with summarily under the provisions of that Act.

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

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 1771.)

The Hon. IAN GILFILLAN: I rise to speak on behalf of the Democrats supporting this bill. I note from the outset the Attorney-General has asked that this bill be dealt with in the current sitting and I indicate that we will support the passage of this bill through this week, preferably today. The bill arises as a result of a 1999 High Court decision in relation to the Wrongs Act 1936. The decision was made in the case of Astley v. Austrust and relates to the effect of contributory negligence in cases of breach of contract. Section 27A of the Wrongs Act 1936, which deals with the apportionment of liability in cases of contributory negligence, maintains that people who claim damages for a breach of duty of care can recover only a percentage of damages if it is found that they have contributed by their own negligence to their loss.

Although it is clear that this applies under common law of tort, it has been a matter of debate whether it applies to contract law. The case of Astley v. Austrust has removed this doubt with the High Court ruling that the Wrongs Act 1936 did not apply to claims for breach of contract. I note that the Attorney-General stated:

> The overwhelming response to the decision in Astley v. Austrust from legal practitioners, academics and the insurance industry was that the statute should be changed.

The Democrats agree with moves to amend this legislation. The solution that has been suggested by the Attorney-General is to remove the existing provisions from the Wrongs Act 1936 and to enact new legislation, namely, this bill which is currently before us. The bill will apply to liability and damages that arise under the law of torts, damages for breach of a contractual duty of care, as well as damages that arise under statute. It will allow the courts to reduce a plaintiff's damages in cases where their contributory negligence is involved in a case of breach of contractual duty of care. The bill addresses the concerns raised about the implications of the High Court ruling in the case of Astley v. Austrust and also updates sections 24 to 26 of the Wrongs Act 1936.

In closing, I note that today I have in fact received a number of amendments to the bill—which is pretty hasty time in which to consider them. They were filed by the Attorney-General. On a quick assessment they seem to be minor amendments to the bill and will obviously be dealt with in the committee stage, so unless there is some hidden matter of concern in those amendments we will support the passage of the bill at the second reading, through the committee stage and to its finality.

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

A quorum having been formed:

The Hon. T.G. CAMERON: The background to this legislation is that the High Court in the case of Astley v. Austrust interpreted section 27A of the Wrongs Act 1936 (South Australia), which provided for contributory negligence

to reduce the fully determined amount of damages, to apply only to damages in tort. However, it had been established legal practice that it also applied to breaches of contractual duty of care. This bill will allow the courts to reduce the plaintiff's damages due to contributory negligence in cases of breaches of contractual duty of care.

Contribution provisions between tortfeasors will now be applicable for breach of contractual duty of care. The Supreme Court raised this problem in Duke Group v. Pilmer No. 2. These provisions will be removed from the Wrongs Act and placed in their own act as apply equally to contract and tort law. The bill is not retrospective but will apply in situations where the facts of the case occur before and after its enactment. SA First supports this bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the second reading of this bill. The bill is about an area of the law that has been productive of a vast number of decisions of courts of appeal, academic texts and other articles, and some Law Reform Commission reports, and they have often taken different points of view. The bill will affect many people who are involved in litigation in which damages are claimed in a wide variety of circumstances. The subject matter of the bill is legally complex and in some ways technical, and for that reason I sent a draft of the bill to approximately 90 people, including the Insurance Council of Australia, members of the judiciary, the Law Society of South Australia, the South Australian Bar Association, the Plaintiff Lawyers Association, the two South Australian law schools, a number of law firms and a number of professional bodies.

During June, I received responses on the bill (as I had introduced it into parliament) from 12 organisations and individuals which were all supportive of the reform. There has actually been quite a bit of pressure to get the reform in place as early as possible, and some would certainly have liked it to be earlier than now but, as I have said, it is a particularly complex and technical issue which needed some time and care.

A number of comments about the possible interpretation of the bill were made by well-qualified respondents. As a result of that, there are a number of amendments which are largely of a technical nature, but they will certainly improve the bill as it leaves the Legislative Council. I thank members for their preparedness to deal with it and to address this highly technical and complex issue.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

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

Page 3, line 15—Leave out the definition of 'derivative harm' and insert the following:

'derivative harm' means harm suffered as a result of injury to, or death of, another (but does not include nervous shock arising from injury to, or death of, another);

Examples—

1. The loss suffered by dependants as a result of the death of the person on whom they are dependent (See part 2 of the Wrongs Act 1936).

2. Loss or impairment of consortium (See section 33 of the Wrongs Act 1936).

3. Business losses resulting from injury to or death of spouse who participated in the business (See section 34 of the Wrongs Act 1936).

A comment on the bill indicated that there could be some doubt about how clause 7 of the bill would apply to claims for damages by persons who suffer nervous shock. There is no doubt that a person who suffers nervous shock as a result of being directly involved in an incident would have his or her contributory negligence taken into account. It was said that the bill was not as clear as it might be in cases in which the person who suffers nervous shock was not directly involved in the incident. An example is a bystander who suffers nervous shock when he or she witnesses a shocking accident. Another example would be a person who is not present at an accident involving a close relative such as his or her child or spouse but who suffers nervous shock when seeing the relative's serious injuries or dead body.

A person who suffers nervous shock but who is not directly involved in the incident may have a good cause of action that is independent of anyone else's rights. His or her cause of action is not derived from the fact that someone else has, or if he or she had lived would have had, a good cause of action: thus the claim is not a derivative action. As such, the damages are not subject to reduction on account of the negligence of any person who is directly involved in the shocking incident. The changes to the definition of 'derivative harm' will put beyond doubt the fact that the bill is not intended to change this aspect of the law.

The Hon. CAROLYN PICKLES: The opposition indicates its support for the amendment.

Amendment carried.

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

Page 3, line 27—Leave out '(and includes any such breach of duty that amounts to a crime)'.

This amendment must be read together with the amendment to clause 6(2). These words will be taken out of the definition of 'fault' in clause 3 and an equivalent provision included in clause 6(2)(a). This provision is not needed in the context of contributory negligence, but it is needed in the context of contribution between liable parties. Therefore, the appropriate place for it to be is in clause 6, which deals with contribution. This does not affect any change in the law. The provision is carried forward from the existing contribution provisions in section 25 of the Wrongs Act 1936.

Contribution proceedings are proceedings issued by a defendant who is liable to the claimant against another person who would have been liable if the claimant had sued him or her. In the contribution proceedings, the defendant claims contribution towards his or her liability to the claimant from the third party. The provision is needed to negative the argument that the defendant cannot found an action against a third party on his or her unlawful act.

The Hon. CAROLYN PICKLES: The opposition supports the amendment. I indicate support for all the amendments to be moved by the Attorney-General.

Amendment carried.

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

Page 3, line 29—After 'kind' insert '(whether the harm is primary or derivative)'.

The words in parenthesis will be added to the definition of 'harm'. It was suggested that it was not entirely clear that clause 6 concerning contribution between liable parties applied to liability for damages awarded for derivative harm. This amendment will put beyond doubt that it does.

Amendment carried.

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

Page 3, line 31—Leave out the definition of 'primary liability'.

This is a correction. As a result of an oversight, this definition was left in from a previous draft. As the term 'primary

liability' is not now used elsewhere in the bill, it is to be deleted.

Amendment carried; clause as amended passed.

Clause 4.

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

Page 4, lines 8 and 9—Leave out subclause (2).

This amendment must also be read together with the amendment to clause 6(2). I will deal with that amendment in a moment.

Amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6.

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

Page 4, lines 30 and 31—Leave out subclause (2) and insert:

(2) The right to contribution—

(a) exists even though the act or omission that gave rise to the liability of the person seeking to recover contribution may amount to an offence; and

(b) extends to liabilities incidental to damages (such as a liability for interest),

(but the right is subject to any other statutory provision[1] that may operate to modify, exclude or limit it in a particular case).

Page 5—

Line 10—Leave out '(by judgment, agreement or in any other way)'.

Line 33—Leave out 'the fault' and insert 'the act or omission'.

[1] See for example section 111 of the Supreme Court Act 1935 which deals with apportionment of liability in the case of a collision between ships at sea.

In relation to the first amendment, as I have already mentioned, the right of a defendant to claim contribution is not to be defeated by the fact that the act or omission that gave rise to the liability to the plaintiff was an offence.

Clause 6(2)(a) as set out in the amendment will maintain that position. Clause 6(2)(b) is the same as clause 6(2) of the bill: the only change is the renumbering. The words of the amendment in parenthesis have resulted from a comment on the bill. The bill contains provisions of general application. The bill is not intended to override any other statutory provisions that deal with contributory negligence, contribution or apportionment between liable parties.

It has been suggested that because clause 7 concerning contributory negligence expressly provides that the section applies subject to any other statutory modification, exclusion or limitation, the absence of an equivalent expressed provision in clause 6 concerning contribution between liable parties might lead to an argument that it was the intention of the parliament that the contribution provisions of the bill take precedence over other legislation concerning contribution. This amendment would prevent an argument to this effect. Once this is done, clause 4(2) becomes unnecessary.

The second amendment deletes certain words, and those words appear in clause 6(4)(b) of the bill. Clause 6(4) sets the time limit within which proceedings for contribution must be issued. The words to be deleted were included in the bill by way of explanation when the liability of the defendant to the plaintiff for damages is finally determined. The Law Society has suggested that the words 'in any other way' are not sufficiently precise and that the words in parentheses might result in the words finally determined being given a narrower meaning than they would otherwise have. For this reason, the words in parentheses are to be deleted.

I turn now to the third amendment. It was realised during consultation on the bill that using the word 'fault' in clause 6(9)(b)(i) resulted in it having a narrower meaning than the rest of clause 6. This is because the application of clause 6 is governed by clause 4, which is wider than the definition of 'fault'. This is not what was intended, and this amendment is by way of correction. I commend the three amendments to the committee.

Amendments carried; clause as amended passed.

Clause 7.

