LEGISLATIVE COUNCIL

Tuesday 15 October 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Agricultural and Veterinary Products (Control of Use),

Air Transport (Route Licensing-Passenger Services),

Appropriation,

Electricity (Miscellaneous) Amendment,

Essential Services Commission,

Fisheries (Contravention of Corresponding Laws) Amendment,

Fisheries (Validation of Administrative Acts),

Prices (Prohibition on Return of Unsold Bread) Amendment,

Recreational Services (Limitation of Liability),

Stamp Duties (Rental Business and Conveyance Rates) Amendment,

Statutes Amendment (Structured Settlements),

Statutes Amendment (Third Party Bodily Injury Insurance),

Wrongs (Liability and Damages for Personal Injury) Amendment.

TOBIN, Dr M.J.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): By leave, I move:

That this council expresses its deepest condolences to the family, friends and colleagues of Dr Margaret Julia Tobin, a pre-eminent and tireless servant of the people of this state.

I move this motion with much sadness. We mourn the tragic death of Dr Margaret Tobin, Director of Mental Health Services, and acknowledge her outstanding contribution to the area of mental health in South Australia. We are shocked and saddened by the events which led to Dr Tobin's death.

This morning the Premier and the Minister for Health (Hon. Lea Stevens) visited staff in the Department of Human Services. They are obviously traumatised and counselling support has been put in place for them. I will read part of the statement given in another place by the Premier, which outlines Dr Tobin's commitment to her work and to her family, and expressing, on behalf of us all, the deep appreciation we feel for Dr Tobin's life and the shock and distress we feel at her death. It states:

It was a measure of the commitment and dedication of Dr Margaret Tobin that she spent her last hours organising help for other people. Since the tragic events of the weekend in Bali, Dr Tobin had been instrumental in organising counselling and other support services for those arriving home from Kuta and for the families of the victims.

Dr Tobin grew up in Croydon in Melbourne, the eldest of eight children in a solid working-class family. She being the eldest, her parents spent considerable energy and time on the education of their obviously very clever and talented daughter. She graduated in medicine from the University of Melbourne in 1978. Dr Tobin completed postgraduate qualifications as a psychiatrist and was admitted to the Royal Australian College of Psychiatrists in 1986. She worked in Victoria and later in New South Wales.

She was a former director of south-eastern Sydney's area health services, which is one of the country's top mental health administrative jobs. She has been a national and international consultant on mental health and brought enormous medical teaching and management skills to South Australia. When she was appointed to head the state's mental health services in July 2000 she told staff her motto was: This time, make things happen. And she was certainly doing that.

Just a few weeks ago, Dr Tobin was interviewed about National Mental Health Week. She said, "People need to stop thinking about mental illness as a rare and worrying condition important to somebody else. . . and start thinking that mental health is everybody's business—that a person in your family or your circle of friends is absolutely certain to get a mental illness of one sort or another. . . and therefore it is urgent that the community understands and is sympathetic to mental illness."

Despite the fact that Dr Tobin had reached such an esteemed position in her field, she chose to dedicate her life and career to the public mental health system. She said she wanted to help those who may not get a service elsewhere.

Dr Tobin constantly advocated for the most disadvantaged and marginalised people in our community. That can sometimes be a thankless task. She dedicated her life to improving the lives of others. Her friends and colleagues have described her as passionate and compassionate, with a love of books, classical music and opera.

Dr Tobin celebrated her 50th birthday just a few weeks ago. She was honest, dedicated and absolutely committed to mental health. Her staff say that they all took on her passion for making life better for those with a mental illness. She inspired everyone to do better.

I understand she made some close friends during her two years in Adelaide, and our hearts go out to them, too. The loss of Dr Margaret Tobin is another trauma for our state, another stark reminder—if we needed one after the weekend—that we are not untouched by senseless violence.

For the people of South Australia, Margaret Tobin's memorial must be—and will be—the much improved mental health service she so tirelessly fought for. Our thoughts and prayers are with Dr Tobin's husband Don and her family.

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of Liberal members, I rise to support the motion moved by and spoken to by the Leader of the Government in the Legislative Council. I did not know Dr Margaret Tobin personally but, as with other ministers, I knew of her by performance and reputation. As was alluded to by the Leader of the Government, Dr Margaret Tobin's service in South Australia came about only two years ago, some time in the year 2000, when my colleague and then minister for health, the Hon. Dean Brown, was responsible for her appointment to this most important position in the health services in South Australia. I know that the Hon. Dean Brown and one or two others who worked with Dr Tobin, together with ministers in the new government, have been much affected by the tragic news of what occurred yesterday.

My colleague the Hon. Dean Brown was an unabashed admirer of Dr Tobin's professional capacities and abilities and the work that she had set about doing, together with her staff, in mental health services in South Australia, and obviously we hope that has been continued in the first six months of the new government. The Hon. Dean Brown was quoted in this morning's newspaper in similar terms to the Leader of the Government when quoting the Premier in another place today, highlighting that now we have to ensure that the task that Dr Tobin and her senior officers had set about in improving mental health services should be achieved by the new government and by those senior officers, and one particular senior officer who will ultimately have to fill her shoes.

As the Leader of the Government has alluded to, it is a tragedy that, 24 hours after we in this chamber were expressing our concern and condolences to those affected by the impact of terrorism in Bali, we are dealing with another tragedy. We have graphically seen television images since yesterday afternoon, as well, and those who saw any TV last

night could not fail to have been impacted on by the television vision of South Australians of all shapes and sizes, footballers and others, returning to Australia and to South Australia, all traumatised and all significantly impacted by the experience that they had been through, and a number of them graphically indicating their experiences.

Sadly what yesterday's events have indicated is that it is not just terrorism that can bring about tragic circumstances in our community. It is not proper to speculate as to the nature of the circumstances that led to the event yesterday, because that will be the subject of investigation and report, ultimately, but nevertheless the range of speculation about yesterday's circumstances indicates that danger remains with many Australians and South Australians as they go about their normal business and occupation.

This morning, I was pleased to hear Jan McMahon, on behalf of the Public Service Association and public servants generally, raising the important issue of security for those who work in the Public Service, and I trust that those issues will be addressed by this community, partly as a result of the tragic circumstances of yesterday. I know that I speak on behalf of my colleagues, and I mirror the public statements of my colleague Dean Brown, in expressing our condolences to the family, friends and acquaintances of Dr Margaret Tobin on yesterday's tragic circumstances.

The Hon. M.J. ELLIOTT: I rise to support the motion, to express my regrets for the events of yesterday and to offer my condolences to Dr Tobin's family. We do not know the circumstances of this case and, as the Leader of the Opposition said, it would not be right to speculate. I note that the immediate reaction is to talk about the need to upgrade security. It seems to me that, perhaps to some extent, it misses the point. I do not think that either chamber of this place had been invaded until after the security system was put in! Some of those who have been here for a while would remember that the security system was put in, and after that somebody managed to get into the House of Assembly.

It seems to me that security is a reaction to a problem that has to be tackled itself. No matter how secure you make a building, a person is not safe once they leave the entrance to the building. Do we then start providing an armed guard for anybody we consider to be at risk? We do not know the circumstances in this case. There appears to be an increase in the level of violence confronting public servants these days; that has been reported by the PSA.

We have to ask deeper questions about what is really happening in our society that is causing that increase, rather than saying, 'It's happening and, therefore, we must step up security.' Perhaps we could look at the level of violence in this place—and by that I mean the increasing lack of respect individuals show for each other in the chamber which is reflected by the increasing level of confrontation between members. That is something we are seeing through society generally. Unless we accept some responsibility for that sort of behaviour, we are not really tackling the real problems. Dr Tobin and others deserve to have us treat this in the widest possible way.

The Hon. A.L. EVANS: I rise to support the condolence motion. It is a tragedy for our state to lose such a gifted, talented person in such an important area. The mental health of our citizens needs to be headed up by the best, first class people. Any of you who have touched on, seen and worked closely within that area would know the agony, pain and hopelessness that many of them experience. These are dedicated workers, and Dr Tobin was head of them. To lose such an experienced and talented person is a great tragedy. Our desire is that something such as this should never happen again. So, our prayers and wishes go to the family.

The Hon. R.D. LAWSON: I, too, join in the expressions of condolences to the family, friends and workmates of Dr Margaret Tobin. I knew Margaret Tobin and first met her when I was the Minister for Disability Services and Minister for the Ageing. She was appointed as Director of mental health services in South Australia. I attended the meetings chaired weekly by the Hon. Dean Brown at which Margaret Tobin attended. So, I there got to know something of her knowledge of mental health issues but also her understanding of people, of the human services system, and the solutions which she proffered not only to issues of mental health but to other matters that invariably arise in meetings of that kind.

A particularly fond and poignant memory of mine is a visit I made with Dr Tobin to the Oakden facility, the mental health service for older people, conducted by the Department of Human Services. This was an inspection by myself as minister and her as the newly appointed director, as she had not previously visited this facility nor met the staff, the patients or the residents. In the course of a couple of hours, as we went around that facility meeting those people, I certainly came to admire and greatly respect the dedication that Dr Margaret Tobin had to her task. She was a most committed and understanding person, a person with a real idea of the direction in which our mental health services should be moving, based not on an ideological position but on a great understanding of people with mental health issues.

She was very clearly on this occasion a patient oriented person, someone who was prepared to look at an institution of the particular kind at which we were looking through fresh spectacles, and to indicate very firmly the way in which she believed that this organisation would be improved, with the sort of drive that was necessary to make improvements of that kind. She was a most insightful and wonderful person and the state has lost a true servant.

She died in the course of her duty, presumably (although we should not speculate) because she was undertaking her duties and because of whatever she was doing in relation to them. It is a matter of double sadness that we have lost such a person and also lost somebody in the course of doing their duty for the state of South Australia.

The Hon. SANDRA KANCK: I did not know Margaret Tobin, but as the health portfolio holder for the Democrats I saw the impact she had on the health system in the space of two years. It was certainly my view that she was one of the best things to happen to South Australia's mental health services in a decade.

Her murder, on top of the carnage in Bali, has had a very deep impact on South Australians. In a group of people I was talking with last night, a great deal of fear was expressed about their own safety. A fear was expressed that, maybe, even their lives could be abruptly terminated in the same way as Margaret Tobin's had been. But, as I have said before in this chamber, fear begets fear. We have to live our lives as though each of our lives were about to end, as it will eventually. But we need to live every moment of our life as though it were our last. If we interacted with other people as though it were the last time we were to see them, human relationships would be amazingly altered across the planet.

It is a terrible thing that a public servant has lost their life in performing their duties. As to the fearfulness that has arisen out of that, I expect that, had it happened to somebody else and Margaret Tobin were alive and the extra security being talked about were being proposed to her, I imagine she would have laughed at that fearfulness. I think she would have continued to go about living her life with strength and courage. I do not think we should allow ourselves to be intimidated by one cowardly act or should cower behind security. We should remember that we live in what is really an extraordinarily safe society and that we are very lucky to belong to such a safe society. In refusing to be intimidated by the fearfulness that has arisen, as politicians we must set an example of seizing hold of life and living it to the fullest. I am very supportive of this motion and I extend my condolences to Margaret Tobin's family, friends and co-workers.

The Hon. DIANA LAIDLAW: I will say a few brief words. Belatedly, on the public record, I thank Margaret Tobin for the help she provided me from time to time in the portfolio I held previously, both in terms of the status of women and transport. People with intellectual and physical disabilities and mental health issues rely heavily on the public transport system, and Margaret Tobin was a great support to the Passenger Transport Board, TransAdelaide and me in working through individual issues with some passengers and collectively on how we could improve our services overall and in the training of drivers, who would encounter, face to face, passengers with distress for a variety of reasons.

Often the smallest things—such as a late bus or the fear of missing an appointment—would trigger behaviours that were often difficult for a bus or train driver or passenger transport assistant to handle and, over the years, Margaret Tobin and many who worked with her have been invaluable in working through those issues with our transport sector. I also had contact with Margaret because, over time, I received representations from mothers (often separated or widowed) who were increasingly fearful for their children with mental illness and how, as the parents or the woman grew older, their children were going to support themselves more generally in the community.

This is a big issue with which we must deal to ensure that carers are supported as parents and outsiders in helping people with mental disability. As Margaret Tobin used to challenge me, and generally the community, there is a real issue about daring to care in our community at this time when so much emphasis is placed on material values. The leader, in moving this motion, said that Margaret Tobin's last hours were spent helping other people. My understanding is that her life was spent helping other people; and individuals such as Dr Tobin are very difficult to find in society in general and particularly in the public sector.

So often they will take up professional positions and for more pay in the private sector or outside this country, and this is a real issue also, I think, in the way in which we deal with individuals who are vulnerable in our community. Dr Tobin, in taking up her appointment, advertised for a personal assistant and was able to engage Mr Andre Knez who, at that time, was working with me in the minister's office. I know that at this time Andre is distressed at what has happened to a most marvellous woman and his former employer. I know also from Andre what a special person she was generally not only to all her staff but also to those for whom she was responsible in terms of caring and catering in the wider mental health sector.

I know that Margaret was unforgiving and unrelenting in her fight against entrenched interests in the general hospital sector across the psychiatric field—and even with Treasury, I suspect, too, in seeking the funds that she felt were absolutely vital in improving services for people with mental illness and disability. Qualities such as that and the integrity and professionalism of Dr Tobin will be sorely missed in our community. I wish her family, her staff and the general sector all the best at this troubled time. I hope that, notwithstanding the circumstances, at some time South Australia is able to gain a person of equal integrity and professional capacity to fill the position.

The PRESIDENT: There appear to be no further contributions; however, on this occasion I would like to say a few words myself. The work in which Margaret Tobin was involved is an area in which I have held an interest for some years. Those of you who have been here for some time would remember questions I have asked and concerns I have expressed about the mental health aspects of our society. I will not go over everything members have said. I think your thoughtful and sincere observations will be well received by Margaret Tobin's family, friends, workmates and those who have benefited from her experience and the changes she was making in mental health. In their contributions, members mentioned that Margaret Tobin brought a saying to South Australia that this time she would make a difference. I think she has done that, and it is now up to all in government and opposition to follow through on the work she started on behalf of people and families who endure mental illness. I now ask all members to stand in their places and carry the motion in silence.

Motion carried by members standing in their places in silence.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That as a mark of respect to Dr Margaret Tobin's memory the council be suspended until the ringing of the bells.

Motion carried.

[Sitting suspended from 2.47 to 3 p.m.]

MEMBERS' INTERESTS

The PRESIDENT: I lay upon the table the Register of Members' Interests of June 2002 and the Registrar's Statement.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That the Registrar's Statement on Members Interests June 2002 be printed.

Motion carried.

PAPERS TABLED

The following papers were laid on the table:

By the President (Hon. R.R. Roberts)—

Report of the District Council of the Flinders Ranges, 2001-2002

Report of the District Council of Mount Remarkable, 2001-2002 pursuant to section 131 of the Local Government Act 1999.