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

Page 6, lines 10 and 11—Leave out "an act or omission for which another is liable in damages" and insert:

by another's fault

Section 27A of the Wrongs Act, which clause 7 replaces, normally does not allow for the contributory negligence of the claimant to be taken into account when the tort that gives rise to the claimant's claim is an intentional tort. Examples of intentional torts are battery and assault, and false imprisonment and trespass, being intentional damage to another person's property. This has long been the policy of the law.

It was decided by the Standing Committee of Attorneys-General that the bills introduced to reverse the effects of Astley and Austrust would not change this aspect of the law. It was not intended to change it by this bill. However, it was realised during the consultation that because of the wording of clause 7(2), particularly when read with clause 4, it in fact would change the law in this way. The change in the drafting is to correct this.

Amendment carried; clause as amended passed.

Clause 8.

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

Page 6—

Line 25—Leave out "incident" and insert "act or omission".

Line 28—Leave out "incident" and insert "act or omission".

Lines 29 to 31—Leave out subclause (3) and insert:

(3) This Act applies to a cause of action that arises in part from an act or omission that occurred before its commencement and in part from an act or omission that occurs on or after its commencement.

These three amendments are all for the same purpose. It was pointed out during consultation that the word 'incident' might not be apt to cover a passive breach of a duty such as a mistake in the drafting of a document or a faulty design in a structure or an oversight. For this reason the word 'incident' is to be replaced in each of these subclauses by the words 'act or omission', which clearly cover both active and passive breaches of duty.

Amendments carried; clause as amended passed.

Clause 9 and title passed.

Bill read a third time and passed.

GRAFFITI CONTROL BILL

In committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. CAROLYN PICKLES: I move:

Page 5—

Line 3—Leave out 'this part' and substitute:

section 4 or section 6

Line 5—Leave out 'the enforcement of this part' and substitute:

enforcing a provision of this part that the person is authorised to enforce

Line 9—Leave out 'this act' and substitute:

this part that the person is authorised to enforce

The first amendment follows up the local government's objection to having to enforce section 5, the sale of cans of spray paint to minors, which is why the reference to the entire

part has been deleted and replaced with proposed new sections 4 and 6. The remaining two amendments are consequential on the above. I remind members of the comments that I made regarding the Local Government Association in relation to this section of the bill. I quote from the correspondence of 31 May:

> That councils be given the option to choose to exercise either specific powers or all of the powers available to them in part 2 of the bill. For example, a council may be willing to have an authorised officer inspect premises to ensure spray paint cans are locked away and that a sign is displayed, but may not wish to monitor and exercise the offences provided for in section 5. In this example the police could undertake the powers available through section 5 in a local area, perhaps in consultation/partnership with local councils.

And again, I have recently received a fax from the Local Government Association, dated 2 July, which was yesterday, where it responds to the Attorney-General obviously having forwarded the association some amendments he has to another part of the bill. But in relation to this part, it is still seeking to have an amendment to section 7, to make it clear to the community when a council has chosen to exercise some but not all of the powers available to it under part 2. So, in accordance with the request from the Local Government Association, which is going to have to administer this legislation, we feel that it is important to take into consideration its concerns.

The Hon. K.T. GRIFFIN: The government opposes the amendments. I think there has been some misunderstanding about what is or is not the power of a council and the powers to be exercised by an authorised person. If we deal with clause 7, it does set out the powers of appointment and the powers of authorised persons and provides that the council may appoint a person under section 260 of the Local Government Act as an authorised person for the purposes of the enforcement of this part. This part deals with cans of spray paint to be secured, sale of spray cans or spray paint to minors and the notices which are to be displayed.

It seems that, for some curious reason, the Local Government Association believes that this obliges it to appoint authorised persons and to compel them to investigate all three offence provisions. In section 4, of course, the authorised officer can still deal with the security of cans of spray paint and notices displayed under clause 6, but the sale of cans of spray paint to minors is one for which the authorised person would not be authorised to act. I just find that curious because there are councils around South Australia which, I think, would be well prepared to have authorised officers actually dealing with all three of the offence provisions, particularly those that are active in dealing with graffiti removal and the prevention of graffiti vandalism.

The bill does not compel councils to enforce the prohibition on sale of spray paint to minors. It merely—and this has to be clear—confers on councils the power to investigate such offences if they wish. It is entirely optional. It is possible that an individual council will wish to privately prosecute a retailer for contravening the prohibition provision and, therefore, it will need to investigate the offence in preparation for the prosecution. Now, just leaving the power there will not compel councils to use it. It is desirable, in my view, that the power be there for councils should they desire to use it at some time in the future.

The second amendment to clause 7 is consequential. It has the effect of removing the power for authorised persons to enter premises to enforce the prohibition on the sale of spray paint to minors. For the reasons I have already given, that is opposed. It will be very curious if that power to enter premises for that particular purpose is removed, yet when an authorised officer goes on to the premises and finds that there is some evidence that that provision is being contravened, what does the authorised person do? Does he or she immediately hightail it out the door or ignore that evidence of an offence that might have been committed and merely focus upon the notice provisions, that is, are they displaying the right notice? The notice, with respect, is a minor offence compared with the sale of spray paint to minors. I would have thought that any council anxious to use this as part of an overall strategy to deal with graffiti would at least like to have the option to use this power.

The third amendment is again consequential. It has the effect of removing the flow on investigatory powers for authorised persons to enforce the prohibition on the sale of spray paint to minors. Again, I would have thought that what I have had to say, that is, that there are choices for local government in this bill which it is not compelled to exercise, would be welcomed by local government because some local government bodies have been calling for stronger powers to deal with graffiti related offences. What the Local Government Association is doing in putting this proposition is saying, 'We speak for all councils; no council is to have this power or wants this power.' I do not believe that that is an appropriate way to address this.

It is clear that the police can enforce this because they are summary offences. In fact, any citizen can issue a complaint, but particularly for local government which, under the graffiti prevention strategy of the state government (particularly through crime prevention), takes a leading role. Why should it not have the necessary authority and power to act in this way if a particular council, in developing its strategy and implementing it, says, 'We think we need this sort of power because this is a particular problem in our area'? What is the problem with at least putting it in the legislation so that it is there if it ever wants to use it? It does not have to use it, and that is its choice. But removing it now means it does not have the choice. I suggest that that is very short-sighted. I strongly oppose the amendment by the Leader of the Opposition for those reasons, which I would hope are powerful and persuasive reasons for giving local government a choice.

The Hon. CAROLYN PICKLES: Clearly the Local Government Association does not agree with the Attorney. I do not have a copy of his letter indicating his views on this issue. If we go back to 30 May, when the Local Government Association first contacted me, it stated that it was not even aware of this bill and became aware of it only when it was tabled in parliament. Clearly it stated that there was no consultation prior to the bill's being tabled in parliament in legislation that directly impacts on the actions of local government. It is quite right for the Local Government Association to have contacted the opposition, the Attorney and other members, I understand, to register its objections.

As I have already indicated, I met with the Local Government Association and it indicated in correspondence to me dated 31 May its concerns about this and another provision that we will deal with later, which the Attorney has now adequately addressed, although I still have a question. Again on 2 July, only yesterday, having presumably either talked to the minister or some of his officers, they are still stating that they have some concerns about this provision. In order that the local government concerns are addressed, we will still insist on these amendments because we do not believe that local government should be forced to do something that will

clearly be of difficulty to it. Perhaps the Attorney will indicate whether he has had ongoing discussions with the Local Government Association, because as late as yesterday it was still not happy with the propositions the Attorney is putting forward today.

The Hon. K.T. GRIFFIN: There was some criticism from the Local Government Association that it had not been consulted in the development of the bill. I responded to that by letter of 18 May to the President of the Local Government Association stating as follows:

> Thank you for your letter of 10 May—

so, I did respond within a week—

> I note your disappointment about not being consulted in relation to the Graffiti Control Bill 2001 prior to its introduction on 2 May. The government took the view that in this instance it was preferable to introduce the bill as a preferred basis to consult.
>
> Frequently it is better to introduce a bill which can then be circulated widely for the purposes of discussion and consultation. I have adopted this process in the past and found it of assistance for interest groups to have in front of them a bill and second reading speech.
>
> It was always my intention to consult the Local Government Association and others following introduction of the bill. The bill has been widely circulated with an invitation to groups and organisations to provide comments. I note that you are circulating the bill to local councils, many of whom have already indicated their support and look forward to receiving your comments as soon as possible. Can this be by Monday 28 May because the government is anxious to proceed?

I subsequently received a letter from the Local Government Association on 31 May. That letter raised a number of issues, some of which are still being addressed. I responded on 6 June, again to the President, as follows:

> Thank you for your letter dated 31 May 2001 providing comment on the Graffiti Control Bill 2001. I note your advice that not all councils support all provisions contained in the bill. It appears, however, that some of these concerns are based on misconceptions regarding the operation of the bill. You ask that councils be given the option to choose which powers they wish to exercise under part 2 of the bill in relation to the sale of spray paint provisions, for example, to enforce compliance with the storage and signage requirements but not the sale to minors offence. There is nothing in the bill which compels councils to exercise the powers of enforcement conferred on them in part 2, therefore there is nothing stopping them from using their powers to enforce all, or some, or even none, of the offences under part 2.
>
> Some councils have been active in monitoring compliance with the voluntary code of practice which is in place to ensure that retailers store spray paint in such a way that it cannot be easily stolen. I am aware that it is councils in particular who have had the frustration of dealing with some retailers who do not comply with the voluntary code and who have called for the restrictions on the sale of spray paint to be made mandatory to assist them in their strategies to reduce graffiti. The powers are now there so that councils can continue to monitor compliance with restrictions on the sale of spray paint if they wish to once the restrictions are made mandatory.
>
> There appears to have been a similar misinterpretation of the provisions of the bill conferring power on councils to remove graffiti from private property. What the bill actually does is provide that councils should first seek to obtain the consent of owners to remove graffiti from their property.

I then go on to deal with that issue. That was one of the issues where, in drafting the bill, the government believed that, although normally one may not give these sorts of powers to local government, this was an area where the local government bodies had exercised responsibility and it was appropriate to allow them to exercise the powers both of investigation and prosecution. We will deal with the issue of going onto private property later but there has been, to me, a source of complaint from local government. I just point out that there are a couple of indications of support from particular local government bodies. Correspondence from the Chief Executive Officer of the City of Adelaide states:

> At its meeting on 28 May. . . council considered the proposed Graffiti Control Bill 2001 and resolved that I write to you indicating support for the legislation. The bill will resolve a number of issues that are currently experienced when attempting to deal with graffiti in the city and complements measures that council will be implementing as part of its new Graffiti and Bill Poster Policy. I would appreciate being kept informed of the passage of the bill.

We will have to tell the Chief Executive Officer of the City of Adelaide that if this amendment passes the council will not be able to exercise all the powers that, as a state government, we want to give to local government. The council may decide that that is a watering down of the bill from its point of view. The only other comment immediately which comes to hand is a comment appearing in an article in the *Border Watch* of 9 May in which the CEO of the Mount Gambier City Council, Mr Muller, said that he would appreciate the powers which potentially could be given to council. Mr Muller is then quoted as follows:

> It seems that if there is evidence of a retail outlet supplying spray paint to minors, we could enforce (the law). I would like to think the police officers would have the same power.

Well, of course, they do, but this is a new power being given to local council.

The Hon. T. Crothers: Is this an additional power to those which the police already have?

The Hon. K.T. GRIFFIN: We are creating new provisions in the act, which relate to the securing of spray paint cans and sale to minors. Police already have the power to investigate, but we are giving to local government, if it wants it (if it wants to exercise it, too), the power to investigate and take enforcement action in relation to those.

The Hon. T. Crothers: But will the police maintain the power they already have? That is the question.

The Hon. K.T. GRIFFIN: The police will have this power, and they have the power already to investigate all summary offences.

The Hon. T. Crothers: But they will maintain that without diminution?

The Hon. K.T. GRIFFIN: Yes, they will.

The Hon. Carolyn Pickles: But local government can exercise it instead?

The Hon. K.T. GRIFFIN: The Leader of the Opposition interjects that local government can exercise this power instead. I do not agree with the use of the word 'instead'. Local government will have, in respect of these particular offences—

The Hon. T. Crothers: As well as?

The Hon. K.T. GRIFFIN: Yes, as well as. Local government will have concurrent jurisdiction. If a council wishes to exercise these powers, this legislation is giving it to the council and I think that it is foolish, with respect, for the Local Government Association to say, 'Hey, we do not want it.' Well, it does not have to exercise it, but at least give local government bodies that want to exercise these powers the choice to be able to do so.

The Hon. NICK XENOPHON: In relation to the bill, I believe that the government is certainly well-intentioned in what it is trying to achieve. However, I do have some concerns about the efficacy of it given that I know that some bodies have made representations saying that it has not improved the situation appreciably and, in some cases, there are concerns that it may not help at all. I do note the contributions made by the Hon. Terry Cameron and his concerns

about the effectiveness of the bill, and I think that the honourable member makes a number of good points.

Whilst it is clear that a council is not obliged to act in terms of any enforcement of the act, that it is a discretion as to whether a council acts, my question to the Attorney—and perhaps he has already answered this—is: whilst it is not obligatory on the part of a council to act to enforce, and that is clear, once a council steps in to enforce even a part of the act, can it then be argued that a council has an obligation to deal with all parts of the act? In other words, is it the case that a council cannot pick and choose, as the situation currently stands? For instance, can it mean that, if a council steps in with respect to one part of the act, it makes a conscious decision not to deal with other parts of the act—

The Hon. T. Crothers interjecting:

The Hon. NICK XENOPHON: In response to the Hon. Trevor Crothers, I am just trying to clarify the circumstances. In other words, can it be subject, for instance, to judicial review if an unsatisfied ratepayer says, 'It has not done this, although it stepped in. Where do we stand?' It is a genuine question in terms of the law and the enforcement of it.

The Hon. K.T. GRIFFIN: There is no obligation on local government to exercise the powers. Local government does not even need to appoint authorised officers. If local government appoints authorised officers, instructions can be given to an authorised officer, such as, 'We do not want you working in this area. We do not want you working in that area. We want you to look only at this particular sort of offence.' For example, 'Have people displayed the signs?' Or a local government body might say, 'We have this complaint about minors buying spray cans from X hardware shop. We want you to go down there and talk to the operator and we want you to talk to the people who have complained about young people having access to spray paint from this particular outlet.'

In those circumstances someone might have to be authorised. If a council makes a judgment that this is all it needs to do, it is not compelled by any form of judicial review to exercise the powers that are granted: it cannot be. The only area of judicial review would be, of course, if a council believed that it had evidence and the council prosecuted and, in those circumstances, there was not sufficient evidence upon which to prove the case beyond reasonable doubt. But that is not really judicial review: that is the review of the evidence upon which the court will subsequently make a finding that, 'Yes, there was an offence', or 'No, there was not an offence.'

The Hon. NICK XENOPHON: Does that mean that, if a council steps in to enforce one part of the act but it has been alerted to the fact that there is potentially another offence occurring within these premises under another part, it can choose not to act? Does it have a discretion not to act? I am curious about that and I think that that is one concern of the LGA.

The Hon. K.T. GRIFFIN: The answer to that is 'Yes.' Councils exercise those sorts of discretions on many occasions. They do not investigate every complaint that is made: they make a judgment about priorities and about the seriousness of the allegations. Local government makes those sorts of exercises of discretion on a regular basis and this is no different.

The Hon. T. CROTHERS: I have some considerable sympathy for the amendment that was moved by the Leader of the Opposition, but I will not support it and I want to put on record, very carefully and in a very detailed fashion, why I will not support the Local Government Association in anything from just about nigh on.

Some time ago, when the whole of the Local Government Act was under review here, I moved an amendment to do with clearing trees when they impinge in a dangerous fashion over other people's property. My council in question is the Campbelltown council. I had my amendment moved so it would be mandatory in the same fashion as the removal of trees and foliage that are capable of causing the same sort of bushfire that started in the Stirling council area all those years ago, and the Hon. Leader of the Opposition and I were on the select committee into those Ash Wednesday bushfires.

The local government people said, 'We don't want this to be mandatory. You should put it in a voluntary fashion. It will be okay.' I said, 'Okay.' It has not been okay; it has been far from okay. The Campbelltown council has dug in its toes. We had a tree catch fire in this fellow's front garden, and we had to call the Fire Brigade to put it out at 2 o'clock one morning. The Campbelltown council and the other councils are an absolute disgrace. We have been to them, and they are not giving ratepayers the proper business of due care that they should be.

I will invite anybody to look at these trees. They invited me to call in an arbiter the last time we went to them. I had a letter written to them by a very capable barrister. There was a five month old child in the end unit, and a huge branch fell off a tree and went straight through the clothesline, and it was just as well the baby was not out the back. It took the bloke four months to repair a panel of a fence that a branch of his tree had damaged, but because we had written him a barrister's letter he knew the game was afoot. It was a huge branch which had not become detached from the tree, so, once he found out about the tree, within an hour he got another bloke in, without getting our permission to be on the property, and he broke the branch free and then cut it up and took it away. I had the Messenger Press coming up to take photographs. But what he did not know was that I had told the little Indian chap to get a camera, and I have coloured photographs which are now in the possession of the Ombudsman.

The fellow who is the environmental engineer—and I will say it outside this place—is a disgrace. He is a fellow called Harvey. When we first wrote to him, the changes to the Local Government Act had gone through some nine months before. His answer to us was based on the act as it had been nine months before, and he is the environmental engineer. How can I trust the Local Government Association when it says, 'Just make it a voluntary thing, and everything will be okay?' How can I trust it?

In relation to councils having to police things concerning shops—and I have some time for the opposition leader's amendment, and under normal circumstances I would support it—the reason they do not want it is our local government voting system, where mostly it is the small business people in the electorate who do the voting—not always but that is mostly the case. They perceive having to enforce a provision on a paint shop in a particular council area as perhaps costing them votes, and they perhaps perceive it as being the thin end of the wedge.

There is no doubt that one must have sympathy for what the Attorney is trying to do. If anybody knows what is happening in the local area concerning things of that nature, of a non-criminal nature, if you like, more of a civil nature, it is certainly not the local police. They are too busy with all sorts of other activities. It would be the councils and their officers who would know better as to what shops are selling

what. It is quite proper for them to have a duality of power, along with the police Summary Offences Act. But they do not want it simply because there may well be a position where, if they have to take action against shops that are selling the spray paint, that might well cost some of the councils dearly at a future election. That is one possibility I put in the scales of balance. There may be some truth in it; there may not be.

The other obscure possibility is that some of the councillors and aldermen may well have to stop worrying about their own selfish self-interest and concern themselves with the business of due care. I flag to the Attorney now that I will be moving as a matter of urgency an amendment to the Local Government Act which I believe will ensure that something is done about the sort of nonsense up at Campbelltown that passes for due care. Harvey and an old alderman who had been mayor came out and talked to a Chinese girl who had been in Australia for about three months and did not have more than five or six words of English.

So, the Ombudsman has the matter at the moment. However, I think they have dug their toes in, and I shall find out more. If they have, as a matter of urgency I shall move an appropriate amendment. I note that it went through without debate, but all members—not just me in my own personal situation—of whatever party, or whether Independents, and all members in the lower house, at some time or other have had problems with constituents coming to them concerning trees. I cannot trust the local government authority on this matter after seeing what happened. It may well be that it has to talk to the Campbelltown council. I understand somebody has already talked to the local government authority, and so far as I understand it there has been no movement. It may well be that there will be so much no movement that we will have to apply some form of a verbal parliamentary laxative to see whether we can urge them on to do what is, after all, only the business of due care for which we elect them. I am supportive, for those reasons, of what the Attorney-General is endeavouring to do.