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2001-2002—
Advisory Board of Agriculture
Auditor-General's Department—Report on the Operations
Phylloxera and Grape Industry Board of South Australia
Disciplinary Appeals Tribunal—Report of the Presiding Officer for the year ended 30 June 2002
Promotion and Grievance Appeals Tribunal—Report of the Presiding Officer for the year ended 30 June 2002
Regulations under the following Acts—
Aquaculture Act 2001—Fees for Licensee
Electricity Act 1996—
Contestable Customer
Customers
Fisheries Act 1982—Gill, Mesh and Bait Nets
Livestock Act 1997—Deer Keepers
Petroleum Products Subsidy Act 1965—Claim for Payment
Primary Industry Funding Schemes Act 1998—Deer Industry
Public Finance and Audit Act 1987—Public Authorities
Southern State Superannuation Act 1994—Education, West Beach Trust
Superannuation Act 1988—Education, West Beach Trust
Veterinary Surgeons Act 1985—Prescribed Requirements
Government Boards and Committees Information (by Portfolio) as at 30 June 2002—Volumes 1 to 3
For the Transfer of Maritime Assets made by the Minister for Government Enterprises under Section 6 of the South Australian Ports (Disposal of Maritime Assets) Act 2000—Transfer Order (2)
South Australian Ports (Disposal of Maritime Assets) Act 2000—Ministerial Direction and Transfer Order

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T. G. Roberts)—

Reports, 2001-2002—
Boundary Adjustment Facilitation Panel
Clare Valley Water Resources Planning Committee
Coast Protection Board
Department of Human Services
Land Board
Local Government Activities by the State Electoral Office Report
Martindale Hall Conservation Trust
Northern Adelaide and Barossa Catchment Water Management Board
Onkaparinga Catchment Water Management Board
Patawalonga Catchment Water Management Board
South Australian National Parks and Wildlife Council
The Administration of the Development Act Report to Parliament
The Physiotherapists Board of South Australia
West Beach Trust
Wilderness Protection Act 1992—South Australia
City of Adelaide—Adelaide (City) Development Plan—Adult Premises Plan Amendment Report—Report on the Interim Operation
City of Victor Harbor—Local Heritage Plan Amendment Report—Report on the Interim Operation
Department of Human Services Report to Parliament on Palliative Care in South Australia, 2002
Land Not Within a Council Area (Coastal Waters) Development Plan—Lower Eyre Peninsula Aquaculture Plan Amendment Report—Report on the Interim Operation
Section 269 of the Local Government Act 1999—Operation of Part 1, Chapter 13 of the Act Report to Parliament
The Barossa Council—The Barossa Council Development Plan—Paper Town Plan Amendment Report—Report on the Interim Operation
Regulations under the following Acts—
Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986—Agricultural Protection
Construction Industry Training Fund Act 1993—GST
Controlled Substances Act 19784—Simple Cannabis Expiation Fees
Criminal Injuries Compensation Act 1978—Remake
Criminal Law (Forensic Procedures) Act 1998—M's DNA
Development Act 1993—Cover Requirement Revoked
Electronic Transactions Act 2000—Exclusions
Environment Protection Act 1993—Fee Unit
Harbors and Navigation Act 1993—Further Time Extension
Liquor Licensing Act 1997—Dry Areas—
Kadina, Moonta, Port Hughes, Wallaroo
Port Augusta
Victor Harbor
Occupational health, Safety and Welfare Act 1986—Electrical
South Australian Health Commission Act 1976—Fees for Service
Prescribed Health Services
Subordinate Legislation Act 1978—Postponement of Expiry
Workers Rehabilitation and Compensation Act 1986—Local Government Corporations
Scale of Medical, Other Charges
Rules under Acts—
Authorised Betting Operations Act 2000—Bookmakers Licensing (Information Protection) Register and Other Fees
Significant Trees—Time Extension
Legal Practitioners Act 1991—Amendment No. 2 to the Legal practitioners Education and Admission Council Rules 1999—Employment
Local Government Act 1999—Local Government Superannuation Scheme Rule Amendments—
Ayers Rock Co
Investment Option
Rules of Court—
District Court—District Court Act 1991—E-filing Project
Supreme Court—Supreme Court Act—E-filing Project
By-laws—
Corporation—
Campbelltown—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
Gawler—
No. 6—Bird Scarers
District Council—
Streaky Bay—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs
Naracoorte Lucindale—
No. 1—Permits and Penalties
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs.

DROUGHT RELIEF

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: I wish to update the council on action that this government has taken to assist those affected by drought. A similar statement was given by the Premier in another place today. Last weekend the Premier announced a $5 million drought package for South Australian farmers in rural communities that had been hit by record low

rainfalls, which threatens their livelihoods and the state's primary industries.

As members are no doubt aware, there are many farms in South Australia, particularly in the Murray Mallee and the north-east pastoral area as well as in other areas of the state, that have been severely hit by drought. During this year, rainfall in most agricultural areas of the state has been significantly below average, with many farms suffering a one-in-twenty-year low and others having the lowest rainfall on record.

During the past few weeks I have travelled to some of the state's drought affected areas with the Premier and John Lush from the South Australian Farmers Federation. We visited the Murray Mallee, Carrieton, Orroroo and Johnburgh in the Upper North, and Sturt Vale, Manna Hill and Wirrealpa in the north-east pastoral area. The Premier and I asked farmers in each area to tell us how best the state government could help and, interestingly, they told us that they were not looking for handouts. Many of the farmers are trying to improve farming practices and employ different methods to decrease the impact of drought. However, in the current dry conditions, there are some who are struggling to survive.

The areas least able to prepare for the drought are the north-east pastoral district and some parts of the Murray Mallee which were affected by frost last year. Now these same farmers are suffering the combined effects of the low rainfalls combined with strong winds.

In response to what we saw in the country, the Premier established a task force headed by the chief executive of the Department of Primary Industries, Jim Hallion, and including representatives from the South Australian Farmers Federation and relevant state and local government agencies. The Premier asked the task force to find ways in which the government could best support rural communities in these difficult times, and I would like to thank them for presenting to the Premier a solid and workable package of assistance measures.

As part of the rural support package, we will provide $300 000 to provide four extra rural counsellors, including a financial counsellor located within the South Australian Farmer's Federation. We will put $1 million into FarmBis to deliver training in management for farming sustainability, and will include coordination and promotion in drought affected areas. We will provide cash grants of up to $10 000 to assist families in need, to provide the means for the most badly affected farmers to buy seed or stock for the next season.

An amount of $150 000 will be provided in community grants for rural community groups to carry out activities that have a drought focus; $240 000 has been allocated to support further development of the sustainable farming systems project in the Murray Mallee; $150 000 to fast-track the development of drought tolerant crops, including a strain of wheat used by farmers in Mexico, which is thought to be up to five times more drought tolerant than the strains of wheat used by most Australian farmers; $200 000 to extend the results of research undertaken through the central north-east farm assistance program; $300 000 to further support sustainable management and in building community capacity in the rangelands; $140 000 to develop and extend livestock management best practice in drought-affected areas; $50 000 to assist farmers in managing frost; $50 000 for additional road maintenance in the central north-east; and $720 000 for the business support component of exceptional circumstances assistance for areas of the Murray Mallee and central north-east, should exceptional circumstances be declared. The government has also donated $200 000 to the National Farmhand Foundation appeal for drought-affected farmers.

A drought information hotline (1800 999 209) and an internet site have been established by the Department of Primary Industries and the South Australian Farmer's Federation so that farmers in any part of the state can access information in relation to the assistance that is available.

The state government is working with communities to assess areas of the Mallee and the north-east pastoral district against exceptional circumstances criteria. Negotiations between the state and commonwealth are continuing, and we have told the federal government that we are fast tracking the exceptional circumstances assessment process. We rely on our farmers and they deserve our support when times are tough.

NATIONAL WINE CENTRE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to the National Wine Centre made in another place by the Treasurer.

INSURANCE, PUBLIC LIABILITY

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to Suncorp GIO operations made in another place by the Treasurer.

RAIL, SOUTH-EAST

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I seek leave to read a ministerial statement relating to South-East Rail made in another place by the Hon. Michael Wright.

Leave granted.

The Hon. T.G. ROBERTS: The ministerial statement reads as follows:

On Friday 11 October, I announced that South Australian Southern Railroad (ASR) had withdrawn from detailed negotiations to re-open the Mount Gambier to Wolseley rail line for the movement of freight. This is a disappointment given the government has been in detailed negotiations with ASR for 10 months. ASR has not provided details further to its decision and I will not speculate on that. The state's contribution remains at $10 million as announced by the Premier in May 2002.

It is important to note that the tender process enables the state government to approach the two other respondents—Freight Australia and Gateway Rail—to determine if they are able to enter into negotiations. This will be actioned this week.

In addition to the existing option both tenderers provide, I have requested the Department of Transport and Urban Planning to investigate further options, including the possibility of the government having a more central role in re-opening the rail link.

The house would be aware that this project has received bipartisan support and that ASR and the South Australian government have been in detailed contract negotiations since January 2002 following an expression of interest (EOI) process that started in May 2001 under the previous government. The EOI process was used to determine if the private sector would be interested in a joint venture to re-open the line.

As an incoming government, I requested the project be assessed to ensure the South-East was the most appropriate region to invest rail capital. In March, this was confirmed to be the case and as such the government committed to completing a process already in place. In May, cabinet approved $10 million to fund the project.

The replacement value of the state-owned track infrastructure assets in the South-East is estimated to be $200 million but it has a scrap value of just $5 million. Therefore, there is a substantial benefit from making it operational. This project will return the assets to an

operational condition with an estimated depreciated value of $100 million. And it is not all dollars; there are significant transport safety benefits when freight is transferred from road to rail.

Since the announcement of the government's approval of the project, considerable concern has been expressed about the impact truck movements will have on the city of Mount Gambier with the existing intermodal freight terminal near the centre of the town. While all three tenderers indicated their intention to continue using the existing freight terminal facility, all advised a willingness to consider alternative locations once a business case could be justified. Although disappointed with the withdrawal of Australia Southern Railroad, I reiterate that the government is committed to exploring options for the rail link and more broadly to the promotion of rail in South Australia.

QUESTION TIME

PUBLIC-PRIVATE PARTNERSHIPS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about public-private partnerships.

Leave granted.

The Hon. R.I. LUCAS: The government, effective from 1 September, issued new guidelines for the private sector for public-private partnerships under the heading 'Partnerships SA.' In the introduction to those guidelines, the cabinet has approved the following statement:

> The government is strongly opposed to privatisation. Partnering arrangements are not privatisation.

My question to the Minister for Correctional Services is: is the management contract for the Mount Gambier prison a privatisation contract or a partnering arrangement?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The question of public-private partnerships is occupying the mind of government at present in relation to a number of projects. The honourable member should be aware of the circumstances in which the Mount Gambier prison contract was signed, because he was in government at the time. My understanding is that when that arrangement was signed it was the government's intention to have a privately owned and administered prison, to be run by a tendering process in competition for the management of those services with groups and organisations who at that time were interested in management programming. Group 4 subsequently won the contract.

My understanding is that the building was publicly funded but that the partnering arrangement for the management of that prison was a public-private partnership. Group 4 won the contract for the management of the prison but it had public partnership at senior management level. The Public Service maintained the public interest, if you like, in relation to the management of those services. It was a style of public-private partnership. However, my reading of the intention of the government at the time was for it to be a fully privatised prison, managed entirely by the private sector and run by one of the successful tenderers which, in that case, was Group 4.

The Hon. R.I. LUCAS: By way of clarification, did the minister indicate that it is an example, from his viewpoint, of a public-private partnership for the reasons that he has just outlined (I do not need him to go over those reasons again)?

The Hon. T.G. ROBERTS: The partnership between the public and private sector is self-evident. There is a partnership between the public administrative and private administrative bodies.

NGAANYATJARRA PITJANTJATJARA YANKUNYTJATJARA WOMEN'S COUNCIL

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council review.

Leave granted.

The Hon. R.D. LAWSON: The Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, which I will hereafter refer to as 'the council', is a well established organisation operating out of Alice Springs and providing services to, amongst others, people on the Anangu Pitjantjatjara lands of South Australia. On 28 September this year the three ministers—the Minister for Health, the Minister for Housing and the Minister for Social Justice—through the Department of Human Services, announced a review of the council and issued documents describing the nature of that review. Those documents say that the review is to ensure that an effective community driven and properly resourced women's council provides measurable and culturally appropriate services to its community.

In particular, the terms of reference of this review are to: identify and make recommendations regarding the strategic directions of the women's council; to identify its core and secondary businesses; to identify factors that impact on the effectiveness and efficiency of the organisation; to explore and identify the most effective culturally appropriate organisational and governance arrangements for the women's council, including effective Anangu control; and, to assess the appropriateness of current resource allocations and identify the resource and staffing requirements to undertake the core businesses of the women's council.

The review will be overseen by the women's council review reference group, comprising the council chair, the council coordinator, an elected ATSIC representative and a member of the ATSIC administration, a representative of Family and Community Services from South Australia, a health and ageing representative, a Department of Human Services representative, a territory health services representative and a representative from the Western Australian Disability Services Commission.

The review report is also to the Anangu Pitjantjatjara Lands Intergovernment Interagency Collaboration Committee. Very extensive documentation is provided for this proposal, which seeks a reviewer to undertake the work required. What is notable is that there is no mention at all of the state Department of Aboriginal Affairs, nor of the Minister for Aboriginal Affairs and Reconciliation in this state. My questions are:

1. Was the minister or his department consulted in relation to this review?

2. Will the minister or his department have any input into this review?

3. The review does not appear to take into account the review which the minister himself is currently undertaking into governance on the Anangu Pitjantjatjara lands of South Australia about which a select committee is currently taking evidence and deliberating.

4. What steps will the minister take to ensure that the authors of this review do take into account the views of the select committee of this parliament currently investigating the governance of the lands?

5. What is the anticipated cost of this review, which is one of more than 100 the current government has announced since the last election?

The Hon. T.G. Roberts: To whom is the question directed?

The Hon. R.D. LAWSON: The Minister for Health, the Minister for Housing and the Minister for Social Justice.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will have to take the main body of that question on notice as I am unaware of the—

The Hon. A.J. Redford: He says with a great sense of relief.

The Hon. T.G. ROBERTS: I will try to get a copy of the review to which the honourable member refers and bring back a reply. However, I will say that, through the department and in conjunction with the minister's office, we are trying to coordinate the activities of the service providers within the community, including the NPY Women's Council, the Nganampa Health Service and other various Anangu and non-Anangu service providers. Prior to the establishment of the select committee, the government discovered that a range of service providers were operating with some measure of success and that others were operating with some measure of frustration in relation to applying for funding at both commonwealth and state level, and coordinating cross-agency support for targeted delivery.

We hope that, within government and, hopefully, with the opposition's support, we can lasso or pull into a coordinated process all of those cross-agency departments which deliver service to the lands and which require both commonwealth and state funding and, in some cases, other funding from agencies outside of the commonwealth and state agencies. Some private bodies that do participate in service delivery within the lands also need to be brought into the loop. At this stage, through the select committee process, we are trying to get the information we require as a select committee—separate from government—to make a report to this council about the suitability of the Pitjantjatjara Land Rights Act to see whether the act needs changing to try to build some guarantees into service delivery programs, as well as talking to the land management body—the AP Council.

We must also try to work through some of the differences that exist between the AP Council and the Pitjantjatjara Council. So, as I have described in this council on many occasions, we have a very difficult job as a state agency. DOSAA is going through a review process internally to try to deal with the changed circumstances in terms of the extra responsibilities we have taken on board to try to get the support of those agencies and the targeted service and assistance that is required to ensure that we get it right this time for the prevention of those difficulties that are besetting the communities, such as petrol sniffing, alcohol and drug abuse, violence and nutritional, housing, health and education problems, so that commonwealth-state funding and cross-agency support can be harnessed to get the best results possible.

The Hon. R.D. LAWSON: As a supplementary question: would the minister agree that, in light of his statement that he is trying to coordinate services between various service providers on the lands, coordination is sadly lacking when neither the state department of Aboriginal affairs nor the minister is part of a review into the services provided by an important organisation such as the women's council?

The Hon. T.G. ROBERTS: I am sure that, within the time frames that governments have, I will eventually receive a copy and the department will be asked to comment on the review process.

The Hon. A.J. Redford: After it's all over.

The Hon. T.G. ROBERTS: Traditionally and under the previous government, health, education and housing were not the province of DOSSA. One of the difficulties of the minister's office being able to keep in touch with what was happening cross agency was getting those reports from the agencies into a form such that the department itself could assist in the delivery process. We are trying to get around the frustration that the previous government obviously had. I know that it will take some time for some of the agencies to be able to respond to the instructions that have been given to bring about the government's new programming. I am not saying that that is the case with this review, but I have not read the review.

The review is inquiring into an agency that is the beneficiary of commonwealth and state funding applications. From evidence taken before the committee we found that, among the women's organisations that were operating within the lands, particularly in health, they experienced frustrations over the number of applications they had to make for annual funding programs. Myriad organisational applications had to be made, and we found that many of the professional people who were operating within the health sector in particular spent probably as much time writing applications to fulfil the needs and requirements of commonwealth and state bureaucracies as they did servicing those difficulties that were obviously appearing on the lands.

DROUGHT RELIEF

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on the drought assistance package.

Leave granted.

The Hon. CAROLINE SCHAEFER: The Premier issued a press release on 12 October, and I believe it was a commendable effort. I quote from some of that, as follows:

> We will provide $1 million in additional funding to the FarmBis program to help farmers experiencing adverse conditions to manage through this drought and for all farmers, fishers and natural resource managers to prepare for other adverse conditions in the future.

It continues in part by stating that the package also contains $240 000 to support further development of sustainable farming systems in the Murray-Mallee, $300 000 to further support sustainable management and in building community capacities in the rangelands, and $50 000 for additional road maintenance in the Central North-East. My questions are:

1. How do this amount of money and the strategies compare with the amount of money and the strategies that were already in place offering those services and removed as part of the previous budget?

2. Are there any new initiatives, or is this merely a reinstatement of finances in particular removed from the FarmBis strategy at the last budget?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The $5 million package that the Premier has announced is all new state money: none of it was taken away. I am surprised that the Hon. Caroline Schaefer keeps putting her head up on this one. Let us be clear: in the year 2003-04, the former Liberal government's allocation for FarmBis was zero. There was absolutely zero in the forward estimates in relation to FarmBis. And, in answer to questions

in this council on a number of occasions, I have explained that this government has had a very difficult task in dealing with the budgetary situation.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: When this government came to office, it faced some very difficult challenges in terms of managing the budget condition which we inherited. In view of the current situation—the disastrous drought situation that is facing part of this state—the government has come up with a package that it believes will best assist those most in need. The increase of $1 million to FarmBis in that $5 million package is just one way that we will greatly assist. It will, as the Hon. Caroline Schaefer pointed out, have a particular drought focus: in other words, through the state planning group that manages the FarmBis program, we will endeavour to ensure that that support is most focused on those affected by drought.