The Hon. CAROLYN PICKLES: That is an interesting contribution. I have sympathy with the issues the honourable member has raised in relation to his difficulties with another bill, but this is about something quite different. He seems to be arguing that he would rather support the Attorney who was giving local government these powers when local government is clearly saying that it does not think it is appropriate that it should have these powers. That is what my amendment does. It seeks to support what local government wants, that is, it does not wish to have the powers that will be imposed on it by this legislation.

The Hon. K.T. Griffin: It is a unique position, isn't it, that they don't want something?

The Hon. CAROLYN PICKLES: It is a unique position for local government. We all have stories about local government. In this respect, it does not wish to have these powers. With all due respect, the Hon. Trevor Crothers is arguing against my amendment, which is—

The Hon. T. Crothers interjecting:

The Hon. CAROLYN PICKLES: Perhaps local government is taking cognisance of the fact that you don't trust them because they don't want to have these powers. They want to keep the powers exactly where they are now with the police and not with local government. I am supporting that in my amendment.

The Hon. IAN GILFILLAN: Just briefly before the amendment is put, I would like to indicate to the committee that, through my own lack of awareness of the pace at which proceedings went, I was not in a position to speak to earlier clauses. However, I remind members of our second reading contribution which indicated opposition to clause 4 which involves the securing of these sprays and so on in any case, and to any restraint of sale of the spray to minors. It is clearly spelt out in my second reading contribution. Clause 6 is consequential to clause 5, and this clause is consequential to clause 4. Although it will be our intention to oppose the clause, the Hon. Carolyn Pickles' amendment makes the clause slightly less odious than it stands in the bill. So I indicate support for the amendment, and then I will speak again indicating our opposition to the clause as it is amended, if it is.

The Hon. K.T. GRIFFIN: I will just respond briefly to what the Hon. Trevor Crothers was saying, but only to this extent about the Campbelltown council. I do not know how it behaves in every way, but I know that in relation to graffiti it supports local volunteers who believe that very largely their city is graffiti free. They are particularly active volunteers who are supported by the state government through the Crime Prevention Unit, as well as by the council.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: I do not want to embark upon a debate about their general approach, but I can say that in relation to graffiti removal and prevention they are particularly active and the volunteers do an excellent—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: They are certainly active—

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: —in relation to graffiti. I come back to the point I made earlier by way of interjection: it is unusual for someone, such as a council, which has a responsibility for doing something about, say, graffiti, to have plans in place and to say, 'We do not want the power to be able to do something about it,' when some councils obviously agree that they should have these powers. The Local Government Association, purporting to speak for all local government, is saying, 'We do not want them.' I think that is wrong in principle. They will not be required to exercise all these powers if they do not wish to do so.

The committee divided on the amendments:

AYES (9)

Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M.
Pickles, C. A. (teller)	Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

NOES (12)

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

Majority of 3 for the noes.

Amendments thus negatived.

The Hon. IAN GILFILLAN: As I indicated before that last vote was put, we are strongly opposed to the principles of clause 4, which is the securing of spray paint cans. We think it is a futile and petty gesture to restrict proper market access to a legal product. Even more strongly, we oppose the ridiculous restraint and stigmatising of people under 18 by clause 5. This indication of our opinion was put clearly in the

second reading debate. Because clauses 4, 5, 6 and 7 are linked in a way to emphasise this restraint, it is our intention to oppose clause 7 and to divide on it as a strong indication of the Democrats' opposition to those two principles which we think are undemocratic and an unnecessary restraint of freedom of trade and freedom of people to purchase legal products.

The Hon. T. CROTHERS: I support the Attorney-General. I listened very carefully (as I always do) to my learned friend the Hon. Ian Gilfillan—and very rarely do I find myself in disagreement with him. However, I am very strong in my disagreement of this. One does not allow juveniles or anyone else to carry a gun in our society because if a gun is used someone will suffer. The unfortunate thing about spray cans is that it is costing the community an arm and a leg. We have heard all about the volunteers, but there is also the case of buses and railway carriages that, at a cost, must have graffiti removed from them. So, there is the position—

The Hon. K.T. Griffin: And the monuments.

The Hon. T. CROTHERS: Maybe I will have one on North Terrace in 40 or 50 years—and you might be covering my likeness with graffiti. I understand where the Hon. Mr Gilfillan is coming from. I am a libertarian who believes that we should not put strictures on people's freedom of movement and freedom—

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: No, that is okay. We should not put strictures on freedom of expression except where that freedom of action is causing harm to the wider community. Anyone who has had graffiti spread across their property or their car, or whatever, would have no reason to be supportive of anything other than what the Attorney-General is proposing. If the Hon. Mr Gilfillan and the Democrats are opposed to this, let them include a sunset provision and let us see just how good this legislation is over three to five years. It may be that in three to five years we find we have to strengthen it even further, but let the message go forward that from this day forth graffiti—

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: He's laughing. Do not forget that President Kennedy was Irish, too. I am saying: let the message go forward that the use of graffiti as an act of vandalism—never mind about the Van Goghs and Vandykes and everyone else we are inhibiting—is not to be tolerated by our community, and nor should it be. There is some point in what the Hon. Mr Gilfillan says. If, in order to give this a go and to see whether it is a factor, the Attorney would care to put this measure off and perhaps draft an amendment containing a sunset provision, I promise him that I would look carefully at that.

The Hon. T.G. Cameron: You would be retired by then.

The Hon. T. CROTHERS: I won't be retired. I am running against you—the Ireland First party. I think the point raised by the Attorney has some merit if he includes a sunset provision of three or five years to see if that works. It may well be that the Hon. Mr Gilfillan and I will have to get tougher. Under those circumstances and without any more embarrassing guffaws, I support what the Attorney is endeavouring to do on behalf of the broader community.

The Hon. CAROLYN PICKLES: The opposition is disappointed that its amendments were not carried, but there is another place in which to debate those amendments. We will support the remainder of the clause, because we feel that it contains elements of this bill which we support. I can only say that perhaps the Local Government Association might like to lobby the Independents in another place. We will support the clause in its unamended form despite the fact that we will probably seek to move further amendments in another place.

The Hon. T.G. CAMERON: I support the comments of the Hon. Trevor Crothers and the Hon. Ian Gilfillan. I join with the Hon. Trevor Crothers in condemning this useless and senseless crime of vandalism. Having brought up three young boys, I have had a little bit of experience with this. Unfortunately, it is something that I do not understand. You can understand someone going out and stealing something, because they might make a profit from it or use it, but the act of senselessly vandalising and desecrating someone else's property or public monuments is to be condemned—and I join with the Hon. Trevor Crothers in doing so.

I shall not vote the same way as the Hon. Trevor Crothers unless he will allow himself to be convinced of the inanity or almost stupidity of the piece of legislation that we have before us, which I find somewhat offensive. I do not want to make a long, boring speech, but I support the sentiments of the Hon. Ian Gilfillan, which I think stand on all fours with his agreement with both me and the Hon. Trevor Crothers about the senseless nature of graffiti.

Not only is it ridiculous to put clause 4 before the committee but, to start with, it focuses on only one of the tools used by graffiti vandals. It ignores wide-tipped marking pens and glass cutters. Overseas experience indicates that if they cannot get spray cans they will use other implements. The piece of legislation before us will do very little. It is gloss; it is window dressing by parliamentarians who are pretending to do something about this serious issue. In effect, we will carry a piece of legislation that will do little.

It is interesting to note that the four American cities with the most serious graffiti problems have total bans in place with severe penalties for the sale of spray paint cans or for not having lock-up doors relating to their sale. I do not know what evidence or information the Attorney is relying on, and I am not questioning his zeal or integrity in trying to do something about graffiti, but quite frankly this legislation will do little. I am opposed to clause 4, I have problems with clause 5, and I indicate that I will vote against this legislation.

The Hon. K.T. GRIFFIN: I respect the differing views that members have about the necessity for this legislation, but it is a genuine attempt to reinforce something which, until now, has been a voluntary code of conduct that has been honoured by a number of retailers (including some of the bigger ones) but not by others. The Tea Tree Gully council's graffiti prevention program has identified that about 70 per cent of the graffiti in that city is applied with spray paint cans. That is a matter of real concern.

It is recognised that other implements are used to apply graffiti, but this is not the only strategy which the government and local government are using to deal with graffiti issues. The quick removal of graffiti is a well tried strategy which has had the effect of reducing significantly the incentive for people to apply graffiti, and there are other programs in place through local government and my Crime Prevention Unit which have a consequence of reducing graffiti. However, in relation to this bill, the government believes that giving an additional option to local government will be a plus rather than a minus and that it will not necessarily be a heavy-handed approach but part of an overall strategy to both remove graffiti and prevent it from occurring in the first place.

The Hon. J.F. STEFANI: I will not prolong the debate, but I wish to indicate my support for the Attorney's bill. Regarding clause 4, I was not convinced by the arguments put to me by the representatives of the Spray Paint Association. As I pointed out to the two gentlemen who came to see me yesterday, some years ago Lysaght withdrew the total range of spray can touch-up paints on its Colorbond range of roofs. The industry has not fallen over; it has found some other method of touching up its roofs. I am sure that many of those who have suffered because of graffiti vandalism through the range of touch-up spray cans that Lysaght had readily available for many users of spray paint cans have experienced a great deal of joy.

More importantly, this provision does not preclude someone from buying a can. As I pointed out to the representatives of the Spray Paint Association, it provides for someone to seek the assistance of a person working in a business that sells spray cans. I think it is a sensible provision. It will stop, to some extent, the indiscriminate purchase of spray cans by young people who probably would intend to use them for other purposes. I strongly support the Attorney's position.

The Hon. IAN GILFILLAN: I thank the Hon. Terry Cameron for his expression of support for the view that I expressed earlier. I also thank the Hon. Trevor Crothers for the interest that he took and his generous offer to support a sunset clause. It is not my intention to move such a clause. I point out that there are clauses that still retain graffiti as an offence in the summary offences legislation and that they will be moved over, and we will be supporting those.