The budgetary situation that this government faced was such that there was no provision for FarmBis beyond the current financial year, and that is why this government had to restructure that program. I note that, in his report tabled yesterday, the Auditor-General made the following comments about the fiscal administration of the previous government:

> I have continually made the observation in past years that the government's ability to determine central transactions at the finalisation of the budget outcome had been a facility for the government to achieve published estimated outcomes. The key point to acknowledge is that the achievement of the cash-based budget target was readily accommodated through timing of transactions. It has been the regular practice of previous governments to process transactions at year-end to essentially achieve budgeted outcomes.
>
> This process means the actual result did not relate to the budgeted flows for a year but rather the actual flows as adjusted to achieve the budgeted result. Over the years, this final adjustment process had, in my opinion, become administratively cumbersome. It was presentational and did not affect the overall public sector financial position. For this reason it was important that the estimated and final results were not seen on their own, as a reflection of the government's ability to meet its budgeted performance. A sound understanding of the changes in the outlays and revenues comprising the result was, in my opinion, vital to interpreting performance.

That is from page 24 of the Auditor-General's report and it gives an insight into the sort of budget fiddling that was going on under the previous government. And, as I have pointed out on numerous occasions in this place, there were a number of programs that were not properly forward funded by the previous government, and that is why this government is determined to do that.

It has meant it is very difficult for us because, if we are to ensure that our programs are properly funded into the future, there are several things we can do: one is to cut other programs and another is to raise additional taxes to fund them. That was the difficult situation which we faced. We are determined to bring some integrity to the management of the books so that we do not have the sort of doctoring at the end of the year which we saw going on under the previous government in relation to the financial accounts.

I think all members of this council should welcome that the government has recognised that at the moment we do have a very serious drought situation in this state, particularly along the eastern border region, although in some parts of the Mallee, where the drought has virtually wiped out all chance of crops and pasture for this year, many of the farmers had good seasons in the previous two or three years. However, in parts of the north-east, there have been less than average conditions now for at least the past six years and the farmers in that part of the country are in particularly dire straits.

There are also a few farmers in the mallee who had suffered severe frosts in previous years, so they did not have good years to build on. The government has come up with a package which we believe will be financially responsible. We also believe it will assist those areas most in need and, perhaps more importantly, we believe that the package will encourage good farm practices.

One thing that is obvious from the visits that we have made to those rural areas is that there is a big difference in farm practices. There is no doubt that with the advent of Land Care and other rural movements over the last 15 years there has been a great deal of improvement across the board in farm practices, but it is also clear that there is a big difference between those at the top and those at the bottom. It is important that we bridge the gap, and that is why many of the measures that are listed under the package that has been announced are to continue to support those particular programs that will encourage better farm practices and sustainable farming so that it can continue into the future. I hope that all members of this council will welcome the package that the government has provided to address the very serious problem that our farmers face.

FOOD SAFETY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding food safety.

Leave granted.

The Hon. CARMEL ZOLLO: Food safety has emerged in recent years as one of the most important concerns for our primary producers. The concern over the linkage between the fatal illness CJD in humans and hamburger beef from cows suffering from BSE (mad cow disease) is only one example. There are also market access problems over the possible contamination of grains, fruit and vegetables.

One of the ways of protecting our access to markets and the health of consumers is for food safety legislation to cover foods through all stages of production. To that end, the government has said that it intends to pursue food safety legislation concerning the primary industry sector. My question is: can the minister inform the council of the current status of the development process for food safety legislation governing the primary industry sector?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will be releasing a discussion paper today entitled 'Legislation for implementing food safety systems in the primary industry sector to support trade, industry development and public health outcomes'. I will make that discussion paper available to all members of parliament, and it will be available on the primary industry's web site.

The government is seeking public comment on proposed food safety legislation in the primary industry sector to support trade, industry development and public health outcomes. The key goals of the proposed legislation are to help reduce risk to consumers and to underpin the State Food Plan target of achieving $15 billion in food exports by 2010.

The proposed legislation aims to create a whole of chain food safety system integrated with the Food Act; to provide government and industry with the ability to manage significant risks in the primary industry sector; to establish a partnership with industry by creating formal industry

advisory bodies; to leverage the food safety expertise developed in the Department of Primary Industries and Resources and the Dairy Authority of South Australia; to allow recognition and implementation of new national primary production and processing standards; to provide industry with the option of government endorsement of food safety systems or standards required for market access, or to underpin brands; to create a capability to minimise audit costs across an industry sector; to recognise existing industry systems that meet Australian standards; and to avoid duplication of government inspection and auditing.

The discussion paper that will be released today details the areas that could be covered by the legislation and it invites comments from all interested parties. I encourage everyone involved in the state's food industry to read through the discussion paper and to make a written submission before 6 December this year.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. There has been ongoing discussion between state ministers and the federal minister with regard to national food safety standards and national legislation. This has been ongoing for at least two years, to my knowledge. Is the discussion paper to be released consistent with those food standards to be discussed at a national level, and will we be privy to the national discussions as well as the state discussions?

The Hon. P. HOLLOWAY: The development of this paper, of course, is being undertaken by officers of my department, who have had lengthy discussions with their federal colleagues. There have been a number of other discussion papers and, as the honourable member will see when she gets a copy of it, there is a review of what is undertaken in other states. I know that Queensland, New South Wales, Victoria and Western Australia have different systems of legislating primary industry sectors within their legislation.

It is obviously important that we have a national approach to food safety. This state's Food Act is part of a commonwealth Food Act. The states have companion acts, because there is some constitutional overlap in relation to food legislation between the commonwealth and the states. We have that model legislation and a ministerial council of commonwealth and state ministers who are responsible for food so that there is some coordination in relation to food safety.

In relation to the primary industry sector, there are issues where, for example, there was considerable discussion at the Primary Industry Ministerial Council meeting last week about the national livestock identification scheme, which, of course, is just one important factor in relation to food safety. If we are to guarantee food safety and satisfy some of the increasing requirements imposed on the states by, for example, the European Union, we have to ensure that our traceability of food products meets those requirements. There was significant discussion at that meeting in relation to some of those issues, but there will, of course, be a role for state legislation within any national food safety system. Obviously our legislation needs to fit in with the actions of the commonwealth and the other states in relation to these important issues.

SHOP TRADING HOURS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Leader of the Government a question about shop trading hours and national competition policy.

Leave granted.

The Hon. M.J. ELLIOTT: When the government announced that it was going to change shop trading hours in this state, the reason given was the risk of losing federal government payments in relation to national competition policy. The government quoted from a letter received from Mr Graeme Samuels of the NCC, which said:

> The council will look for SA to have considered and implemented this foreshadowed reform of the restrictions by the time of the June 2003 competition payments assessment.

I note that Mr Samuels says 'considered and implemented'.

Based on the recommendations of the NCC in August 1993 and the 'Riding the Waves' report of February 2000, there are a number of national competition requirements (including independence of inquiries, transparency and public consultation) which should be met in a review of policy. I draw to the minister's attention that specifically the recommendations are as follows: recommendation 1, for consideration of environment, social and employment impacts; recommendation 6, that reviews be transparent; recommendation 7, that the review actively seeks out all interest groups for comment; recommendation 9, that the review's report be made public 30 days before the government considers any changes; and recommendation 12, that a public interest test is carried out to ascertain the impact of changes on the community and employment.

It is my understanding that none of those recommendations have been adhered to and I ask the Leader of the Government how it is that we have proceeded to legislation when the requirements under the national competition policy are that this review be carried out in such a manner.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer the honourable member's questions to the minister responsible to see what action he has taken. I understand that the select committee is being chaired by my colleague, and he obviously may have more information about this matter. As the National Competition Council comes under the jurisdiction of the Premier, I will refer those questions to him for an answer.

STEM CELLS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question concerning the present bill before federal parliament relating to embryo stem cell research.

Leave granted.

The Hon. A.L. EVANS: Federal parliament is currently debating the Research Involving Embryos Bill 2002. Clause 56 of the bill, dealing with the operation of state laws, is explicitly drafted so as to overturn the existing prohibition in South Australia on any research involving human embryos where such research is not beneficial for the embryo itself.

The purported justification for overriding our state law is the agreement between the Prime Minister and the premiers at the Coalition of Australian Governments (COAG) on 5 April 2002. The premiers and the Prime Minister appear to have unilaterally agreed to overturn state legislation without reference to our state parliament.

COAG does not have any constitutional status, and it is not directly empowered by the Australian people or our state parliament to make decisions of this kind. My question to the

Premier is: what was his reasoning for not consulting our state parliament prior to a decision being made by COAG to override state legislation?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer the honourable member's question to the Premier for his comment. However, I make the comment that I am not sure whether COAG has actually overturned state legislation. I think the honourable member is suggesting that the commonwealth parliament might override state legislation. I think that whether it can do that is ultimately a question of constitutional responsibility. Section 51 of the commonwealth Constitution sets out the commonwealth's responsibilities—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: COAG may have come to an agreement, but ultimately any legislation will have to pass through both houses of parliament. I understand that it has been indicated that it will be a conscience vote from all parties when this legislation goes through the federal parliament and, indeed, when it goes through this legislature. I would not have thought that any agreement could overturn legislation; it can only be a statement of intention to change the legislation. I am not sure what legislation—if, in fact, any legislation does come before this parliament—in relation to stem cell research will be and what impact it will have. I will refer the honourable member's question to the Premier for his consideration.

MUSIC INDUSTRY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier and Minister for the Arts, a question about the music industry.

Leave granted.

The Hon. DIANA LAIDLAW: Last Thursday, the Premier and Minister for the Arts launched the program for the 6th Music Business Adelaide event, an initiative which I am pleased this government is not only prepared to continue but has endorsed so strongly. Everyone present also welcomed the Premier's general statements of support for live music, although he made no reference to his government's recent budget decision to cut $600 000 from the arts budget over three financial years for the promotion of live music opportunities across the state. Nor did the Premier, unfortunately, make any reference to the fate of seven of the eight recommendations arising from the Working Party on Live Music 2001, chaired by the Hon. Angus Redford.

On 13 May, I pursued this issue by way of a supplementary question about the fate of the outstanding seven recommendations from the working party report. I was told on 29 May, in an answer from the Attorney-General, that clearly very little was going on. I quote from his waffly final paragraph as follows:

> . . . the recommendations affect four separate portfolios—the Premier, the Attorney-General, the Minister for Environment and Conservation, and the Minister for Urban Planning. Each of the affected ministers is giving consideration to the implementation of the recommendations applicable to his portfolio. . . Some steps are contingent on others and so cannot be taken at this stage. Others require the voluntary cooperation of persons outside government. . . These can only be fulfilled over a longer period. Others are capable of direct implementation and the government is giving this consideration at the moment.

Since that moment, 29 May, some 4½ months have passed, and the industry and I are very keen to know what the government plans to do with this working party report, which was heralded Australia-wide as a blueprint for the advancement of live local music across the country. Therefore I ask:

1. Will the Premier as Minister for the Arts use his professed clout in cabinet to take charge of the live music agenda in South Australia and, in particular, the working party report to ensure that the outstanding seven recommendations are implemented and are not allowed to be lost without trace?

2. Will the Premier also ensure that the working party's recommendations are fast tracked, with a timetable established for their implementation, and for this purpose he may wish to consider the Music Business Adelaide event on 22 and 23 November this year, some five weeks away, as a suitable occasion for an announcement from the government on the implementation package?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Premier for his response. The only comment I would make in addition to that is that I am aware of the work that the Hon. Angus Redford did on that working party, and I know that my colleague the Attorney-General facilitated the passage of the bill.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Well, it was, but it still needed facilitation, so I just remind the council of that, that we did provide some expedition to that bill's being passed.

DRY ZONE, VICTORIA SQUARE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, a question regarding the Victoria Square dry zone.

Leave granted.

The Hon. T.J. STEPHENS: I note the Adelaide City Council's proposal to extend the Victoria Square dry zone proposal for another 12 months, with the proviso that the commitment to provide support services for those problem drinkers who were displaced from the square would be honoured. The Attorney-General now has to endorse the Adelaide City Council's proposal to extend the dry zone trial and, in doing so, I expect that he will also make a commitment to the provision of support services. I acknowledge the need for support services and the fact that the implementation of such services to date has been slow. The government must now make the provision of support services a priority over the next 12 months because we as a community cannot afford to return to the days when people felt unsafe in Victoria Square.

The government must govern for all South Australians. Those who have drinking problems do need support services, but all South Australians have a right to feel safe. South Australians and visitors alike have the right to walk freely and without hindrance or harassment through the centre of our capital city and, since the implementation of the dry zone in Victoria Square, the situation is definitely much improved in that area. My questions to the Attorney-General are:

1. Will he give an early commitment to ensure that Victoria Square remains dry?

2. Will he also commit to the provision of support services for problem drinkers and implement such services within the next six months, which will have the effect of ensuring that the Adelaide City Council can confidently declare Victoria Square a permanent dry zone in future?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions on notice and refer them to the Attorney-General in another place and bring back a reply.

ALEXANDRINA COUNCIL-NGARRINDJERI SORROW DOCUMENT

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Alexandrina council's sorrow document.

Leave granted.

The Hon. G.E. GAGO: I followed with great interest the recent signing of the sorrow document between the Alexandrina council and the Ngarrindjeri community. I understand that this signing followed the unearthing of skeletal remains at the redevelopment of the Goolwa wharf. An article in the *Advertiser* of 9 October, titled 'Two cultures unite with a simple sorry', indicates that it was an extremely emotional and valuable ceremony for all. Will the minister inform the council of this and any subsequent events, and explain what significance this has for South Australia?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her important question and I would like to give a brief report on the relationships that have been formed between the Ngarrindjeri people and the Alexandrina council, and some of the benefits that will flow from that partnership. The area has been subjected to a whole decade of division as a result of the problems associated with the building of the Hindmarsh Island bridge and now everyone wants to move forward from that position and try to overcome the divisions that were created within the communities over that decision, the subsequent court cases facing individuals and companies in that area, the royal commission and the Von Doussa report.

The whole area has been subjected to probably more attention than any region deserves in trying to build good relationships between indigenous people and the rest of the community. It is one of those problems that we as a state have to manage when a very old culture and a developing culture meet, and it is a matter of trying to manage the differences between those cultures while maintaining a respect for each other's position. Over the last 10 to 15 years a greater level of respect has been shown across the board, not only in our state but in Australia as a nation, for our indigenous people. There needs to be some recognition, as the Alexandrina council has shown, by formalising that new-found relationship.

Examination of the skeletal remains that were unearthed in September at the wharf redevelopment site showed that the burial place of a young Ngarrindjeri woman and an infant, who had been buried as part of a burial process, ceremonial or otherwise, had been disturbed. The council and the builders of that wharf stopped work to examine and discuss the consequences of finding those remains. The remains were examined, and they were dated and found to be very old.

The Alexandrina council met with representatives of the Ngarrindjeri community and put in place protocols that I think they should be very proud of. They did not panic. They spoke to the known representatives of the Ngarrindjeri people in the area, such as Tom and George Trevorrow, Matt Rigney and others. They decided that they would work out a protocol for reburying the remains of the Ngarrindjeri woman and her infant. They also worked through a document that recognised that difficulties in the relationship between the Ngarrindjeri people and the community had been building up over time, and they realised that this might be a good way of moving forward and recognising the differences within the communities but working together in a mutually beneficial way to advance the communities generally.

On Thursday 10 October, a celebration for the signing of this expression of sorrow was held in the town of Goolwa, attended by some 200 indigenous and non-indigenous people. The Ngarrindjeri conducted a traditional smoking ceremony and reburied the skeletal remains, and the sorrow document was held up as a model for reconciliation and conciliation between the people in that region. I congratulate all those involved, including the Mayor, Kym McKew, the councillors, and certainly the CEO John Coombe for the work they put in and the patience they showed in bringing together a whole lot of people of good faith—a task one might have thought, looking from outside, was impossible. The damage done within that community might have been too great to bring about a reconciliation process involving those people in that area, in making sure that the community was united and that the culture and heritage was protected, and then trying to move forward.

At the same time, within the communities of Goolwa, Murray Bridge, Meningie, the Lakes and the Coorong, we are trying to bring about a protection of culture and heritage, along with an enhancement and preservation of it. We are also trying to show the culture to visitors, because we have on our doorstep only 1½ hours travel away a culture which is over 40 000 years old and which can be shown to interstate and overseas visitors.