There is no reason why the offence should not remain on the statute book. We are opposing these measures, first, because we believe that they are improper in principle and, secondly, because they discriminate most severely against younger members of the community. Someone who is closer to that younger group than any of us in this chamber is Mia Handshin. In an article on Tuesday 12 June this year, amongst many other very sensible analyses of the significance of graffiti, she said:

> While many consider graffiti in any form abhorrent, there are those who would argue that far more senseless and meaningless defacement and destruction of our environment occurs every day through so-called legitimate means.

We have to put it in proportion. I think there are measures that can be a lot more effective to reduce the damage of graffiti—I do not think it will ever be eliminated—and I think those are the ways that we, as a responsible, mature community, should go. In particular, the stigmatising of younger people—implying that they are the ones who are going to misuse and therefore should not have access to purchase these products—is futile. It will not prevent those who are under 18 years and who intend to perform graffiti from getting instruments with which they will perform graffiti: it will add a degree of glamour to the offence.

I indicate again our clear indication of opposition to clause 7 for two principles: the victimisation of under 18s in not having access to purchase the cans; and the requirement of retailers to treat these products as a prescribed product and keep them under lock and key.

The committee divided on the clause:

AYES (16)

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

NOES (3)

Cameron, T. G.	Gilfillan, I. (teller)
Kanck, S. M.	

Majority of 13 for the ayes.

Clause thus passed.

[Sitting suspended from 6.02 to 7.45 p.m.]

Clauses 8 to 10 passed.

New clause 10A.

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

Page 6, after line 22—Insert:

10A. Where this Part provides that an act done without lawful authority or lawful excuse constitutes an offence, the onus, in proceedings for such an offence, lies on the defendant to prove lawful authority or lawful excuse.

Part 3 of the Graffiti Control Bill reproduces in almost identical terms the marking graffiti and carrying graffiti implement offences currently contained in the Summary Offences Act. It is intended that those offences be removed from the Summary Offences Act and incorporated in this specific graffiti control legislation. Apart from now requiring courts to order persons convicted of marking graffiti to pay compensation to the owner of the property damaged by the graffiti, it is not intended that part 3 of the bill alter the status quo with respect to these graffiti offences. That being the case, it is necessary to insert a provision in the bill which provides that the onus lies on the defendant to prove the existence of lawful authority or a lawful excuse in proceedings for offences under part 3 of the act. This is currently the situation pursuant to section 5 of the Summary Offences Act, and the amendment will ensure that it remains the case that the defendant must prove lawful authority or lawful excuse.

The Hon. CAROLYN PICKLES: The opposition supports the new clause.

New clause inserted.

Clause 11.

The Hon. CAROLYN PICKLES: The opposition will not be proceeding with its amendment. As I indicated previously, the LGA wrote to the Attorney on 2 July, a copy of which letter I have before me. In relation to this clause it indicates that it is still not totally satisfied and it states:

> Section 11 is not drafted in such a manner as to make it clear to the reader, who may be the owner-occupier, the powers available to councils and owner-occupiers under this part. We also consider the process for working through the powers available under part 4 and then, if necessary, issue a clean up order under the Local Government Act 1999, will be resource intensive and costly to councils. We appreciate that you have outlined in your letter that councils can submit details of their enforcement expenses for your future consideration.

Perhaps when he is speaking to this clause the Attorney will comment about the issues that have been raised. We support the Attorney's amendments to clause 11.

The Hon. K.T. GRIFFIN: In the earlier letter of 6 June, among other things, when talking about the resource implications for councils I said:

> I again stress that the enforcement powers conferred on councils are not compulsory. Councils need not exercise the powers if they would prefer to leave enforcement to the police. However, if councils do elect to use the powers the expiation fees will provide a source of revenue to councils to defray the associated costs. If the expiation

fees do not cover their costs, councils can submit details of their enforcement expenses for further consideration of the matter.

That opens it up. It does not mean we will grant them any government funding, but it does mean that we will look carefully at the way in which enforcement is occurring and at what the returns to council might be from, particularly, expiation fees. If they issue proceedings rather than issuing an expiation notice, there will be an entitlement to recover the costs of prosecution. That adequately covers the issue. I move:

Page 7—

Lines 4 to 11—Leave out subclauses (1) and (2).

After line 33—Insert:

(5a) Action to be taken by a council under this section may be taken on the council's behalf by an employee of the council or by another person authorised by the council for the purpose.

I did not believe that there was any difficulty with clause 11 as it was drafted, but the amendments which I am moving put the issue beyond doubt because the amendments remove the pre-condition that councils attempt to obtain consent from owners prior to invoking the powers to remove graffiti from private property conferred in clause 11.

The object of inserting clause 11(1), which has led to the unfortunate confusion, is merely to encourage councils to enter into dialogue with property owners and thereby, hopefully, gain the cooperation of the owner rather than merely sending a written notice and then proceeding to enter the owner's property to remove graffiti if no objection is received within a certain time. That objective is not essential to the operation of the graffiti removal provisions. It could be omitted entirely without compromising the provision and this would resolve the confusion regarding whether the council can proceed to remove the graffiti if the council has been unable to obtain consent initially prior to taking action under clause 11.

This would avoid possible confusion about what can be taken to be a lack of response from a property owner and unnecessary replication of the requirement to serve notice set out in clause 11(3). The removal of this unnecessary replication will free up council resources. That explanation covers the first amendment. The second amendment to clause 11, which I suggest we take together, is an amendment to subclause (8)(a). That amendment makes it clearer that the power to remove graffiti under this bill is not intended to derogate from the existing power of councils under chapter 12 part 2 of the Local Government Act 1999.

These powers enable councils to order a property owner to remove graffiti and, if the owner does not comply, enable councils to enter the property to remove the graffiti. It is envisaged that councils may consider it necessary to exercise these existing powers under the Local Government Act in certain cases where an owner objects to the removal under the provisions contained in the bill. This amendment to clause 11(8)(b) is consequential on the amendment to omit clause 11(1). The amendment clarifies that the powers conferred on councils in clause 11 are not intended to prevent or discourage councils from entering into dialogue with property owners to gain their agreement for the removal of graffiti on their property.

Many councils employ a rapid removal strategy to deter further graffiti vandalism. Often the aim of rapid removal is the obliteration of graffiti within 48 hours of its appearance. In many instances 24 hours is the more limited time frame within which a number of councils seek to operate. Attempting to secure the early agreement of owners to the removal of graffiti from their property will potentially be a quicker way of ensuring removal than the 10 day notice period required under the bill; therefore, the government encourages councils to continue to seek consent or agreement from property owners to achieve rapid removal of graffiti.

In the longer term—and if one is to seek and maintain good relations with ratepayers—it seems to me in the interest of councils that they do seek to have a good relationship with those on whose private property they seek to enter to remove graffiti. One object of this particular clause was to put beyond doubt that local government had the authority to remove graffiti from private property, but to encourage it to do it in a way that sought to obtain the consent of the property owners, because some councils have indicated to me that their frustration is that they did not believe that they had the legal authority to enter onto premises to remove graffiti which was visible from public thoroughfares and which gave the impression that people did not care about the look of their community.

This is all provided in good faith as a proper authority to councils and an encouragement to them to remove graffiti from private property but to do it with the consent of property owners. The amendments that I move, I think, will help to remove the doubt which the Local Government Association had about the process, leaving ultimately provisions of the Local Government Act to be invoked if compulsion for removal was to be the course set by a particular council.

The Hon. R.R. ROBERTS: I have a little concern about this. Does this clause, in terms of actually entering a property to remove the graffiti, remove any liability that they may have if any damage is done to the property, unintended or otherwise? Does this clause exempt them from liability or, if damage is done, is there another means by which the property owner can seek redress?

The Hon. K.T. GRIFFIN: The provision of the bill does seek to provide some indemnity from liability. I refer the honourable member to subclause (6), which provides:

No civil liability attaches to a council, an employee of a council, or a person acting under the authority of a council, for anything done by the council, employee, or person under this section.

One must read it as a whole because they can, under this, enter private property but, ultimately, they must have the approval of the property owner to remove the graffiti. The real crunch comes if the property owner will not allow the council to remove it and the property owner will not remove it himself or herself: the council must act under a provision of the Local Government Act which sets up a regime by which that can be done. But if there is an agreement between a council and the property owner to remove it, there is an indemnity against civil liability for a council that is on private property—with the consent of the owner—using high pressure equipment, or some other means, by which to remove graffiti.

The Hon. R.R. ROBERTS: Councils can use the second step of compulsion under the Local Government Act. Is that exemption then in place or does public liability still stand?

The Hon. K.T. GRIFFIN: I need to clarify that. The council gives notification to the property owner. If no objection is received from the property owner, the council can authorise a person to go on to remove the graffiti. So, that does not require consent. If someone objects, that is where the barriers go up. But if there is no objection, council goes on, removes it and it is in those circumstances that it has an indemnity against civil liability. If there is an objection, the council cannot go ahead and do it. It will have to use the

provisions of the Local Government Act to compel a person to remove it or to allow the council to remove it and, in that event, it can recover costs.

If it goes onto the property where no objection has been raised and removes the graffiti, it has an indemnity from civil liability but it cannot recover the costs under the provisions of this bill. If they want to recover costs, they proceed under the Local Government Act. It is really a two-pronged approach. If they merely want to go on to private property, remove it and not charge anything, they can do that. However, in doing that, they have an indemnity against civil liability. If they want to go on and recover their costs, they have to do that under the Local Government Act.

The Hon. R.R. Roberts: Do they have indemnity for damage that they might do in that second circumstance?

The Hon. K.T. GRIFFIN: It is the same indemnity as applies under the Local Government Act. That has been one of the big issues that local government has raised with us, that under the current law if they went on to private property they had no indemnity from liability. They doubted what authority they had to go on to private property, even with consent. But it has been a fairly relaxed approach that many councils and ratepayers have taken. This will clarify that. It will set up a process by which you can go on to private property if there is no objection. If there is an objection, the council can decide whether it wants to go down the course set by the Local Government Act.