We can do that if we are able to get the cooperation we require from those people in that area who have the ability to display culture and heritage in a way that is sensitively protected if it needs to be, but can be openly displayed for those people who are trying to understand what living alongside another culture is like and getting the benefits from that. Other councils in the area are working through similar sorts of plans. The Victor Harbor, Onkaparinga and Marion councils are all starting to work together now cooperatively with the Ngarrindjeri and the Kaurna to try to bring about an exposure and display of culture that brings benefits to the whole of the state.

The Hon. DIANA LAIDLAW: As a supplementary question, further to the significant announcements and signing that the minister has just referred to, is the minister aware that the new partnership between the Alexandrina council and the Ngarrindjeri extends to the installation and operation of a new vehicle ferry service between Hindmarsh Island and Clayton? Has the minister received representations in relation to this matter, or is he aware whether the Minister for Transport has received such representations, and does he support such an initiative?

The Hon. T.G. ROBERTS: I have received a number of delegations in relation to not only the ferry proposal but also other proposals that have been considered in what could be determined as workshops with the minister's office and myself in relation to building enterprises within the region. One of the proposals for enterprise building is to put in the ferry to Clayton. It is a matter of working through the issue with the Minister for Transport. However, the proposal has merit. Maintaining a ferry system has a certain quaintness, if you like, a slowing down of the activity levels that a lot of people put into their holidays or their leisure time. Also, the

cultural reasons for putting in a ferry are that a lot of the people who were touched by the confrontation that occurred during the building of the bridge would like to have another form of transport, otherwise they will not be using the bridge.

The Hon. Diana Laidlaw: I've never used the bridge on principle.

The Hon. T.G. ROBERTS: I would like that statement to get on the record, and I congratulate the former minister for the position that she has just put—that she will not use the bridge on principle. Of course, with the von Doussa report and with the discovery of the skeletal remains and other forms of discovery that will take place over time, it will be shown that that area is rich in heritage and that the Ngarrindjeri protective position will over time be shown to have merit and can be sustained. I think that the discussions around the alternative form of transport in the form of a ferry makes it a sound proposition that needs examination. But certainly the Minister for Transport will have to be involved in those discussions.

QUEEN ELIZABETH HOSPITAL REPRODUCTIVE MEDICINE UNIT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Health, a question regarding the relocation of the Queen Elizabeth Hospital reproductive medicine unit.

Leave granted.

The Hon. SANDRA KANCK: On Saturday 28 September it was reported in the *Advertiser* that the Queen Elizabeth Hospital reproductive medicine unit is to be relocated to the Women's and Children's Hospital. The existing world class Queen Elizabeth Hospital unit, which provides services to Repromed, the commercial arm of the University of Adelaide research activities, comprises a 40 strong research team and is expected to move into refurbished laboratories by mid 2003. From a different report, I understand that an $8.7 million program grant was recently awarded to a group of researchers from the Department of Obstetrics and Gynaecology, based at the QEH, to investigate women's reproductive health. My questions to the minister are:

1. On what grounds was the decision made to relocate the reproductive medicine unit?

2. Were the needs of the consumers in the western region taken into account?

3. What are the estimated costs of the relocation of the reproductive medicine unit to the Women's and Children's Hospital in North Adelaide?

4. Will all existing personnel retain employment after the relocation?

5. Given that demographic evidence indicates no decline in the birth rate in the western region, what are the likely implications of the transfer on consumers in the western region?

6. Will utilisation of the women's reproductive health grant be affected by the relocation of the reproductive unit?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health in another place and bring back a reply.

DUKES HIGHWAY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Regional Affairs, representing the Minister for Transport, a question on road funding for the Dukes Highway.

Leave granted.

The Hon. D.W. RIDGWAY: On 20 September this year the speed limit on a 16 kilometre stretch of the highway between Bordertown and the Victorian border was reduced from 110 km/h to 100 km/h. This notorious section of the road is the poorest and most dangerous section between Adelaide and Melbourne. It is badly fractured and often holds pools of water during wet conditions. This road carries at least 2 000, if not 3 000, vehicles a day and very many of them are heavy articulated vehicles. In an overtaking lane incident on Sunday, because there is no differential in speed between cars and trucks at this point, I noticed a truck overtaking a car and a third car overtaking the car—three abreast—heading towards Victoria. The road's condition is a disgrace as this highway is a gateway to South Australia, and many tourists travel along that highway coming into South Australia.

Recently ARRB Transport Research Limited was commissioned by Transport SA to study the problem. Its report suggests that it will cost $8 million to fix, with immediate repairs to cost $600 000. It is a short-term solution and I am sure the $600 000, when spent, will not solve the problem for long. The $8 million estimated to fix it is in today's economic climate and I would be sure that any delay would result in much greater cost. I have been advised that Transport SA will rearrange its budget and is looking to put $600 000 immediately into the repairs, subject to approval from the federal Minister for Transport. My questions are:

1. Have the necessary budget alterations been made for these repairs?

2. When will the repair work commence?

3. Will the 100 km/h speed limit be lifted at the completion of those repairs?

4. Will the minister give a commitment as to when the $8 million will be provided to fix the problem?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Transport in another place and bring back a reply.

REPLIES TO QUESTIONS

CEDUNA KEYS AND CEDUNA COASTAL CENTRE

In reply to **Hon. T.J. STEPHENS** (18 July).

The Hon. T.G. ROBERTS: The Minister for Urban Development and Planning has advised:

The District Council of Ceduna submitted an 'in-principle' request for a major development declaration on 2 May 2002. This request asks that the planning and environmental assessment occur under the 'major development' provisions of the Development Act 1993. The request was supported by a preliminary engineering study, concept drawings, a preliminary environmental assessment and aboriginal heritage report and economic, marketing and employment studies.

Representatives from relevant government agencies met with council on 1 July 2002 to discuss securing private investment, possible government funding requirements, land availability (especially crown land) and staging of development components. At the meeting, council advised that it was about to initiate an 'expression of interest' process for seeking private sector investment in the

proposal and that a more thorough request for a declaration is likely to be lodged within six months.

Until the council is more certain about investment sources for the proposal, a cautious approach is proposed, with advice to council that a declaration could be appropriate, subject to the further information yet to be submitted by council.

COMMUNITY CORRECTIONS

In reply to **Hon. R.D. LAWSON** (28 August).

The Hon. T.G. ROBERTS: I have been advised by the Department for Correctional Services of the following response:

1. Was there any increase in the last budget in allocations to the community corrections program and, if so, what increase or decrease?

The 2002-2003 community corrections budget for the Department for Correctional Services is similar to the budget for 2001-2002 ($14.166 million).

The state budget included an additional $141 000 to strengthen electronic monitoring of home detainees and bailees. A further $ 61 000 will be provided through the Drug Court to support electronically-monitored curfews in this jurisdiction.

2. What is the minister doing, and what does he intend to do, to address the crisis that exists in community corrections in this state?

The government is aware of the pressures being experienced by community corrections staff. These pressures have been evident for a number of years and there are concerns that those pressures may continue to increase.

This issue is being addressed in three related ways.

- Firstly, the use of new technologies where appropriate can reduce pressures on staff by enabling new and more effective and efficient ways of operating. This will be one of the benefits resulting from the additional funds being provided by government this year to strengthen electronic monitoring of home detainees and bailees and to support electronically-monitored curfews in the Drug Court.
- Secondly, shorter term opportunities to achieve improved outcomes and better manage pressures on the Community Corrections system by reallocating resources from other areas within existing budgets are being carefully and urgently examined. This pressure will need to be considered in the context of other pressures the Department is facing.

The Department for Correctional Services has prepared a proposal in which a range of options to address workload pressures on staff are examined. These options are now being discussed with the Justice Portfolio Leadership Council and key staff in other agencies of the justice portfolio. The options are being examined to determine their viability, potential impact and implications for the Justice system and consistency with overall Justice strategies and required outcomes.

If appropriate changes can be made to address genuine concerns within existing budgets without compromising on other critical priorities then they will be made.

- Thirdly, while it is important to urgently examine current opportunities, it is critical that a strategic and integrated approach is taken to addressing long-term systemic issues such as this. They should not be considered in isolation from other key issues in the criminal justice and correctional system. The community needs the government to take a planned and systematic approach to criminal justice rather than an ad-hoc approach often taken by other governments in the past.

The Department for Correctional Services, as part of the justice portfolio, is working in consultation with other agencies to complete a strategic service planning exercise, Towards Corrections 2020, which was commenced last year.

This plan will provide a context for proposed initiatives and associated resource requirements for next financial year and beyond. Longer-term initiatives to address issues such as the pressures on community corrections that may require additional funding or require significant change will be defined in the Towards Corrections 2020 Plan and considered as part of the budget bilateral process.

SHEARER, Ms J.

In reply to **Hon. SANDRA KANCK** (19 August).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

I am advised by the director of mental health in the Department of Human Services (DHS) that the clinical report from the Royal Adelaide Hospital (RAH) has been received and there is no evidence that the Mental Health Act was breached.

The clinical report describes the criteria on which the clinical judgement was made about Ms Shearer's mental state. My advice is that these criteria are within accepted clinical practice.

Information about the medical treatment provided to individuals is private. It is not appropriate to canvas this private information in this forum.

The director of mental health in DHS has reviewed the clinical report provided by RAH and I am advised that no action will be taken against medical staff as there has been no breach of the Mental Health Act.

Improved education and training in the use and interpretation of the Mental Health Act is taking place as part of major reforms of the mental health system in South Australia.

INDEPENDENT GAMBLING AUTHORITY

In reply to **Hon NICK XENOPHON** (19 August).

The Hon. T.G. ROBERTS: The Minister for Gambling has provided the following information:

1. I refer the Hon. Nick Xenophon to a reply by the Minister for Gambling to a similar question from the Member for Mawson in another place given on 19 August 2002.

2. No.

3. The cost of Mr Howells commuting to and from Adelaide and accommodation expenses are funded within the existing budget of the Independent Gambling Authority. No additional funding has been provided to the Independent Gambling Authority for this purpose.

4. No. The Independent Gambling Authority is expected to function as normal. I note that Section 12(4) of the Independent Gambling Authority Act 1995 expressly provides that the Authority may hold meetings and conduct proceedings by telephone or other electronic means.

DOMESTIC VIOLENCE

In reply to **Hon. A.L. EVANS** (21 August).

The Hon. T.G. ROBERTS: The Minister for Social Justice has advised the following:

1. What is the minister doing to increase the number of shelters for victims of domestic violence in the short term and long term?

The Supported Accommodation Assistance Program (SAAP) is developing more diverse responses to women and children experiencing domestic violence. For example, in Clare and the Barossa needs analyses have been completed. The issues relating to domestic violence have been examined and a range of local strategies to intervene and provide safe accommodation options for women and children explored. Alternative shelter options, specific to region have been identified.

It must be noted that not all women and children want shelter accommodation. Often they prefer to remain in other accommodation and receive support and outreach assistance provided through the SAAP agencies.

When shelter accommodation is required for women and children, SAAP is reliant on provision through South Australian Housing Trust (SAHT). SAAP and SAHT have developed collaborative strategies to facilitate the placement of category one clients into appropriate independent accommodation.

Overall, the SAHT leases 180 properties to 16 women's sector agencies—58 of these properties are in country areas with the remaining 122 being in metropolitan areas. Planning approval has recently been obtained for the development of a crisis accommodation facility and six units for Aboriginal women fleeing domestic violence. Approximately 15 more units will be made available this financial year.

Services provided by SAHT include:

- Information, referral and advocacy to services which support people affected by domestic violence.
- Housing—domestic violence is one of the eligibility criteria for category 1, the highest needs category of the Trust waiting list. In 2001-02, 251 applicants were housed due to domestic violence, compared with 234 in 2000-01.
- Private rental assistance—people experiencing domestic violence are eligible for bond and up to 2 weeks rent in advance to enable them to access the private rental market. Bond assistance may also be provided into medium term supported accommodation. In 2001-02 there were 1798

($833 917) instances of assistance to people experiencing domestic violence compared with 1675 in 2000-01 ($812 640).

- Emergency financial assistance—where shelters or other appropriate housing options are unavailable, the SAHT can provide financial assistance for hotel or motel accommodation as a temporary/bridging option. In 2001-02 the Trust provided 658 instances of assistance ($166 421) to people experiencing domestic violence compared with 535 ($131 949) in 2000-01.

2. Realising that domestic violence is a statewide issue, is the minister aware of the lack of accommodation in domestic violence shelters in metropolitan and country centres and, if so, what is it?

The minister is aware of the need for crisis accommodation to be available both in the metropolitan and country areas however, there is no empirical source to determine unmet need. On any given day, service providers report that in the SAAP program across South Australia there may be up to 30 requests for crisis accommodation. Some of these requests would be domestic violence related.

The demand for crisis accommodation is higher in the metropolitan area as this is where the larger population resides. This is further exacerbated by women and children relocating from country areas in order to find safe accommodation. Domestic violence is given priority as a category one response by SAHT.

Additionally, within country regions, the Aboriginal Housing Authority assists victims of family violence by offering short-term motel accommodation. Some of the major issues in country regions include:

- Relocating a customer due to family violence to another town often means moving them away from their family and supports.
- Significant expense in relocating, ie furniture removal.
- Families from interstate escaping family violence flee to country towns such as Port Lincoln or Mt Gambier, and due to lack of vacancies, will often have long waits before being offered suitable accommodation.
- Transfer applications from a country town to the city can wait up to 12 months, and during this time the family is still 'at risk'.
- Families living on Aboriginal communities fleeing family violence come into the town for urgent housing assistance, and often the long wait leaves no option but for the victim to return to an 'at risk' situation.

Even though faced with these issues, staff within country locations have close working relations with other agencies, especially those offering support for victims of family violence and work collaboratively in offering the safest and quickest long term assistance.

3. Will the minister ensure that resources to address the current accommodation crisis in shelters takes into consideration the situation in metropolitan as well as country centres and, if so, how?

The resources to address the current accommodation difficulties in shelters will continue to largely be provided through the commonwealth state program of SAAP. This program provides supported accommodation in both the metropolitan and country areas of South Australia.

WATER SUPPLY, ANGAS BREMER VALLEY

In reply to **Hon. CAROLINE SCHAEFER** (22 August).

The Hon. T.G. ROBERTS: The Minister for the River Murray has advised:

1. The government has not proposed the reduction of the water level of Lake Alexandrina to assist in keeping the mouth of the River Murray open. Given the current dry conditions throughout the Murray Darling Basin, to do so would be impractical and would lead to significant problems in maintaining water supplies both to irrigators and metropolitan Adelaide over the summer period. The proposal to reduce water levels of Lake Alexandrina was publicly proposed by a member of the commonwealth parliament.

2. Neither the government nor the Murray-Darling Basin Commission has consulted with the Angas Bremer Water Resources Committee, as the proposal is not being pursued.

CROWN LAND

In reply to **Hon T.J. STEPHENS** (16 July).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. Excluding leases issued under the War Service Land Settlement Agreement Act 1945,as the minimum rent proposal does, there are 148 crown perpetual leases that have rents greater than $300 per annum in this state.

2. A select committee has been established to look into this and other issues more closely and the council will be able to review the committee's recommendations at a later date.

In reply to **Hon. J.S.L. DAWKINS** (16 July).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

1. There are 15 603 perpetual leases held by lessees throughout the state. 2 676, or 17 per cent, of these are used for residential purposes, according to the Valuer General's land use codes. Within the Riverland area there are 1990 perpetual leases used for residential purposes (19 used for flats and units, 1 123 for rural living and 846 for single unit residences).

2. Sellers of crown leases, like any other lessee, can only legally sell improvements on the leased area, and the balance of the lease rights. Also like any other lessee, crown lessees are required to pay a rent. The average rent paid by lessees in the Riverland area is $20.85 per year.

3. The minimum rent proposal contained in the Crown Lands (Miscellaneous) Amendment Bill 2002 is aimed at providing the crown with a reasonable return on its leasehold assets. A select committee has been established to examine this and other issues.

OFFICE OF SUSTAINABILITY

In reply to **Hon. M.J. ELLIOTT** (16 July).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised:

As announced by the Premier, the Office of Sustainability commenced operations on 1 July 2002. I can advise, further to the previous answer to a question in the House of Assembly, that the following functions have been developed for the Office of Sustainability:

1. Develop future scenarios for South Australia and identify practical measures for responding to them.

2. Develop broad strategic directions for the Environment and Conservation and River Murray portfolios and seek to integrate those agendas and develop strategic frameworks across government.

3. Critically evaluate proposals from all areas of Government to ensure that cabinet is able to take an integrated approach to considering options.

4. Develop and implement accountability and reporting tools with an emphasis on sustainability (Green Print, State of Environment reporting).

5. Ensure an appropriate legislative framework is in place across the environment portfolios.

6. Ensure effective policy coordination across the Environment and Conservation and River Murray portfolios.

7. Support the focus on innovation in the public, private and business sectors.

8. Raise public awareness of sustainability and eco-efficiency issues.

9. Maintain a Green Business Unit to provide advice and support to developing innovative green ideas.

10. I announced these key functions for the office in an address to the EPA round table on World Environment Day.

11. Members should be assured that the office is up and running. It is already undertaking work on waste management arrangements and will be liaising with Energy SA to provide advice to the Natural Resources, Environment and Energy Cabinet Committee on sustainable energy. I have also asked the office to coordinate work across relevant agencies to deliver the government's election commitment to an inquiry into genetically engineered foods.

Work has also commenced on the development of the Green Business Unit. Assessment of other business assistance programs across government is being done to ensure integration of the Green Business Unit and to avoid duplication of effort.

IRRIGATION

In reply to **Hon. D.W. RIDGWAY** (26 August).

The Hon. T.G. ROBERTS: The Minister for the River Murray has advised:

1. Irrigation is supplied by a number of different types of infrastructure including pipelines, open channels and natural streams. South Australia has led the industry in converting all of its Riverland highland irrigation areas from open concrete channels to pressurised

pipe systems over recent years. This rehabilitation has resulted in significant water savings, reduced localised groundwater mounds, and reduction in the amount of drainage water being collected.

The Lower Murray swamps are supplied by 106 kilometres of clay line open channels, which are currently being considered for rehabilitation. This process will involve reconstructing channels to enable more efficient delivery to properties. Pipelines may not be suitable for delivery in this area due to volumes required for surface irrigation systems and the extra costs incurred.

2. According to the recently completed national land and water resources audit, there are approximately 13 700 kilometres of open irrigation supply channels in the Murray-Darling Basin. In addition, open channels are used for irrigation drainage with 26 per cent of the area contained within the water supply schemes serviced by surface drainage (Australian National Committee of Irrigation and Drainage (ANCID), 1999-2000).

3. Recent investigations by ANCID show that the average loss from these channels is approximately 33 percent from evaporation and leakage.

AUSTRALIAN SOUTHERN RAIL

In reply to **Hon. SANDRA KANCK** (18 July).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

1. The Minister for Transport is aware of this.

2. The Minister for Transport is aware of this.

3. The Minister for Transport is aware of this. In the same article, Auspine is also quoted as suggesting that the rail project is irrelevant and that it would be more beneficial to proceed with upgrading the Border Road. This is a project which, by Auspine's own analysis, will cost around twice as much as the benefits that it creates. Auspine wants governments to pay but it is the main beneficiary. In contrast, reopening the South-East rail line has benefits at least two and half times the cost and these benefits are spread throughout the community. Not only economic benefits to the South-East, but also environmental and road safety benefits.

4. The request for proposal issued last year only required that the successful respondent open the Mt Gambier to Wolseley link. However, all tenderers indicated preparedness to construct additional spur lines, open terminals and reopen other lines where there is market demand and a sound business case. Two of the respondents, ASR and Freight Australia, have recently announced that they are working on a joint approach to reopen the link between Mt Gambier and Portland, supposedly to target export bulk timber products, with joint marketing and pooling of assets. No doubt these two organisations will also assess, with Auspine, the business case for a spur to the Auspine facility at Tarpeena.

5. The Minister for Transport has indicated that this is incorrect. The government's funding contribution is in accordance with the conditions of the request for proposal and hence is limited to a fixed price contribution to the initial upgrade of the Mt Gambier to Wolseley link only. The successful company must meet all other start up costs including financing costs, other upgrade costs including other links and spurs, provision of rolling stock and locomotives and establishment of staff, marketing and terminal services.

6. The obligations of the successful company are established through a contract. If the company is in breach of contract and the contract is terminated as a consequence, the Government is able to claim damages and these will be enforced through the

7. No tenderer offered $36 million of up front private sector funding for the South-East rail network. The member's question indicates she has been provided with some information from a competing bid and she seeks to know why it was not the preferred bid. It would be inappropriate to divulge the details of each bid in this place. However, one bid does indicate an investment figure of $36 million and it may be that the member is referring to that bid.

The $36 million refers to investment proposed throughout the life of the project, including significant expenditure outside the South-East rail network. This includes expenditure on Victorian owned railway lines and within the Victorian owned Port of Portland, and on other private infrastructure in Victoria and South Australia. If this is the bid to which the member is referring, it is worth noting that it was conditional upon the Victorian link to Portland being opened prior to the link between Mt Gambier and Wolseley and on funding support from the Victorian government to achieve this. The Victorian government's 'Regional Freight Links Program' currently indicates that funding for the upgrading of the link between Portland and the SA Border will be provided in 'late 2005'. The bid requires that this funding be brought forward—a condition over which the South Australian government has no control unless it funds these works in Victoria itself. It also required funding of around $1 million from local government. Again, the South Australian government could not control this requirement unless it provided the funding itself.

All bids were assessed by independent technical and financial advisers. These assessments revealed that the bid to which the member seems to be referring had some cost items omitted. It also highlighted risks associated with the structure of the bid, including lack of demonstrated financial strength and risk of over estimation of revenue and under estimation of costs. The omissions, risks, likely higher cost, security of funding and conditions associated with this particular bid resulted in it not being the preferred option for the project.

8. The Key Performance Indicators (KPI's) in the contract require the successful company to grow the business such that the overall tonne kilometres of freight indicated in the Public Works Committee report are achieved. As to how the company intends to grow the business to meet these contractual requirements is up to the company and is not specified by the contract.

9. The construction of such a spur line is not a requirement of the request for proposal and it is outside the leased area of the South East Rail network. However, this does not imply that such a spur will not be built. As mentioned in the response to the member's 4th question, it is up to the private sector as to whether or not it goes ahead. As previously mentioned, the KPIs in the contract ensure that the benefits expected of the project are delivered, but the contract does not dictate how this is to be achieved except that the link between Mt Gambier and Wolseley must be opened.

10. The reference to a once a week service by the member appears to refer to recent comments made by an Australia Southern Railroad representative in discussions with local council representatives in the South-East. These comments have been taken out of context. The once a week service was what the representative anticipated the initial demand would require on start up. Many businesses in the South-East have said they support rail but will not commit to it until they see it is up and running. Clearly, if there is more demand, and as demand grows, there will be additional services to meet that demand. In contrast, the competitor's five day a week service refers to the maximum number of connections with existing Pacific National services on the interstate line that can be made if demand requires, provided there is capacity available on the Pacific National service. It did not refer to the initial service that would be provided. The selection of the preferred bidder was based upon independent technical, financial and risk assessment of all bids against the requirements of the Request for Proposal.

11. All three shortlisted respondents indicated that they planned to reopen the existing intermodal terminal in Mt Gambier. In addition, all three shortlisted respondents indicated they intended to reopen the link between Mount Gambier and Portland. The market in the South East is fiercely competitive and all three shortlisted respondents have indicated a robust business plan is necessary.

12. There is no evidence that ASR has a flawed business plan, except the hearsay of its competitors. The Minister for Transport doubts any successful company would provide its business plan to its competitors. Australia Southern Railroad has been operating profitably in South Australia for around five years and is part of the second largest railway company operating in Australia, the Australian Railroad Group. The contract is performance based and requires the company to achieve KPIs based around tonne kilometres of freight carried. What is important is how well the company performs in terms of this KPI, not the apparent inferences of a competitor that it has a flawed business plan. All three respondents sought exemptions from the access regime for the same reason. The exemptions were requested to prevent competitors cherry picking the most lucrative markets which then restricts the company's ability to reinvest in the infrastructure to grow the business as is required by the contract.

13. The apparent dissatisfaction expressed in the South East media appears to be as a result of unfounded claims and misleading information. The questions posed by the member highlight the dissatisfaction of an aggrieved bidder and are not considered to provide any reason to review the tender selection process.

REGIONAL ROADS

In reply to **Hon. DIANA LAIDLAW** (16 July).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

It is anticipated that, due to a 3.2 per cent increase from 1 July 2002 in heavy vehicle registration charges, Transport SA will receive an additional $1.3 million ($41.7 million to $43.0 million) in 2002-03.

Heavy vehicle registration charges are now adjusted nationally on 1 July of each year following agreement by the Australian Transport Council in May 2001 on an annual adjustment formula. Since that time, heavy vehicle registration charges increased on 1 October 2001 and, following implementation of the automatic annual adjustment process, on 1 July 2002.

The Regional Roads Program (RRP) has been retained by this government, however, funding has been reduced from previous levels to $700 000. Two ongoing projects considered by Transport SA to have the highest priority will be funded under the program in 2002-03. It is understood that the remaining two projects which were notionally allocated funding by the former government in 2002-03, will be considered as high priority by the Local Roads Advisory Committee in terms of funding assistance under either the commonwealth's Special Local Roads Program or the Roads to Recovery Program for 2002-03.

Moreover, it needs to be emphasised that additional funding has been allocated to road safety initiatives, with a particular emphasis on arterial roads, as approximately two-thirds of all serious casualty crashes in rural areas occur on arterial roads.

At this stage, $700 000 has been notionally allocated to fund local roads of regional significance in both 2003-04 and 2004-05. The distribution of those funds has yet to be decided.

INDEPENDENT GAMBLING AUTHORITY

In reply to **Hon. NICK XENOPHON** (21 August).

The Hon. T.G. ROBERTS: The Minister for Gambling has advised:

1. The Independent Gambling Authority has been asked to conduct a study of gambling related crime and, in particular, the incidence of crime in our community caused by problem gambling. The authority has advised that it has commenced a collation of the available published material and an assessment of the unpublished resources which will be relevant to the study. When those steps have been completed I expect to be provided with advice concerning the scope of the study.

2. The Independent Gambling Authority's total budget in 2002-03 is $1.16 million. This includes $200 000 for research from the additional funding amount of $1.1 million over four years announced as part of the recent state budget. The remainder of the $1.1 million is allocated as $300 000 per annum for each of the following three years. The remainder of the $1.16 million in 2002-03 is available to the Independent Gambling Authority for its administration costs. The authority currently has four full-time staff but this will soon increase to five with the recent appointment of the manager, regulation. This level of resources is considered adequate at this time.

MALE SUICIDE

In reply to **Hon. T.G. CAMERON** (17 July).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The government is aware that male suicide is a significant community concern.

Most recent comparable data indicates that there were 199 deaths by suicide in South Australia in the year 2000. At the time this represented a rate of 27.3 deaths per 100 000 people in South Australia, with the national rate being 23.1 deaths per 100 000. The Australian Bureau of Statistics advises that care needs to be taken when interpreting states' and territories' suicide rates because of the relatively small numbers and yearly fluctuations, especially in the smaller states and territories.

In Australia, 80 per cent of all suicides were males. This applies in South Australia, where over 50 per cent of the 161 male suicides in 2000 were in the 20—40 age bracket.

Divorced men do have higher suicide rates than those that are married or have never married. However, current studies argue that clinical depression rather than separation and divorce is the major causative factor for suicidal behaviour. Strong personal relationships are protective factors for the predisposition to suicide in depressed males. Marital or relationship breakdown therefore is a contributing factor in suicides, but not the main causative factor.

2. Suicide among separated men, as with suicide in all population groups, is an issue requiring a whole-of-government approach. The aim is to provide a coordinated, strategic approach to suicide prevention initiatives.

The Department of Human Services (DHS) has a lead role in providing health related suicide prevention activities, and it works cooperatively with the Social Inclusion Unit on the non-health aspects of suicide prevention initiatives. Other parts of government contribute to broader suicide prevention approaches by addressing issues such as community capacity building in the education, welfare and justice sectors.

Health suicide prevention require an integrated system of care involving GPs (screening, early detection and intervention), mainstream hospitals (appropriate mental health assessments in people in emergency departments, or into a wide variety of health problems such as cardio-vascular illness) and specialist mental health service to provide evidence based research.

The government acknowledges that mental health services in South Australia are not effective in meeting a wide range of people's needs, and this is the focus of the current government reform agenda. This reform includes:

- Increasing understanding of mental health concerns within the community, to lead to earlier identification of problems;
- The development of a comprehensive and integrated mental health service that will facilitate earlier intervention for mental health problems, thus reducing suicide risk;
- The funding, through DHS, of specialist mental health services that contribute to suicide prevention, including crisis intervention, assessment and treatment services for adults, and for older persons with mental health problems;
- The funding of services that improve community awareness through the production of Mental Health First-Aid booklets and by a strategy to raise awareness of depression in the workplace. These two initiatives have occurred in partnership with beyondblue and are an Australian first;
- An initiative to improve care for those bereaved by suicide that will soon be implemented.
- The government led reform in South Australia is also benefiting from commonwealth funding of $1.8 million from the National Suicide Prevention Strategy. This funding is directed towards:
  - Reducing Aboriginal suicide risk behaviours in country areas
  - Improving coordination of care between GPs and specialist mental health services
  - Increasing community capacity and promoting resilience against suicide risk.

Men in all age groups will continue to be one priority group for these suicide prevention activities.

3. It is recognised that suicide has multiple causes, risks or influencing factors. Health related causes include mental illness and poor mental health, drug and alcohol problems and physical illness. Environmental factors include stress and crisis, legal problems, problems associated with sexual orientation, loss and grief, family background, social connection, socio-economic status and employment status.

Whilst the government has not undertaken a detailed study on the causes of male suicide in South Australia, knowledge about the causes of suicide is informed by local, national and international research. South Australia has a similar profile of causes as those evidenced in national and international research data. The Government is committed to addressing these causative factors in preference to further research.

DRIVER'S LICENCES, PROVISIONAL

In reply to **Hon. A.L. EVANS** (10 July).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information:

The Minister for Transport has indicated that the proposals to extend the provisional licence period do not include a change to the minimum age (16 years six months) at which a person may obtain a provisional licence.

Driver education is a component of the current school road safety education in this state. The curriculum kit, Road Ready, for example, encourages upper primary school pupils to take note of a driver's responsibilities in ensuring all car occupants wear seatbelts.

In high schools, driver education occurs through a broad-based coverage of the relationships between driving, personal lifestyle and safety (such as attitudes to alcohol and drugs, risk taking and peer group pressure). Students typically research specific issues for reporting back to their classmates. The Traffic Training and Promotions Section of the South Australia Police offer a school

visitation service to high schools, focusing on the duties and responsibilities that need to be observed by road users generally.

A review of school-based driver training programs was conducted recently for Transport SA by the University of South Australia's Transport Systems Centre. It reported that many overseas school driver training programs were abandoned when it was found that the programs tended to encourage more students to obtain driving licences earlier, with a resulting increase in the overall crash rate of the young drivers that far outweighed the intended educational benefits of the programs.

Most Australian jurisdictions provide forms of driver education similar to the South Australian provision in primary and high schools. However, in-car driver training is not usually part of this provision and students wanting to obtain driving licences do so independently of the school.

While there is currently no requirement for a learner driver to receive lessons from a professional driving instructor before obtaining a provisional licence, it is understood the vast majority will do so, irrespective of whether they undertake the Competency-Based Training (CBT) course option or the Vehicle-On-Road-Test (VORT) option.

In the case of the CBT option, learner drivers will generally receive about 15 to 25, 45-minute lessons, before they qualify for a provisional licence. The CBT option is the option selected by more than 60 per cent of learner drivers. As both methods assess driving competencies against the same licence competency standards, it is understood that most learner drivers would have great difficulty in passing the VORT without receiving some lessons from a professional driving instructor.

While the notion of requiring all learner drivers to receive a minimum number of lessons from a professional driving instructor remains a possibility, there is insufficient evidence to show that having a fixed number of lessons would necessarily provide road safety benefits.

Fixing a minimum number of lessons could be counter productive, as it may create an expectation in some learner drivers that the minimum number of lessons is all they need to obtain their provisional licence.

UNITED WATER

In reply to **Hon. J.F. STEFANI** (17 July).

The Hon. P. HOLLOWAY: The Minister for Government Enterprises has provided the following information:

I presume the honourable member was referring to the contract between the state government and United Water (rather than Thames Water, which is a major shareholder of United Water).

On 2 July 2002, I met with United's Chairman, Managing Director and Economic Development Director, and their counterparts in SA Water, to review United's economic development performance for the three years ending 31 December 2001.

During that meeting the issues relating to Australianisation and Thames Water Asia Pacific were discussed along with a range of other matters. Because of the flawed nature of the original contract these clauses are essentially unenforceable.

As a result, while I acknowledged that United Water was not actually in breach of its contract on those promises, I advised United Water that if it was not able to deliver on those promises, then I expected it to propose alternatives which would provide similar benefits to the South Australian economy and that I awaited feedback on this from the company.

VETERINARY SURGEONS ACT

In reply to **Hon. J.F. STEFANI** (30 May).