Amendments carried.

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

Page 8, lines 5 to 8—Leave out subclause (8) and insert:

(8) This section—

(a) does not derogate from a council's powers under chapter 12, part 2 of the Local Government Act 1999 or any other power of a council under that act; and

(b) is not to be taken to prevent or discourage a council from entering into agreements for the removal or obliteration of graffiti (whether for a fee or otherwise).

Amendment carried; clause as amended passed.

Remaining clauses (12 and 13) and title passed.

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

That this bill be now read a third time.

The Hon. IAN GILFILLAN: I indicate the Democrats' opposition to the third reading. As the bill has gone through the committee stage it has not been improved in any of the major areas of our concern—the discrimination against younger people and the unnecessary restraint on trade of the products. It is for those reasons that we oppose the legislation. The offence of graffiti itself was adequately dealt with in summary offences legislation; it is unnecessary for it to be in this bill. I formally indicate that the Democrats vote against the third reading of the bill.

Bill read a third time and passed.

CORONERS BILL

Adjourned debate on second reading.

(Continued from 31 May. Page 1645.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of the bill. We observe that it is a curious piece of legislation. At first when I read the Attorney's second reading explanation I wondered why there was any need for the bill at all. After all, most of this bill is very similar, if not identical, to the Coroners Act 1975. A handful of amendments to the present act would achieve substantially the same purpose as this bill. The Coroner's Court is operating successfully under common law, despite the fact that it is not mentioned in the 1975 act. It is noticeable that the Attorney-General in recent years has been seeking to codify a great deal of common law. He might like to explain the underlying philosophy, if there is one, behind this constant codification process.

I would guess that the Attorney-General's explanation would be that the general public is more likely to understand and correctly interpret statute law rather than common law, and I would agree. However, on the other hand, the process of codifying the common law necessarily involves some degree of simplification. This can often lead to unexpected results and one can never be sure how the courts will subsequently interpret new statutory provisions.

In the present case, much of the Coroners Bill 2001 is designed to give the Coroner powers and duties under the statute which are the same or similar to the powers and duties which the Coroner exercises under both the present statute and at common law. I doubt that many members of the public have any need to interpret the common law pertaining to the Coroner, so this bill would appear to be of little utility. However, having said that, I do not propose to oppose the bill on those grounds. Rather, I shall turn my attention to what I regard as the significant changes to the substantive law which this bill seeks to achieve, and foreshadow some significant amendments that I intend to move.

The formal creation of the Coroner's Court is a move that does not cause any concern, given, of course, that the court already exists. The formal identification of all magistrates as deputy state coroners is likewise merely giving statutory recognition to the status quo. I welcome the inclusion of clause 20(4) of the bill, which gives the Coroner the option of taking a statement, rather than formal evidence, from a child or a person who is illiterate or inarticulate, or a person who suffers from an intellectual disability. Likewise, I am pleased to see that the Coroner's Court, as distinct from the Coroner in an individual capacity, will no longer need to obtain the approval of the Attorney-General to exhume a body for the purposes of an inquest.

The creation of a new offence of failing to provide information in relation to a death seems to be a sensible option, where a death is at all suspicious. I am also more than happy to support clause 31 under which the state Coroner may assist coroners interstate, and clause 38 under which the Coroner may provide to any person information from the Coroner's records for the purposes of research, education or public policy.

With regard to confidentiality, I have a query about clause 34 which creates a new offence of disclosing information obtained in the course of administration of this act. Section 251 of the Criminal Law Consolidation Act already provides for an offence of abusing public office by using information gained in the course of public duties to make a personal gain or to cause harm to another. Section 238 also makes it an offence to act improperly in public office.

Given the existence of these offences, I am perplexed at the perceived need to further burden or restrict the use of information obtained by officers in the Coroner's Court. It is not as though the Freedom of Information Act could be used to obtain information from the offices of the Coroner's Court. The Coroner's Court and all other courts are specifically excluded from the definition of agencies under the FOI Act. There is also a specific exemption in schedule 1 (clause 11)

of the FOI Act pertaining to the judicial functions of all courts and tribunals, and to documents prepared for the purposes of proceedings in courts and tribunals.

Therefore, if it is already an offence to disclose information for gain or to harm another and the FOI Act excludes most applications to the Coroner's Court, what purpose does clause 34 serve? I am sure, on studying my contribution, the Attorney-General would be motivated to compare and contrast clause 34 with section 51 of the FOI Act and let the Council know whether there is any possibility of anyone obtaining any information at all, no matter how harmless, from the Coroner's Court.

I come now to the area in which this bill is notably deficient. As long ago as 1991, the Royal Commission into Aboriginal Deaths in Custody made a series of recommendations in relation to coroners. Recommendations 13 to 17 of that royal commission have never been implemented by the state government. They are not onerous requirements, and I will summarise their effect. Recommendations 13 to 17, if implemented, would in relation to any death in custody, first, permit the Coroner after making recommendations on a death in custody to make recommendations on other matters as he or she deemed appropriate; secondly, require the Coroner to send copies of his or her findings and recommendations to all parties who appeared at the inquest and to the relevant minister; thirdly, require each relevant agency or department to respond to the relevant minister within three months; fourthly, require any minister receiving such a response to provide a copy to the Coroner and all parties who appeared at the inquest; and, fifthly, require the Coroner to report annually to the parliament on deaths in custody generally and on the findings, recommendations and responses made under these proposed amendments. Surely, these are not particularly onerous obligations to place on the proceedings of the Coroner's Court in relation to deaths in custody.

The state government has responded to these recommendations. In 1994, the implementation report on the Royal Commission into Aboriginal Deaths in Custody, prepared for the then Minister for Aboriginal Affairs (Dr Armitage), made certain comments that these five recommendations were variously 'under consideration', 'does not require legislative change', 'has not been adopted', 'is a discretionary matter for the state Coroner' or, lastly, 'should not be done'—which one must observe is a pathetic series of responses to the recommendations of the royal commission.

Recommendations 13 to 17 need not be confined in their scope to Aboriginal deaths in custody. In fact, they should not be; they are suitable to be applied to any death in custody. South Australia has a yearly average of 4.7 deaths in custody, and the figure has remained the same since the royal commission. The figure has neither increased nor decreased since the time of the royal commission. Clearly, we are making no progress. Although an average of five deaths in custody each year is five too many, it is not such a common occurrence that the imposition—

The Hon. L.H. Davis: What are the numbers that have been in custody? Is it a decreasing percentage of those in custody? The answer is yes.

The Hon. IAN GILFILLAN: The question is relevant as to the actual numbers in custody to which this relates and, off the top of my head, my recollection is that the total numbers have varied to only a minimal degree, but I cannot give an exact answer to that. It is not such a common occurrence that the imposition of these requirements on the Coroner, the police or correctional services will create a great administrative burden. The extent of the burden imposed is no more than is appropriate given the seriousness of any death in custody. One would hope that a departmental report is prepared on all occasions. Making such a report a legislative requirement under the Coroner's Act and requiring it to go back to the Coroner is merely a sensible precaution. What it will do, I hope, is to create an effective follow through mechanism so that, when the Coroner makes a recommendation in connection with a death in custody, the Coroner can ascertain whether any action has been taken in relation to that recommendation.

I am not alone in seeking these recommendations and to have them implemented. The Law Society President, Martin Keith, wrote to me on 15 June, as follows:

> The Coroner's Bill 2001 falls far short of recognising and providing for many of the recommendations of the Aboriginal deaths in custody inquiry. Your attention is drawn to recommendations 6 through 40 of the royal commission's report and, in particular, recommendations 13 to 17 which propose that ministers should be accountable to the Coroner for implementation of coronial recommendations arising from deaths in custody.
>
> While the Law Society fully supports the doctrine of responsible government, it also supports the important role of the Coroner in making recommendations which, at times, may not necessarily be agreed to by the government of the day.
>
> The present bill provides an excellent opportunity to ensure that due consideration is given to the royal commission's recommendations referred to above.

This advice confirms my view and, consequently, I have instructed Parliamentary Counsel to draft appropriate amendments to this bill. I will be moving those amendments to give effect to recommendations 13 to 17 of the Royal Commission into Aboriginal Deaths in Custody. I hope these amendments will have the support of members and I hope that the government's attitude on these matters has changed since 1994 when, as I quoted earlier, it made those rather inane and insensitive observations about the recommendations. With those remarks I indicate that the Democrats support the second reading.

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

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 1734.)

The Hon. CARMEL ZOLLO: I indicate that the opposition supports the second reading of this legislation which has arisen because of a comprehensive review a few years ago of all legislation administered by the Office of Consumer and Business Affairs. The review resulted in some significant changes to occupational licensing and the passage of new legislation for the licensing of builders, plumbers, electricians, gasfitters, conveyancers, security and investigation agents, travel agents and second-hand vehicle dealers. Following that review, a number of negative licensing systems were introduced and licensing was replaced by registration for some occupations. A more significant change was that the Commissioner for Consumer Affairs became the licensing authority in place of the commercial tribunal. I understand that a further review of the occupational licensing system occurred in 1998 with a view to improving the timeliness of licensing processes, improving the quality of issued licences in terms of the quality and appearance, and

reducing the paperwork associated with the licensing process for both applicants and the Office of Consumer and Business Affairs.

Some of the review's recommendations now require legislative amendment to ensure the achievement of the streamlining of the proposals that were recommended. Essentially, the majority of the review's recommendations have been or are currently being implemented administratively. In particular, high security licence cards incorporating digital photographic images have already been introduced on a voluntary basis with, I understand, great success. The legislative changes before us now need to be incorporated into the various occupational acts, including the requirement to have a photographic image captured on an occupational licence card.

In his second reading explanation the Attorney-General advised that arrangements are already in place for the capture of digital images at 18 different locations throughout South Australia, as well as a process to meet the needs of licensees in remote areas of the state. I note that the Attorney-General advised the chamber that there has been some positive feedback from the licensees about these facilities. The bill proposes to introduce the requirement to have images captured and to produce suitable identification evidence, similar to that currently in force in relation to drivers and firearms licences.