The Hon. P. HOLLOWAY: In 2000 a review of the *Veterinary Surgeons Act 1985* under the National Competition Policy (NCP) guidelines was conducted by a committee consisting of representatives from PIRSA, South Australian Farmer's Federation, RSPCA and the Australian Veterinary Association (AVA).

In order to ensure that consultation was adequate, a wider reference group was formed that included other organisations including the Veterinary Surgeons Board.

Further consultation on the details of the provisions is appropriate and the proper time for this to occur is when the regulations are being drafted.

To allow further time for these new provisions to be considered by organisations, such as the AVA, I have deferred introduction of the new Bill, originally proposed for April 2002, until now. This should have allowed adequate time for those organisations to put forward their views.

SELF-FUNDED RETIREES

In reply to **Hon. T.G. CAMERON** (18 July).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

The government when in opposition and upon taking office gave an undertaking to honour all commitments contained in the 2001-02 Budget.

The measures referred to by the honourable member were not contained in that budget.

They were an election promise made by the Liberal Party for which they had not provided funding. They were not an election promise of the Labor Party.

The government feels under no obligation to honour any of the election promises of the Liberal party, particularly these that were not funded.

BUSINESS INVESTMENT

In reply to **Hon. J.F. STEFANI** (11 July).

The Hon. P. HOLLOWAY: The Minister for Industry, Investment and Trade has provided the following information:

1. The Department of Industry and Trade [DIT] undertakes a rolling four-year review of projects assisted under the Industries Investment Assistance Fund [IIAF], the most recent covering the period 1997-98 to 2000-01. DIT also conducts an annual review of the five largest, by assistance provided, projects over the past ten years. The most recent covered the period 1990-91 to 1999-2000.

2. The majority of companies assisted are complying with conditions laid out in the legal agreement executed for the assistance, but the review has identified some projects where there is some non-compliance. When this is noted appropriate corrective action is implemented.

3. A total of 215 companies received IIAF assistance during the period 1997-98 to 2000-01. The legal contracts supporting these agreements contain inter alia employment pre-conditions. Total financial assistance approved for these projects is $33.5 million in 1997-98, $23 million in 1999-99, $41.2 million in 1999-2000 and $39.6 million in 2000-01.

4. Estimated new jobs created and saved by these projects were 4 667 jobs in 1997-98, 4 724 in 1998-99, 4 053 in 1999-2000, and 4 066 in 2000-01.

5. Based on the recently completed progressive review, the actual number of jobs created or saved by these projects was 2 280 [49 per cent] in 1997-98, 3 275 [69 per cent] in 1998-99, 3 369 [83 per cent] in 1999-2000, and 2 716 [67 per cent] in 2000-01. The projects are still progressing and further employment growth is expected. The amount of assistance paid to date for these projects is $14.618 million for 1997-98 [44 per cent], $13.353 million for 1998-99 [58 per cent], $14.635 million for 1999-2000 [36 per cent] and $40.861 million for 2000-01 [60 per cent].

6. The purpose of repayments is not collected or detailed in the general ledgers of DIT. It is not therefore possible to separate repayments for non-performance from other repayments either on maturity or voluntary. However it is important to note that where non-performance or non-compliance is identified and the clawback provisions of the legal agreement enforced, a review of the current position and possible future events is undertaken before this action is taken so that the economic benefit to the state can be maximised.

HOTELS, TAXATION

In reply to **Hon. R.I. LUCAS** (18 July).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

During the last election I assisted with party fundraising by attending functions. AHA members were present at some of these.

At these functions I would have stated that the ALP would not have to raise existing taxes or introduce new taxes to pay for its election promises.

The recent state budget confirms that the Labor government was able to pay for its election commitments by re-prioritising government spending.

As a result of the former Liberal government's financial mismanagement, revenue measures were introduced to return the budget to cash surplus and massively reduce accrual deficits.

FESTIVAL THEATRE

In reply to **Hon. J.F. STEFANI** (21 August).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. The clear plate balustrade around the plaza conforms with the principles of the Festival Centre master plan—namely to open up the plaza, reduce the oppressive environment and provide greater visibility across the site, particularly to the River Torrens. The use of clear plate glass will help to improve accessibility and visibility within the site itself, and reduce the opportunity for vandals to hide.

The balustrade is set back from the edge of the plaza in order to provide visual privacy for those walking along its edge.

2. It has been reported for some time that the project program is several weeks behind schedule. The original scheduled completion date has had to be extended due to latent conditions on the site. Also the project timetable has been challenged by the need to restrict noisy building works to accommodate theatre activity.

For the benefit of patrons attending the 2002 Adelaide Cabaret Festival, a paved pedestrian access path was provided from King William Road to the Dunstan Playhouse and a large portion of the Festival Drive was bituminised by 7 June this year. Paving of the driveway is currently being completed.

3. All major components of work are expected to be completed by 13 October 2002, when an Open Day is planned at the Festival Centre.

Minor works and defect rectification will continue for 12 months, as is normal with a project of this size.

4. The project will be completed within budget, with all project objectives and scope delivered.

HAJEK SCULPTURE

In reply to **Hon. DIANA LAIDLAW** (19 August).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. The artist Otto Hajek has been fully consulted in relation to the current plaza works being undertaken as part of the Adelaide Festival Centre redevelopment. All elements of his sculpture that were removed so that the redevelopment work could proceed will be reinstated to the artist's original design and thoroughly cleaned in time for the opening of the redeveloped Festival Centre on 13 October this year. No remedial or restoration work will be carried out on the sculpture.

The fountain at the western end of the plaza, outside the Dunstan Playhouse, was not part of Hajek's original design. It has been removed during the demolition work and will not be replaced.

2. (No answer required, since the answer to the Question 1 is affirmative.)

3. Despite a thorough search conducted prior to the commencement of the Festival Centre redevelopment work, the Adelaide Festival Centre Trust has been unable to find any contractual documentation relating to the original commissioning of this artwork. The terms of the contract are therefore not known. However, the Trust's understanding is that it was commissioned 'in perpetuity' and this view is certainly held by the artist.

The Festival Centre continues to value the work as a vital and integral component of its public art collection and believes that the work should be preserved in its entirety. It is also the Festival Centre's understanding that the work would be covered by the terms of the recent Moral Rights legislation. Therefore, any changes to the work, including restoration work, would need to be carried out in consultation with Otto Hajek.

The work was valued in June 2002 at $500 000 on the basis of its site-specific nature.

CARRICK HILL

In reply to **Hon. DIANA LAIDLAW** (21 August).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. The concept development for a functions centre at Carrick Hill was halted in light of the fact that a functions centre was not a priority in the SA government's three-year capital investment program.

2. No capital funds have been allocated for a functions centre at Carrick Hill in the 2002-03 budget, and there are no plans for funds in any future budget.

3. The government is not considering the option of a privately built functions centre at Carrick Hill.

4. The planning approval for the marquee at Carrick Hill expires on 15 July 2003. The board and management of Carrick Hill are working with Arts SA in exploring options to address the funding shortfall that would occur with the loss of the functions business at that time.

PUBLIC SERVICE, BONUSES

In reply to **Hon. R.I. LUCAS** (21 August).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

Under previous Liberal governments, performance bonuses were paid to some chief executives of government departments, for example, Mr Michael Schilling, Chief Executive, Department of the Premier and Cabinet, and Mr Ray Blight, Chair of the South Australian Health Commission.

Under this government no Chief Executive of a department will be paid a performance bonus.

GOERS, Mr P.

In reply to **Hon. DIANA LAIDLAW** (26 August).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. Both the Chief Executive Officer and Chair of the SA Youth Arts Board were contacted, through the Office of the Premier, to discuss the appointment of Mr Peter Goers to the board of that organisation.

Likewise, the Chief Executive Officer of the Adelaide Festival Centre Trust was notified of my wish to appoint Mr Goers to the Board, prior to him taking up that appointment.

2. Mr Peter Goers is certainly not the first working journalist to be appointed to a South Australian Government board. In fact, the Hon Diana Laidlaw, in her capacity as former Minister for the Arts, made at least three such appointments herself, including:

- Ms Arna Eyers-White, journalist for dB magazine (and owner of that publication), whom the former Minister appointed to the position of Chair of the SA Youth Arts Board in 2001, and
- Mr Stan Thomson and Mr Spence Denny, both ABC Radio 5MG announcers, whom she appointed to the South-East Country Arts Board in 1998 and 1995 respectively.

In 1993, during the term of the Arnold Labor government, ABC TV newsreader and reporter, Mr John Ovenden, was appointed to the Board of the SA Film Corporation.

3. For his work as a Director on the SA Youth Arts Board, Mr Goers will receive a sitting fee of $140 per meeting, for a maximum of eight meetings per year.

As a Trustee on the Adelaide Festival Centre Trust, Mr Goers will receive $9 050 per annum.

People from all walks of life, including practising journalists and media commentators, are equally eligible to serve on government boards and committees. Indeed, it is the aim of my government to broaden the membership of these bodies, so that a wider cross-section of the community is represented on them.

That is why, in the area of the arts, public notices have recently been placed in the press calling for expressions of interest from people interested in serving on an arts board. I am advised that over 50 people with a strong interest, skills, knowledge or experience in the arts have already registered their interest in a future appointment.

All those who serve as directors on a government board, no matter what their profession or trade, are obliged to follow the same code of conduct in the performance of their duties. They must all exercise due care and diligence, and act honestly. It is mandatory for them to disclose any personal or pecuniary interest in a matter under consideration and to absent themselves from the discussion of any topic where they have a conflict of interest.

There is therefore no reason why a journalist or media commentator cannot serve on a government board or committee.

SPEED CAMERAS

In reply to **Hon. T.G. CAMERON** (28 August).

The Hon. P. HOLLOWAY: The Minister for Police has provided the following information:

1. Police Security Services Branch (PSSB) vehicles, whilst engaged in the execution of duties, are exempt from parking restrictions under the provisions of the Road Traffic (Road Rules-Ancillary and Miscellaneous Provisions) Regulations 1999 Section 15.

2. No—exemptions apply as above. (Refer to the question 1).

3. PSSB vehicles do not receive parking fines because they are not illegally parked.

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 August. Page 963.)

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition to this bill. This bill was originally introduced by the Liberal government in October 2001, when it passed all stages in the Legislative Council without objection from any member. It lapsed, however, in the House of Assembly when parliament was dissolved for the last state election. This bill contains one significant amendment to the bill proposed by the previous government, and I will come to that amendment in due course.

The bill amends the Legal Services Commission Act. It is purely administrative and procedural and brings the act into conformity with current practice, as well as accommodating changed commonwealth-state legal aid arrangements. It is appropriate on this occasion to indicate publicly my admiration for the work of the Legal Services Commission. The commission provides a range of legal services to members of the public and has done so for a number of years. It provides legal representation to eligible persons, free legal advice and minor legal assistance either at a commission office or by appointment in a gaol or over the telephone. It also provides a free duty solicitor service to eligible people attending metropolitan and some country magistrate's and youth courts where those persons have not yet consulted a legal practitioner.

The commission also provides a range of free publications explaining the law in simple terms. It publishes the *Law Handbook*—a most useful publication, which I commend to members and which handbook is now available on CD. The commission also provides a range of legal education programs, which are appreciated in the community. Legal aid is not granted for all legal problems: for example, in criminal matters there must be a reasonable likelihood of imprisonment. Family law matters must usually involve a genuine dispute over children and applicants must demonstrate that reasonable steps have been taken to try to resolve the dispute.

In assessing an application for aid, the commission takes into account personal income and assets, plus that of anyone with whom the applicant has a financial relationship. In assessing an application, the commission has to consider the income of the applicant, the applicant's assets and also the chances of success. This last consideration means that a merit test is applied to assess that the matter has a reasonable chance of success. Legal aid can be granted subject to a financial contribution and a charge can be taken over real estate so that legal costs can be paid at a later stage when the property is sold or transferred.

Reading the annual report of the Legal Services Commission for the year ended 30 June 2001, one can only express admiration for the work of the staff, solicitors and directors of the commission. The chairman, Brian Withers, is a most experienced and competent legal practitioner who has discharged his functions in the commission with great distinction. It is noted in the annual report to which I refer that the state government had provided an additional $500 000 to allow for an increase in the scale of fees paid to private practitioners, and acknowledgment is made of the continued support of the private profession for the success of the scheme.

Indeed, without that support the continued provision of legal aid in this state could not be guaranteed. I was particularly pleased to note acknowledgment of the fact that the commission has embraced the policy that I announced as Minister for Disability Services, namely, Promoting Independence—Disability Action Plans; and the commission has, I believe, discharged with considerable distinction its obligations to people with disabilities in our community. I turn now to the one matter which was not in the bill that passed through this council last year but which has now been incorporated by amendment.

It relates to the relationship between a person who has received legal assistance and the commission. The current provisions of section 29 of the act suggest that the relationship between the particular solicitor—if employed by the commission—and the applicant is what one might term the customary relationship between the solicitor and client. However, what is sought in the amendment to section 29—which introduces an entirely new provision—is that the commission itself will be taken to be the legal practitioner retained by the person to act on that person's behalf.

This is—as explained by the Attorney-General in his second reading when introducing the amendment—to overcome the difficulty that sometimes arises when a particular solicitor employed by the commission must hand over the file to another solicitor employed by the commission, and that may, in the course of any particular assignment, occur on more than one occasion. What is now sought in the amendment is to make clear that the commission itself is the solicitor and that the commission may require a legal practitioner employed by it to provide legal assistance, and that the commission must supervise the provision of legal assistance to the person.

A statutory obligation is imposed upon the director to ensure that the provision of legal assistance by legal practitioners employed by the commission is properly allocated and supervised. That is an important protection, because the commission has the delicate task of ensuring that the solicitors assigned to particular tasks are capable—by reason of training or experience—of managing the particular matter.

During the committee stage of this bill in another place, the member for Bragg did ask the Attorney about the attitude of the Law Society to this matter but no response appears from the record that I have seen. I would be pleased to have, from the minister's representative in this chamber, some indication of whether or not the Law Society has any comments on proposed new section 29. Subject to a satisfactory resolution of that matter, I indicate opposition support for the second reading.

The Hon. IAN GILFILLAN: The Democrats support the second reading and, before dealing with it in some particularity, I would like to make the observation that we have regarded the provision of the services of the Legal Services Commission as absolutely vital to any form of broad-based justice in a legal system that, admirable though it may well be, is very daunting to quite experienced and competent

citizens in our community and frighteningly, almost petrifyingly, prohibitive to those who are, perhaps, less competent and capable of dealing with their own affairs.

Therefore, for those of us who do believe that the law should be available—and freely available—to all without fear or favour, properly funded and properly resourced legal services must be available. I would also like to echo the comments of the Hon. Robert Lawson in commending those people who have given so selflessly to the service over many years. Those people who do professionally give the service on an ongoing basis do so with an enormous sacrifice in salary compared with what they could get in private practice in any other area of activity. I also recall that we have had a constant battle to get adequate funding for the provision of legal services.

I think it is appropriate to recognise that a lot of pro bono work is done by private practitioners and legal firms for which they are entitled to have acknowledgment and thanks, and I do so on this occasion. However, I do still believe that there are unacceptable gaps in the provision of the service, the funding of the service and the availability of the service. The provisions of this bill were first considered by this place last year and, while we passed the bill, it was, however, not passed by the other place before parliament was dissolved. The bill provides a number of amendments that will allow the commission to operate more efficiently and addresses the changed relationship between the state and commonwealth governments in regard to the commission.

Most of the amendments arise from anomalies identified by the Auditor-General. We are in general support of the bill: however, we are concerned about one element, that is, the location of available offices, and I will address that matter in a little more detail later. The bill gives the commission and the director the power to delegate the power to grant and refuse aid. It also removes the requirement for applicants to verify their applications by statutory declaration. Since the adoption of the national uniform application form, the commission has not required applicants to sign such declarations and has exempted applicants from complying with these verification requirements.

The bill removes the requirement for there to be two nominees of the commonwealth government on the commission. The commonwealth has not filled these positions for a number of years; and it is not appropriate to have the positions, given the current relationship with the commonwealth government. It also changes the wording of this section to reflect the fact that the current agreement is a standard purchaser-provider agreement under which the commission has the status of a provider of services in respect of commonwealth law matters. The bill removes the duty of the commission to liaise with and provide statistics to the commonwealth at its behest, and addresses a number of other minor amendments substituting gender neutral terminology.

The issue with which we are concerned in regard to this bill is that of local legal services offices. The commission currently has six offices: the head office in Adelaide and branch offices at Elizabeth, Holden Hill, Noarlunga, Port Adelaide and Whyalla. I also note the 'shop front' that it has established on the internet, as well as the telephone hotline. Each of these seems to me to be very important in the delivery of legal services to the community. Under section 10(e) of the principal act (a section that has been proposed for amendment), we find included in the functions of the Legal Services Commission the following requirement:

> Establish such local offices and other facilities as the commission considers necessary or desirable;

Presumably, the commission's current six offices fulfil this requirement, but I would still question whether even those current six offices provide adequate cover. I consider that this issue demands further attention by both this parliament and the government.