The requirement affects three acts—the Building Work Contractors Act 1995, the Plumbers, Gasfitters and Electricians Act 1995, and the Security and Investigations Agents Act 1995. New provisions will also be introduced into several acts in relation to the refusal of applications where certain requirements are not complied with.

I note also that the commissioner will be allowed to suspend the determination of an application where required information is not provided within 28 days of an applicant receiving a notice from the commissioner to that effect. The bill also allows the commissioner to seek payment of any outstanding moneys that the applicant may have before granting a licence or registration. As is to be expected, an applicant, when seeking a licence, must provide the commissioner with any information required for the purpose of determining a licence.

However, current procedures for applying for registrations do not contain this requirement, and the bill before us seeks to align the provisions for application for registration with those already in place with respect to licence applications. This provision needs to be incorporated in four occupational acts.

The opposition has consulted with a number of unions and other institutions that have an interest in this legislation. To date, we have received only one response which indicated no objection. Should any issues need to be raised or clarified, I hope that I will be able to raise any concerns in committee.

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

STATUTES AMENDMENT (TAXATION MEASURES) BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 1773.)

The Hon. P. HOLLOWAY: The opposition supports this bill. It deals with the taxation measures which form part of the recently released budget and which I expect this Council will receive shortly. It has always been the policy of the Labor Party to support the government of the day in terms of those bills which deal with supply and the budget policy, even if we may have reservations about particular parts of them. However, in this case I indicate that the opposition warmly supports the changes to taxation that are detailed in this bill.

The most important of these changes are the changes to payroll taxes. It is proposed that the rate of payroll tax be reduced from the current 6 per cent to 5.75 per cent from 1 July 2001, with a further reduction to take place from 1 July 2002. We have not had a reduction in payroll tax rates for seven or eight years. Other states—most recently, Victoria—have provided some fairly generous payroll tax deductions in their budgets. So, quite clearly, for this state to be competitive, it is important that we have competitive rates.

When the federal government recently proposed its new tax system, which involved the GST, many commentators suggested that the introduction of a GST provided the opportunity to remove (as well as other taxes such as FID and certain stamp duties) payroll tax, which has been the dream of many people for many years, because payroll tax is, of course, effectively a tax on employment. It is one of the less desirable taxes in the armoury of state governments. Unfortunately, under the new tax system, we have so few other forms of taxation that we are even more reliant on payroll tax now than we were before. However, the opposition certainly supports these changes which will at least keep our rates competitive with those of other states.

The bill also contains amendments to the Land Tax Act which deal with some very specific situations. For example, a person who, as at 30 June, owns land upon which a house is to be the principal place of residence, and which is being constructed or is to be constructed, will be relieved of the land tax liability which would have applied due to the land not yet been used as the principal place of residence. Further, there is relief for people who may own two homes as at 30 June (because they are selling one and purchasing another) provided that no rent is collected for either home. However, appropriately, this relief can only be applied for once the person has sold their original home and moved into their new home. It must be noted, therefore, that this form of relief will apply only in specific circumstances and eligibility will be judged according to specific criteria.

The other measures in the bill refer to amendments to the Stamp Duties Act. First, from 1 January 2002 there will be an exemption from lease duty for small businesses which lease premises where the annual lease payments do not exceed $50 000 and, secondly, minor amendments regarding exemptions to ad valorem stamp duty have been proposed.

We support these changes to taxation. I note that in introducing this bill the Treasurer pointed out that there was about $24 million worth of payroll tax rebates which, of course, comes at a time when there is about a $25 million increase to business costs in the way of increased electricity prices. Of course, Business SA has demanded strongly of the government that it do something about the increase in electricity prices. Unfortunately, whereas these payroll tax deductions in aggregate roughly equate to the cost to businesses in relation to the increased price of electricity, it is clear that there are some businesses in this state that are heavy users of electricity relative to their labour force whereas other companies perhaps use less electricity relative

to their labour force and, therefore, those benefits will not be quite as evenly distributed.

It is a tragedy that in this state our businesses will be made less competitive as a result of those higher electricity charges and that, in effect, these worthy benefits in the budget, which, of course, come by way of reduced taxation revenue, will be absorbed as far as business is concerned by those higher electricity prices and, therefore, their value in terms of greater competitiveness to the state will unfortunately be eroded. The opposition supports the measures in this bill and we look forward to the committee stage.

The Hon. M.J. ELLIOTT: I indicate the Australian Democrats' support for the second reading. These measures are all part of the government's budget. I will comment on two of those measures whilst indicating my support of all the measures contained in the bill. The cut in payroll tax is supported by the Democrats. In fact, the abolition of payroll tax has been Democrat policy since the party's inception, so the government will find that any cuts in payroll tax will be supported by the Democrats because, ultimately, payroll tax is a tax on employment and a disincentive to employ.

These cuts are fairly marginal and I have no doubt that, in the next couple of years, pressure will be well and truly upon us. As GST revenue starts to flow to the states, there is little doubt that the eastern states will aggressively cut their payroll tax as part of the competition that we experience between the states and, at that stage, this state will have no choice other than to follow. Nevertheless, we welcome these cuts which, at this stage, are still quite marginal, but they are heading in the right direction.

While on the matter of stamp duty—the amendments to stamp duty are also raised in the bill—it would have been an opportunity for the government to grant an exemption to stamp duty on charges in relation to the collapse of HIH. Many people had to reinsure and the government so far has done nothing to offer support to many of the victims of the HIH collapse. It would have been quite an easy measure, whilst addressing the issue of stamp duty, to grant an exemption for people who had to take out new policies as a consequence of the HIH collapse. The Democrats support the second reading.

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

FIRST HOME OWNER GRANT (NEW HOMES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 June. Page 1774.)

The Hon. P. HOLLOWAY: The opposition supports the bill. It provides the legal framework for the additional $7 000 of first home owner grants which was announced by the Prime Minister in response to a severe downturn in building activity after the introduction of the GST. So, as well as the $7 000 that was announced there is an additional $7 000 on top of that, making it a $14 000 grant. That grant applies to contracts to build or buy a new home entered into between 9 March 2001 and 31 December 2001.

Eligibility for the additional grant mirrors that of the original grant but with a further restriction. The additional grant only applies to the construction of a new home or the purchase of a house not formerly occupied as a residence and, further, construction must commence on the residence within 16 weeks of the contract being entered into, with completion required within 12 months. Owner builders are also eligible for the additional grant if they commence building between 9 March 2001 and 31 December this year, and if they complete construction by 30 April 2003.

During the estimates committees my colleague the shadow treasurer, the member for Hart, raised some issues in relation to this grant. It seems clear that there is no legislative barrier to recipients of the grant spending this amount in any way they wish rather than the whole amount being applied to the construction of a new home. A number of people have been advertising, suggesting that the whole or part of the grant can be used as a deposit in relation to homes. It appears as though people can receive the grant for basically any purpose they wish provided they qualify.

As the member for Hart stated, some building companies are advertising this loophole and informing prospective customers that the grant need not be used on construction but on whatever the customer chooses. I welcome the grant, but I made the point when we first discussed the legislation relating to the first part of the home owner grant—the first $7 000—that it is unfortunate that the building industry has been put through somewhat of a roller-coaster ride in relation to the introduction of the GST.

Before the introduction of the GST a number of people brought forward their construction in anticipation that it would considerably raise prices. Whether or not that happened, I am not sure. There was so much pre GST activity that that in itself caused prices to rise. After 30 June last year when the GST came into effect we had a whole lot of problems where homes that had been contracted had not been completed by the cut-off date.

After the GST was introduced we saw a slump in building activity because so much building activity had been brought forward before the starting date of the GST. So we had this boom followed by a bust, and it was as a result of the bust that the home owner grant was introduced in the first place. One can only hope that when this grant expires at the end of the year the building industry will have reached a state of equilibrium, because the changes to the tax system plus these grants have taken the industry through a roller-coaster ride of boom and bust.

What the industry needs is some stability. Clearly, when you have these booms followed by busts you have all sorts of problems in relation not only to economic activity, of which the building industry is an important part, but also in relation to the skills within the industry as people come and go from the industry. While we welcome the bill and the additional grant that the commonwealth has provided, we hope that this very important industry in our community can achieve some stability after the legislation induced roller-coaster ride it has been through over the past couple of years. We support the bill.

The Hon. M.J. ELLIOTT: As a couple of people have already gone through the purpose of the bill I will not make further comment upon it other than to say that I recognise value in some stimulation to the domestic construction market. However, it needs to be recognised that the slump in housing construction was overemphasised because there had been a boom in construction just prior to the GST being implemented. It would have been fairly reasonable to adjudge that, having brought construction forward, there would be this hiatus—a period when little construction would occur—after

which one would assume that it would pick up depending upon where the economic cycles were heading at the time. There is also some question about whether or not this was brought in too soon.

On radio the other day I heard an interesting analysis—that one of the side effects of the scheme is that the wrong houses are being built, that what is still being built are new homes on quarter acre blocks when the growing demand for housing in South Australia is for the ageing population—the empty nesters—who need a different style of housing. If that housing was available then their houses on the quarter acre blocks would have been available.

I think that what we have done in this scheme, probably unwittingly, is to build up the stock of the style of home that is likely to go into surplus and have done nothing to address the area of real demand. If there is a criticism of the scheme I think it is that it was a fairly blunt instrument to fix a problem that was perhaps not quite as severe as it first seemed.

It has created its own boom, and the one thing that is guaranteed is that if you have a boom there will be a bust at the end of it. Everybody is rushing out to take advantage of the $14 000 while it is there and once it has soaked up that lot of demand and people bring forward their decisions, particularly in the current low interest rate climate, builders are about to face the next barren period in probably another 12 months. I do not know whether the commonwealth will up the scheme to $21 000, but I think we need to be a bit more creative.

People might harken back to the days when we had a Housing Trust in South Australia which used to construct counter-cyclically and by doing so provided a great deal of certainty in building and work for private contractors—and in the later years private builders were doing the building. It underpinned what to this day is still a cheaper housing market than what it is in most other capital cities, but there is a danger that that advantage over time will be lost. The only thing that is maintaining it at this stage is the fact that our economy is still fragile relative to other states.

In summary, the Democrats support the second reading. One hopes that this has not been too blunt an instrument and that it does not create its own set of problems in another 12 months.

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

SOUTH AUSTRALIAN COOPERATIVE AND COMMUNITY HOUSING (ASSOCIATED LAND OWNERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 1702.)

The Hon. SANDRA KANCK: Despite my severe reservations about the direction this government has taken and is continuing to take on public housing, it would be pointless and foolish of me to say that the Democrats will not support this bill. Saying such a thing would be saying no to the very small efforts the government makes to provide housing to those in our community who are most in need. We will be supporting this bill, but I make clear that our support is on the basis that something is better than nothing. In giving grudging support to the bill, we are effectively accepting that the days of public housing in South Australia are over and that Playford's vision of giving every South Australian the opportunity to own their own home remains just that: a vision. In fact, it is even less than that now—it is an illusion.

In the past seven years, whilst we have watched in dismay as the government has washed its hands of a public housing system that was once world renowned for its excellence, South Australians have had to be grateful for any small measure of housing provision. In less than a decade, using the justification that the Housing Trust was economically inefficient, the government has slashed 13 400 dwellings from its books. I remain unconvinced that having people living on the streets or long term in shelters is an indication of economic efficiency. Women's shelters are constantly full and are in a state of inertia because no public housing is available for women and their children. The consequence is that shelters are unable to provide shelter and women and children in crisis are being forced to spend up to four weeks in motel accommodation. This is a costly alternative and these women and their children do not receive the support services they need, which is both economically and socially inefficient.

Homelessness is about poverty, unemployment, violence, discrimination and poor health outcomes, which result in turn in pressures on correctional services, social services, health services and police services, but at least the Housing Trust books balance. Community housing is a creative way of providing housing but it is not, as the government has deemed it to be, the solution to all public housing problems. Community housing is a valuable concept but one that is progressing slowly and which cannot deal with the housing crisis we have on our hands at this moment. Community housing can in no way compensate for the government's massive reduction in Housing Trust stock over the past decade.

As an example, just today I received an answer to a question I asked back in May from the Minister for Human Services. He tells me in this reply that there are currently 407 women in category one—that is, applicants with highest needs including women who have experienced domestic violence—on the housing waiting list and that the average time for women who have been housed between 1 December to the end of February this year was 3.4 months. In other words, people who are in crisis are having to wait for 3.4 months. He makes the point, not in the context of this bill but it fits nicely, that during the past financial year SACHA (South Australian Community Housing Authority) managed to provide two additional four bedroom properties to help relieve the crisis. That is an indication from the Minister for Human Services that the government's housing policies and reliance on community housing simply do not work.

The other solution that is trumpeted by this government is the private rental market, but it is a solution that does not work because the vacancy rate in private rental accommodation has consistently remained below 2 per cent. There are few rental properties available, especially to those on low incomes. So where do these people go, especially when there is a seven to eight year wait for public housing? Even if one qualifies for emergency accommodation there can be a wait of up to eight months. Many of these people end up on the streets or in places like the tent city that sprung up in the West Parklands.

Homelessness is a great cost to the community and therefore it makes good economic sense, as well as it being essential to the development of strong communities, to look for a constructive solution. So, this bill is a small step in

looking for a constructive solution to the public housing crisis. I say small because it might provide up to 20 extra dwellings a year. This is compared to the 1 560 homes slashed in the last state budget. I am concerned that in the policy shift we are seeing represented in this bill the government is walking away from its responsibility for public housing and leaving it in the hands of other organisations which may not have an overall coordinated strategy for dealing with the housing crisis.

This bill will have little impact on the depressed building industry. In the past year new housing commencements fell nationally by 35 per cent and in the same period 30 000 families were added to the public housing waiting lists, which brought the total to 213 000. With such a predicament it would be logical to reinvest in public housing, but the government appears to have a philosophical objection to this.

I also place on record my concerns about the lack of consultation with the community and the social housing sector in the formulation of this bill. Shelter SA, the peak body representing the community housing sector, had one week to respond to the bill before it was tabled in parliament, and this was only because the opposition spokesperson for housing contacted the organisation. Such a lack of consultation is indeed very disappointing and disturbing. Some of the positive aspects of this bill include a constructive use of church land in and around Adelaide suburbs. This means that social housing will be interspersed throughout the inner suburbs, with maybe four or five homes in one area rather than an enclave of social housing, which can bring its own problems. I acknowledge that many of these church-based organisations have in-depth and grassroots knowledge of the state's social problems. They have been dealing with them for decades. This means they are well placed to deal with such problems and the people they will be assisting under this housing agreement.

There are some issues I would like the minister to clarify before we reach committee and, in the light of the responses, I will decide whether or not I will have amendments drafted. First, in the policy framework statement for community housing partnership projects between the minister and the Interchurch Housing Unit a number of principles are outlined. Most of this policy framework remains in general terms, which is a matter for concern as this means that most of the detail will be dealt with in the regulations. Principle 1.3 states:

> Churches through their congregations and social services agencies, will provide pastoral and social support as appropriate, and as agreed between the housing residents of the churches, and will report annually to the Minister for Human Services through the ICHU.

I ask the minister: what does 'appropriate social support' mean? Does it mean a visit from the local pastor, or does the minister envisage a complete range of social services? What in the bill guarantees the extent of the support? This bill takes the model, as agreed between the Inter-Church Housing Unit and the Minister for Human Services, and extends it so that other groups can avail themselves of similar arrangements. Arising from this is a concern regarding the definition of 'associated landowner' as 'the registered proprietor of land that is leased by the registered housing association for the purposes of providing housing'. This definition could include private-for-profit proprietors who would enjoy all tax advantages and result in a form of corporate welfare. Will the minister advise what in the legislation would prevent profit-based organisations from taking commercial advantage from what ought to be a social responsibility?

Another concern raised by housing lobby group Shelter SA is the general policy shift in the intent of the bill. It appears that the growth of community housing will be only for those organisations that can bring money to the table. For example, organisations with land or capital will be able to enter an agreement with the government to provide housing, and in 30 years the housing development becomes their property.

This will exclude other organisations which do not have excess land or sufficient levels of capital to invest in land, and these can be organisations which house people with the greatest and most difficult needs. If this is the case, there is a real possibility of increasing waiting lists for and homelessness of some of the most marginalised populations in the state. This bill ought to ensure that access to cooperative and community housing will be available to all people in need and that the criteria and eligibility remains the responsibility of the government and not the various organisations that enter into this housing agreement.

From my briefing on the bill, it seems that the government's intention was that access would be needs based, but I ask the minister how the bill accomplishes this? If there is nothing in the bill to make this happen, I foresee the possibility that a welfare organisation run by a particular religious denomination might give priority, perhaps based partly on need, weighted by the information that a particular person adheres to their faith. The Democrats support this bill in the light of no other alternative to deal with the current housing crisis. For the benefit of all South Australians, we need investment in public housing on a large scale, which this bill clearly does not provide.

In closing, I quote from a letter sent to the *Advertiser* last week from Ms B. McGrath, Coordinator of the Women's Legal Service. The letter states:

> It is an extraordinary failure of our duty of care as a community that one of the most basic of human rights—safe, secure and affordable shelter—cannot be met for large numbers of vulnerable men, women and children.

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

FOOD BILL

Received from the House of Assembly and read a first time.

EXPLOSIVES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1621.)

The Hon. T.G. ROBERTS: The opposition agrees with the government's position in relation to this bill, which covers the use of fireworks by private citizens and acknowledges, as has the government, the support for change to legislation by a broad cross-section of the community. I must say that the opinions are not all supportive for the steps that are being taken but, in relation to the safety of lives and property, or at least the safety of individuals and property, it appears that it is a timely change. At the moment legal fireworks can be used in a way that is safe to those who are using them and safe for those who are in the immediate

vicinity watching. There is also a growth of the use of illegal fireworks and that is where the problem has been presented. There is also a push to allow some controls by licensed pyrotechnicians who will be able to use community fireworks for special occasions.

The reasons that citizens in South Australia were concerned and signed petitions, I think, were many and varied. Some people were concerned about damage to their own properties and some were concerned about the problems associated with scaring animals. Dogs, in particular, are susceptible to very bad behaviour and fear when fireworks are exploded in their vicinity.

Certainly, a large number of complaints were received by Workplace Services about the growing use of fireworks by untrained people who in some cases were using them in a responsible way but in other cases were using them in an irresponsible way. A report did make some recommendations and the government decided that the current system of regulation was inadequate and that the present regulations of control and sale—but not the use—of fireworks was not adequate. The permit system that was in operation could not be policed. There was little or no ability by people to regulate their use and we now find this bill before us.

The bill gives some extra powers to police to intervene where illegal fireworks displays are being organised. There was some debate as to how the police would intervene if complaints were being made to authorities in relation to the annoying use of fireworks display. Those questions were asked in another place by other members. I suspect the Hon. Robert Lawson will give a report when he sums up. The bill limits access only to those fireworks that are common to use; ensures that safe storage and transport procedures are applied; outlines staff supervision and responsibilities; and ensures that safe work practices are implemented. There are also conditions such as separation of distances from display and the public, and from display and buildings; notification arrangements to neighbours, emergency services and local councils; fire safety arrangements; and size and type of products to be used when fireworks displays are to be commenced. So the opposition supports the proposals being put forward by the government. We hope that it has a speedy introduction. Hopefully it will be gazetted and in operation before the oncoming fire season which generally starts around October or November.

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

ADJOURNMENT

At 9.07 p.m. the Council adjourned until Wednesday 4 July at 2.15 p.m.