The government proposes to amend this wording to remove the word 'local', as explained by the minister, so as to allow the Legal Services Commission the freedom to adopt alternative office configurations. I must admit that we are cautious of such moves, and I would hope that in concluding the second reading debate the minister will elaborate on what the government has in mind as alternative operating structures. I would remind the chamber that some time back I put forward the proposal—I cannot recall whether it was by way of question or in a contribution in debate—that local libraries could be used to assist people in answering legal questions. In New South Wales each public library is a branch of the Legal Information Access Centre, as it is called in New South Wales, and it provides information, although not legal advice, to help solve legal problems. The scheme is jointly funded by the New South Wales State Library and the New South Wales Law Foundation, which in turn gets interest payments from solicitors' trust accounts.

In our opinion there is no reason why something similar could not be adopted in South Australia. This would be complementary to the Legal Services Commission and be of particular benefit in rural and regional areas of South Australia. In addition, I would say that the public library is a much more user friendly interface for those more timid members of the community who would appreciate having that friendly first contact where they could get advice without the hassle of even addressing the Legal Services Commission. I do hope that the government will consider this idea further. It would be a very low cost way of quite considerably extending the availability of reasonable legal conversation, if not legal advice, to members of the public. So, I indicate that the Democrats support the second reading of the bill, and we will await with interest the minister's explanation regarding the removal of the word 'local' from section 10(e) of the principal act.

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

CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 August. Page 963.)

The Hon. R.D. LAWSON: This bill is in the same terms as a bill which passed through all stages in the Legislative Council in the last parliament but which had not been debated in the House of Assembly when parliament was dissolved before the last election. That bill also contained so-called payola provisions to address some of the issues that arose in the so-called cash for comment scandal. However, the bill was split and the payola provisions were deferred.

This is a complex and technical bill. The second reading explanation is quite detailed, and I do not intend to repeat all that the Attorney-General said in his second reading speech. However, in summary, the South Australian criminal law on theft, fraud, receiving, forgery, blackmail, robbery and

burglary is partly common law and partly contained in various sections of the Criminal Law Consolidation Act. Many of the Criminal Law Consolidation Act provisions are based on very old English statutes; in fact, I believe I am correct in saying that the earliest of them date from the reign of King Henry III in 1224.

In 1977, then Justice Roma Mitchell chaired the South Australian Penal Methods Reform Committee. In one of the four reports—that dealing with the substantive criminal law—the members of the committee wrote:

> The defects of the present law of larceny are such that it is unduly complex, lacks coherence in its basic limits and has not kept up to date with techniques of dishonesty. The distinctions are difficult enough for lawyers; for laymen they are an abyss of technicality.

That was written in 1977. The United Kingdom in the 1960s was in very much the same position as we are in now; namely, its law of larceny and other offences of dishonesty were embodied in various statutes of common law. However, in 1968 the Theft Act was enacted in the United Kingdom. That was a new piece of legislation which sought to virtually codify the law in this area. Some Australian states followed suit, but in South Australia we did not.

Between 1991 and 1997 a national committee of officials, called the Model Criminal Officers Code Committee, issued a series of discussion papers with proposals for reform of this area of the law and draft legislation. The bill that is before the parliament today does not follow the draft that was adopted by the officers committee. Parliamentary counsel in this state prepared an entirely fresh version, adopting a substantially modified approach to the subject. Accordingly, the South Australian bill is quite different in form from other models, although its effect is intended to be similar.

I will deal very briefly with the various areas, the first being theft. Larceny and its derivatives are to be replaced with a general offence of theft. Accordingly, specific offences of stealing trees, dogs, oysters, pigeons and so on which appear in various sections of the Criminal Law Consolidation Act will be subsumed into a general offence. Theft is defined as the taking, retaining, dealing with or disposing of property without the owner's consent, dishonestly intending a serious encroachment upon the proprietary rights of the owner.

At this juncture I should indicate a matter of particular concern to me and my party. In section 86A the Criminal Law Consolidation Act creates the offence of using a motor vehicle without consent. It provides that a person who, on a road or elsewhere, drives or interferes with a motor vehicle without first obtaining the consent of the owner is guilty of an offence. A penalty for a first offence of up to two years imprisonment or for a subsequent offence of not less than three months nor more than four years is provided.

Although the offence is called the illegal use of a motor vehicle, many people in our community customarily refer to it as car stealing—and stealing it is. However, a person who takes a motor vehicle and illegally uses it in South Australia—or steals it, as I say—cannot be convicted of larceny, for which the maximum term is imprisonment for up to 5 years, because the prosecution is not able to prove the essential element in larceny, namely, an intention of the offender to permanently deprive the owner of the goods. Accordingly, those who illegally use motor vehicles can avoid the stigma of being convicted of car stealing, except in those circumstances where perhaps they might take the vehicle for the purpose of stripping it down and selling it to another.

So-called joy riders are not thieves, according to our law. However, in the Criminal Code of Western Australia and also the Victorian Crimes Act 1958, a special offence of stealing motor vehicles is created. In Western Australia, section 371A of the Criminal Code provides:

> A person who unlawfully uses a motor vehicle or takes a motor vehicle for the purposes of using it, or drives or otherwise assumes control of the motor vehicle without the consent of the owner or the person in charge of that motor vehicle is said to 'steal that motor vehicle'.

In Western Australia they call a spade a spade! Section 371 contains a definition of 'stealing'. In Victoria, there is a provision to similar effect. I will not take the council through the detail of section 73 of the Crimes Act.

We believe that in relation to car stealing the South Australian parliament should call a spade a spade, and so-called joy riding or illegal use of motor vehicles should be subsumed in a new offence. There is some attempt in this bill to create a distinction where a person takes a vehicle and damages it, or acts in some way as to substantially cause a diminution in the value of the motor vehicle. We believe that does not go far enough, and during the committee stage of this bill I will be proposing an amendment to address the issue to which I have referred.

I refer now to 'robbery' under the bill. The traditional offences of robbery and aggravated robbery are retained and, so far as I can see, there are no substantive changes. The offence of money laundering continues. There are a variety of offences in the Criminal Law Consolidation Act relating to various forms of fraud and deception; they are replaced in this bill with one general offence of deception.

At common law there is an offence known as conspiracy to defraud, and that common law offence is now continued in the bill. Forgery is dealt with as follows. The current law referring to forgery mentions many specific documents—cheques, bills of exchange and the like. These are all to be replaced by one general offence of dishonest dealings with documents, and this offence will include the dishonest dealing with electronic information.

The bill also contains a division called dishonest manipulation of machines, which will cover new technologies. The bill deals with so-called drive offs—that is, where someone obtains petrol from a service station, for example, and drives away; obtains food from a restaurant and leaves; or leaves a taxi driver unpaid—known in the industry as runners. These offences will be dealt with in the general offence of making off without payment. I believe that that is one of the singular improvements of the bill.

The current law contains a series of offences which are labelled 'nocturnal offences'. For example, being armed at night with a dangerous or offensive weapon intending to commit certain offences; possession of housebreaking equipment at night; being in disguise or being in a building at night intending to commit offences.

This bill will enact a new section 270C, which will cover possession of any article in 'suspicious circumstances' with intent in relation to offences of dishonesty; and this offence can be committed whether in the hours of daylight or night. A new offence will deal with the possession of weapons with intent to commit an offence against the person as opposed to an offence of dishonesty.

The old provisions of the Secret Commissions Act are replaced in this bill. These offences concern unlawful bias in commercial relationships and cover both public and private sector fiduciaries. A number of existing offences relating to

blackmail—sometimes called extortion—are now brought into one offence. The language of offences relating to piracy has been modernised, notwithstanding that that is not a common offence in South Australian waters.

Penalties are dealt with in the following way. In general terms, the maximum penalties provided for these offences are inconsistent and they are the product of historical accident. One exception is serious criminal assault, where the law was changed in 1999. But the old maximum penalties and those proposed by this bill are set out in the table at the end of the second reading explanation and are supported.

I should say that the Law Society, whose advice has been sought on this measure, has made only a fairly brief and perfunctory response. That is in no way critical of the Law Society, whose members do spend considerable time providing a service to the community and to governments by examining and commenting upon proposed legislation.

This matter of codifying the law relating to dishonesty has been around for some years. As I mentioned, it was first enacted in the United Kingdom in 1968, and a number of proposals have come forward over the years. It is, however, a matter of some regret that the criminal lawyers within the Law Society were unable to provide a more detailed comment than that which is contained in the letter of the president to the Attorney-General dated 20 June 2002. At that time it was reported as follows:

> The amendments introduced by this legislation are substantial and difficult to evaluate in the time that the Criminal Law Committee has been able to give to this Bill.
>
> The definition of dishonesty has been problematic in England and interstate.
>
> The Law Society opposes the creation of the offence in S138(2). The offence provides for a substantial term of imprisonment for persons who neither knew the property dealt with was obtained unlawfully, nor were reckless in obtaining it.
>
> Further, I am aware that there is a particular concern about the likely impact of the legislation on aboriginal offenders. While the proposed codification of dishonesty offences may not be intended to result in more immediate or longer terms of imprisonment it seems that this will be a consequence of concern to this group of people.
>
> I request that these comments be taken into account as your consultation process continues.

I am not surprised that the Law Society is unable to provide more detailed comment, because I know that its members over the years have provided many comments in relation to various aspects of this proposal.

I mentioned that the Law Society, in its letter, said that a definition of 'dishonesty' has been problematic in England and interstate. I think it is important that I put on the record some comments in relation to the definition of 'dishonesty', because it lies at the heart of this bill. The current South Australian statutory law relating to offences of dishonesty does not contain any definition of 'dishonesty'. It is proposed that new section 131 will be inserted and will provide:

> A person's conduct is dishonest if the person acts dishonestly according to the standards of ordinary people and knows that he or she is so acting.

The section continues:

> The question whether a defendant's conduct was dishonest according to the standards of ordinary people is a question of fact to be decided according to the jury's own knowledge and experience and not on the basis of evidence of those standards.

So what has been introduced into this area of the law, although not entirely for the first time, is the notion of the standards of ordinary people.

This has been the subject of a good deal of academic and other discussion over the years. In 1999, Professor C.R. Williams, who is the Sir John Barry Professor of Law at Monash University, published an article in Volume 23 of the *Criminal Law Journal* entitled 'The shifting meaning of dishonesty', where Professor Williams gathers together some of the difficulties which have been created by this definition of 'dishonesty' by reference to a series of cases in Victoria decided in 1980 and 1981.

The cases are called Salvo, Brow and Bonollo. In those cases, the Victoria Court of Criminal Appeal held that the word 'dishonesty' in theft offences has no meaning beyond what is covered by section 73(2) of the Victorian Crimes Act. The court rejected the English cases of Feely and Ghosh in which the concept of the standards of ordinary decent people was introduced.

For the benefit of the council, I will briefly refer to those cases. The first was The Queen v Feely in 1973. In that case, the accused was employed as a branch manager by a firm of bookmakers. His employer sent a circular to all its managers stating that the practice of borrowing from the employer's till was to stop. A month after receiving the circular, the accused took £30 from the firm's safe to give to his father. In a statement to the police, he claimed that he intended to repay the money and, in any event, the firm owed him £70 in wages and commissions. The trial judge directed the jury that it was no defence for the accused to say that he had intended to repay the money and that his employer owed him more than enough to cover what he had taken. However, the trial judge did not invite the jury to consider whether the accused had acted dishonestly, and the judge's comment to the jury was as follows:

> If someone does something deliberately, knowing that his employers are not prepared to tolerate it, is that not dishonest?

However, the Court of Appeal held that the trial judge had misdirected the jury. In delivering the judgment of the court, Lord Justice Lawton took the view that the question of whether an accused's conduct can be said to be dishonest is one to be determined exclusively by the jury. His Lordship said, and I quote, because this is important:

> Jurors, when deciding whether an appropriation was dishonest, can be reasonably expected to, and should, apply the current standards of ordinary decent people. In their own lives they have to decide what is and what is not dishonest. We can see no reason why, when in a jury box, they should need the help of a judge to tell them what amounts to dishonesty.

There was another case in which the same concept was extended—the Queen v Ghosh—in a decision of the English Court of Appeal in 1982. In that case, the Court of Appeal added what might be termed a 'gloss' on the test for dishonesty by requiring that the accused must realise that the conduct was:

> . . . by the ordinary standards of reasonable and honest people. . .

dishonest. In that case, the accused was a surgeon who falsely claimed fees for operations which had been performed by others or which had been carried out under the National Health Service, an offence which we in this country call Medibank fraud. The accused was convicted of obtaining money and attempting to obtain money by deception. Lord Justice Lane, who was the Chief Justice at that time, said:

> In determining whether the prosecution has proved that the defendant was acting dishonestly, a jury must first of all decide whether according to the ordinary standards of reasonable and honest people what was done was dishonest. If it was not dishonest by those standards, that is the end of the matter and the prosecution fails.

This approach, which was taken in the English decision of Feely and Ghosh, has been criticised by a number of academ-

ic commentators and also implied by some judges. The grounds of that criticism have been, first, that it is argued that, if a question of the honesty of the conduct of the accused is left solely to the jury, different juries may well give different answers on the facts which are indistinguishable one from the other. In other words, the conduct of somebody in one case might be identical to the conduct in another case; however, the juries might adopt different standards of honesty because of their idiosyncratic views.

Secondly, it was argued that the task of determining what constitutes dishonesty often involves complex value judgments and questions of policy which are beyond the average jury. Thirdly, it was argued that it is a function of the court (that is, the judge) rather than the jury to determine the proper scope to be given to any criminal offence. Against those arguments, it must be said that the approach adopted by the English Court of Appeal has the advantages of linking legal responsibility more closely to moral culpability and of transferring the issue of determining community standards on the question of dishonesty to a jury, which may be regarded as the embodiment of community standards.

In the three Victorian cases to which I referred when beginning this part of my speech, the judges were not convinced by the need to give 'dishonesty' the meaning referred to in England. There was a High Court decision, Peters against the Queen, in 1998 in which this issue was discussed. Regrettably, it was not completely resolved or not resolved in a way that showed any unanimity of approach by the judges. In that case, the accused was a solicitor. He was accused of conspiracy to defraud the commonwealth contrary to the Crimes Act. He had been retained by a client to act in certain mortgage transactions and the accused knew that those transactions were a sham and that their effect was to deprive the Commissioner of Taxation of tax payable as income. In summing up, the judge instructed the jury that it was necessary for the prosecution to prove that the accused acted dishonestly. The judge, following the approach taken in England, instructed the jury that they had to be satisfied that what the accused agreed to do was dishonest according to the standard of ordinary and reasonable people and, if it was, that the accused realised it was dishonest by those standards.

The solicitor was convicted, as I mentioned, and his appeal to the High Court was dismissed, a majority holding that the direction of the judge was favourable to the accused. In a dissenting judgment, Justice Kirby adopted an approach that will have appeal for some. He said that the judge should not have directed the jury that they had to ascertain whether the accused had acted dishonestly by reference to the ordinary standards of reasonable and honest people. Rather, in the view of Justice Kirby, the judge should have focused the mind of the jury on what the accused personally believed as to the honesty of the means chosen to achieve the agreement entered into.

Professor Williams concludes, I think correctly, that Peters and the Queen has significantly undermined the standing of those Victorian decisions which, admittedly, relate specifically to the position which arises under section 73(2) of the Victorian Crimes Act, a section which does not have a precise parallel in South Australian law.

For those members who might be interested, I also commend an academic article by Alex Steele, a lecturer at the University of New South Wales, published in Volume 24 of the Criminal Law Journal, under the heading 'The appropriate test for dishonesty'. These academic comments and also the judicial decisions to which I have referred indicate that introducing a statutory test for dishonesty in terms of the English model does not necessarily make our law much easier to administer or more understandable for ordinary members of the community.

I am aware, of course, that this community standard was introduced into our Criminal Law Consolidation Act when the offences relating to public officers were introduced within the past few years. I think that I am correct in saying that section 238 of the act has already introduced the notion of ordinary, decent members of the community. Section 238 defines acting improperly, rather than dishonestly, and it provides that a public officer acts improperly in relation to a public office if the officer or person knowingly or recklessly acts contrary to the standards of propriety generally and reasonably expected by ordinary, decent members of the community to be observed by public officers. So a similar concept has already been introduced into our Criminal Law Consolidation Act although in a rather narrower form in relation to public offences. I indicate support for the second reading.

The Hon. IAN GILFILLAN: We support the second reading of the bill. It is largely the same as the bill that was passed in this place last year. I recognise that the bill has had a long history and extensive consultation, so it is not my intention to repeat the discussion on the bill that we had last time we debated it, but I will deal with a couple of matters that appear to have changed, according to the new analysis that I have received. I understand and accept the changes that have been made to this bill since last year's version to be further technical refinement to the proposed legislation. However, when we last debated this bill, I had not had comment from the Law Society. Since that time, it has forwarded its assessment of the proposed legislation. I believe that it raises some important points.

The Law Society raises two concerns with the bill. The first relates to clause 138(2). Mr Chris Kourakis QC, President of the Law Society, states:

> The Law Society opposes the creation of the offence in section 138(2). The offence provides for a substantial term of imprisonment for persons who neither knew the property dealt with was obtained unlawfully nor were reckless in obtaining it.

I would ask the minister in summing up the debate to indicate the government's reasons for choosing to introduce this offence and how it has sorted out its disagreement with the Law Society's opinion. The second matter is also one on which I seek a response from the minister. Mr Kourakis states:

> I am aware that there is a particular concern about the likely impact of the legislation on Aboriginal offenders. While the proposed codification of dishonesty offences may not be intended to result in more immediate or longer terms of imprisonment, it seems that this will be a consequence of concern to this group of people.

It is important that, when we change legislation, we are aware of the effects it will have on all sectors of our community, and I look to the minister in summing up the second reading debate to indicate what analysis the government has on the effect of this legislation on Aboriginal offenders. The Democrats support the second reading.

The Hon. CARMEL ZOLLO: I welcome the opportunity to speak on this bill, which follows a national review presented as part of a package of general reform and based on the Model Criminal Code Officers Committee. The bill is similar to that debated in this place just before the dissolution

of the last parliament, but it is enhanced by the inclusion of some new provisions consistent with the policies and commitments of the Labor government. I congratulate the government on presenting this bill, which not only modernises the legal language of the legislation but also broadens and simplifies a complex and diverse range of offences into more readily accessible contemporary forms. My colleague the Attorney-General in the other place and other members have dealt at length with this matter, and I must say that it was refreshing to read the largely constructive and supportive contributions to that debate.

As part of Westminster common law jurisdiction, our criminal code is not static, which has meant that at times it has developed in a disjointed and somewhat incongruent way, compounded by using definitions dating back to concepts found in the 18th century, as the Hon. Robert Lawson mentioned in his contribution. This often leads to the law not keeping up with our rapidly developing modern society and changes in community standards and attitudes. As pointed out by other members, some of the old sections of the act bordered on the absurd, when put in the context of our contemporary values. So modernisation of the criminal code is most welcome.

I also welcome the provisions that enforce a new understanding of the notion of theft when dealing with motor vehicles. Whilst the theft of a motor vehicle is an offence currently covered by the common law offence of larceny, this provision has always required proof of the intention to deprive the owner permanently of the goods in question. This was to distinguish what we call doubtful borrowings from stealing. However, in the case of joy-riding, where presumably the offender's intention is not to permanently deprive the owner of a vehicle but rather to run amok with that property for some misguided pleasure, a special offence of 'using a motor vehicle without consent' has been drafted.

The bill quite correctly seeks to address the existing deficiency—of not being able to charge a joy-rider with theft (larceny)—by including a clause in the bill that extends the concept of theft to incorporate serious encroachment on a person's property without the owner's consent. I also welcome the increased penalty regime that would accompany any conviction, particularly those that are targeted at repeat offenders.

I note the provision in this bill to double the maximum penalty for theft from five to 10 years. This will clearly signal to those who choose to illegally use motor vehicles that this behaviour will not be tolerated and is unacceptable in our society. The bill's provision for a new offence of making off without payment is another unfortunate but necessary one. It is a sad reality in our modern life that we need to extend this provision beyond that found in the Summary Offences Act, which was limited to making off with food or leaving without payment for lodgings.

The government has in particular listened to demands from the petrol station and taxi industries who have been increasingly confronted with drive-offs and run-offs. I am sure that, while a legislative provision will not in itself eliminate the quantum of crime, it provides the appropriate response to an increase in particular areas of crime and addresses the need to create new categories of offences where existing provisions have been found to be wanting. In rounding off my contribution, I also want to welcome the measures that will address computer and electronic theft and fraud. The inclusion of the provisions for the dishonest manipulation of machines will I hope provide law enforcers and the judiciary with the requisite tools to address this most modern of crimes. I commend the bill to all members.

The Hon. J. GAZZOLA secured the adjournment of the debate.

OMBUDSMAN (HONESTY AND ACCOUNTABILITY IN GOVERNMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 August. Page 964.)

The Hon. M.J. ELLIOTT: I rise to indicate support by the Democrats for the second reading of this bill. This bill is a part of the package of three bills which implements the government's 10-point plan on honesty and accountability in government. In particular, this bill strengthens the powers of the Ombudsman in areas where the Ombudsman has been limited up until now. The Ombudsman will be able to investigate complaints against areas of the government which have been privatised or contracted out. With quite dramatic expansion in these areas, it is necessary that the same level of accountability we see through the public sector should be extended to those areas, as well. Also, the Ombudsman's act is changed to broaden the powers of the Ombudsman to ensure that he can investigate claims made by the public against government agencies. These are supported by the Democrats.

I ask the minister to indicate whether there are any changes to the resourcing that the Ombudsman's office will receive. When I have been to the office of the Ombudsman on matters of freedom of information, there have been great difficulties of late because the Ombudsman's office has not been adequately resourced. As we see this expansion of the Ombudsman's responsibility, I hope that the resources will be made available so that the work of the Ombudsman can be properly carried out. I support the second reading of the bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

GAMING MACHINES (GAMING TAX) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 August. Page 999.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak to the second reading of the bill. In doing so, I will make comments that relate to the associated bill, the Stamp Duties (Gaming Machine Surcharge) Amendment Bill. I will also refer to one or two specific issues involving the surcharge bill. In general terms, both these bills are part of a single broad broken promise of the new government, and we can probably address the broken promise in this legislation and touch it up a bit in the Stamp Duties (Gaming Machine Surcharge) Amendment Bill.

Just prior to the election campaign, the Australian Hotels Association had discussions with a number of political parties—I am not sure how many but it certainly involved the then government and the then opposition (the Liberal Party and the Labor Party)—in relation to what their commitments in relation to state taxation would be for the industry for the ensuing four-year period. Given the recent history of taxation on the gaming machine industry, it was a not unreasonable

course of action for the industry association to ask for. Ultimately, of course, it was up to the major political parties to respond if they chose to do so. If they did not want to give a commitment, they were not bound to give any. They were not bound to have verbal discussions or guarantee in writing any commitment. As in a number of other areas, sometimes political parties leave unsaid their attitude to a particular policy issue during an election campaign.

The Australian Hotels Association and the many thousands of people who work within the industry are a not insignificant political lobby in South Australia, one which has enjoyed close association with the Australian Labor Party and other political parties over the years; in particular, it has enjoyed close contact with the now Treasurer, then shadow treasurer, the member for Port Adelaide.

As the public record has shown, the then shadow treasurer, the member for Port Adelaide, on behalf of any incoming Labor government, made a specific written guarantee to the Australian Hotels Association that there would be no increase in taxes on gaming machines in the next four years of the parliament. That commitment was supported by the now Premier, the member for Ramsay. Those politicians were not required to give those commitments or any guarantees in writing at all, but obviously they decided to put them in writing because they wanted, as the member for Port Adelaide (Mr Foley) had indicated, to make quite clear that the hotels, all their employees and families could believe the word of the potential incoming Labor Treasurer.

When the letter was received, there was still some doubt within the Australian Hotels Association about the truthfulness or otherwise of the commitment that had been given by Mr Foley to the Australian Hotels Association. A few said, 'Look, I know we have got it in writing. I know they say they will do this, but we believe the Hotels Association should seek an urgent meeting with the Labor Party to eyeball the particular individuals and ensure that the commitment in writing has the personal guarantee and imprimatur at a face to face to face meeting with the leaders of the Labor Party.'

As I have outlined before, the member for Port Adelaide was most affronted when told by a senior Labor functionary that the letter was not good enough and that there ought to be a meeting. I cannot provide his exact words, but in effect he said, 'Don't they believe me? Isn't my word good enough? I have given a commitment in writing.' Phrases such as that rolled eloquently off the tongue of the member for Port Adelaide. He was affronted that anyone should question his integrity and that anyone should question the truthfulness of the commitment that he had given on behalf of the Australian Labor Party.

Nevertheless, senior Labor operatives in the campaign prevailed and insisted that, while they believed the commitment that the member for Port Adelaide was giving and that Mr Foley would not not tell the truth, they thought it advisable that there should be a face to face meeting with senior members of the Australian Hotels Association to give this commitment even further imprimatur from the Australian Labor Party.

Mr Ian Hunter—a person not unknown to you, Mr President, and other Labor members here, and not unknown to the Minister for Government Enterprises (I understand they mix in similar circles)—and the member for Port Adelaide, Mr Foley, met with senior representatives of the Australian Hotels Association. He gave a further commitment at that meeting and made quite clear that his word was his bond. He said that he had never written a letter like this before to any other group and that it was fortunate to have received such a letter.

He said that he had never written a letter like this before and that in the future he would not be writing another one. That is how lucky the Australian Hotels Association was to have received this letter—it was one of a kind. Never before had he written such a letter and he would never do so again. I believe the second part is probably right—he will never write another one. That was the commitment he gave the leaders of the Australian Hotels Association. The leaders of the Australian Hotels Association, some of them having had some doubt about the commitment that had been given, insisted on this meeting. They went away and said, 'Well, we've had this commitment given by the—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Can you talk a bit quieter?

The Hon. M.J. Elliott: If you were a bit quieter we would all be grateful.

The Hon. R.I. LUCAS: It is Grumpelstiltskin over there!

The PRESIDENT: The leader is entitled to protection when he is engaging in orderly debate.

The Hon. M.J. Elliott: This could have been said in one sentence—'broken promise' is one sentence.

The PRESIDENT: 'Order!' is one word.

The Hon. M.J. Elliott: I will be quicker than you are.

The Hon. R.I. LUCAS: But not as good. The commitment was given by the then shadow treasurer to senior members of the Australian Hotels Association at this meeting. As you well know, Mr President, I am not necessarily saying that all this occurred at the one meeting, but on other occasions there were significant financial commitments based on the commitment given by the Australian Labor Party, which meant that financial donations of something more than $100 000 were provided to the Australian Labor Party on the basis of the commitment that had being given by the then shadow treasurer to the Australian Hotels Association.

In these two bills we have seen a massive broken promise by the Australian Labor Party. We have seen that the word of the member for Port Adelaide and the member for Ramsay cannot be trusted. We have seen that allegedly firm written guarantees given by these members of the Australian Labor Party to the Australian Hotels Association could not be trusted. To show that they had not lost their humour, at one stage a wag from the Australian Hotels Association said, 'How can you tell when Mr Rann and Mr Foley are not telling the truth?' I said, 'I don't know'. He said, 'When their lips are moving.' Sadly, that is the attitude that a number of members of the hotel industry have towards our Premier, Treasurer and other senior members of the Australian Labor Party in the Labor government in South Australia.

The attached gaming machines surcharge bill is a further broken promise in that it introduces a further new levy or surcharge when again the commitment was given not just to the hotel industry but to all South Australians that an incoming Labor government would not introduce any new taxes or charges in addition to their commitment not to increase existing taxes and charges. When we get to the gaming machine surcharge bill we will be able to address the specific detail of the bill, how it will operate and some of the potential problems for the hotel industry as a result of that bill.

In trying to manage his back down or broken promise—however, he might like to describe it—the Treasurer indicated in the budget papers that he and the government had relied on the Magee and Allen reports to justify breaking their election

promise. When one looks at the budget papers—and I will not take the time of the parliament to go through all the detail of the state budget papers—one finds that they contain specific references to the Magee and Allen reports as justification for the view that the Australian Labor Party had taken to justify its broken promise.

Again, I can refer members to the series of questions asked by members in the estimates committees when the Treasurer was tied up—policy wise and verbally—through questioning from opposition members in relation to the Magee report. This report, upon which the Treasurer said he relied, was seriously flawed. Again, I can refer members to the executive summary of comments made by the Australian Hotels Association consultants on the Magee report to show that there were serious flaws in the methodology of that report. Estimates of payroll tax rates in South Australia were wrong; estimates in relation to a range of other costs were wrong; and estimates of wage costs of operating a gaming room were wrong.

Even the union, I understand, told Labor members that the labour costs that were incorporated in the Magee report meant that under-award payments would have to be paid by South Australian employers to justify the wage level costs that had been incorporated by Mr Magee in his report. As I said, that meant that, after he had been embarrassed during estimates committees, the Treasurer had then to seek refuge by backing away significantly from the accuracy of the Magee report. Sadly, I might say, and contrary to the new process of openness and accountability, it is three months since the estimates committees and I understood that we were going to get all our answers to questions within six days.

However, we are still waiting for answers from the estimates committees, and I am talking about the majority of answers, not just isolated answers. Answers from the estimates committees have not been provided to opposition members. In relation to the questions that were put to the Treasurer on the Magee report, he was not able to defend the accuracy of that report. In fact, the Treasurer deliberately chose not to defend the accuracy of the Magee report. What he then sought to do was to say that he had always acknowledged that there were some problems with the Magee report. Again, that statement was not true.

The Treasurer did not acknowledge that there were problems with the Magee report until he was hammered by the Australian Hotels Association consultants and by opposition members highlighting the errors within the Magee methodology. So, he acknowledged, ultimately, the errors in the Magee report, but he then sought refuge by saying that he had received other advice; he had based his information and his policy decisions on other advice. The only other advice the Treasurer could have received would have been from the Treasury. I know the officers within the Treasury and they are very competent in this area.

I know the nature of the advice they would have provided to the Treasurer. I also know the extent of their capacities, and they would be the first to say that they would not have detailed knowledge of the cost of operating a gaming room or establishment in South Australia. Their expertise is undoubted in other areas in terms of the revenue aspects of the gaming machine operation in South Australia, but they do not have expertise (and, indeed, it is not a requirement of a Treasury officer to have such expertise) in the cost of the operation of a gaming establishment in South Australia.

That was the sort of advice that was sought from external consultants. It is interesting to note that the Brisbane office of Ernst & Young evidently was used to locate Mr Magee. As you will know, Mr President, some questions have been raised about the competence and expertise of Mr Magee in relation to this whole area. Questions were also raised about the nature of his disengagement from the RSL club in Queensland. Mr Magee, of course, is not the focus of the opposition's attention, and whether or not questions are to be pursued in that respect is certainly not exercising our minds at this stage. Nevertheless, someone identified Mr Magee as the supposed expert in this area.

That was either Mr Foley (the Treasurer), his staff or Treasury; or, as I said, there was a role for Ernst & Young, already acknowledged by the Treasurer, in relation to this. But whoever it was must accept responsibility for Mr Magee's report (perhaps his name was really Mr Magoo) that turned into a dud because, as I said, no-one now is prepared to defend the accuracy of a number of the key assumptions of the Magee methodology. As I said, holes have been ripped in many of the assumptions on which the Treasurer based his assessments. So, what we then had from the Treasurer was, as I said, an indication that he relied not on the Magee report but on other advice.

He has never been able to advise what that other advice was. It certainly could not have been and would not have been Treasury advice and, until the Treasurer is prepared to own up and say on what other advice, allegedly, he based his decisions we can only assume that his statements are not true, and we can only assume that the Magee report seriously misled him or, as I and most of us suspect, that he was probably intent on introducing the broken promise anyway and he was really only seeking some sort of third-party justification for that broken promise.

Again, I will not go through the detail, but for those members who are interested in the detail of this broken promise I urge them to look at the contributions from the member for MacKillop (Mr Williams) and the Leader of the Opposition (Hon. Rob Kerin). Both members gave a detailed description of the impact of these decisions, not on the pokie barons in the case of the Leader of the Opposition but on people he knew who were not wealthy, as would be portrayed by the Labor Party. They were people who have worked hard, made a success of their original business, had borrowed heavily—sometimes 70 to 80 per cent of the total cost of the hotel, and their only hotel—and then, in one swoop of a pen, lost, in some cases, 20 to 30 per cent of their equity in their investment as a result of this particular broken promise.

I will not go over the detail of those contributions but I urge interested members to look at the contributions from those two members and, indeed, some other members who highlighted the concerns from individual hoteliers and their families. One thing that is of great concern to a number of us in this area has been the open attack by the Labor Party on hoteliers and their families in South Australia. We have heard the Premier, the Treasurer, other ministers and backbenchers openly attack the Peter Hurleys, the Adrian and Leon Saturnos and the Greg Faheys of this world as heartless pokie barons who are ripping off ordinary South Australian families and workers.

I know a number of these people personally and I think that, whilst the government in the end, we might argue, has no moral right but, obviously, has a legal right to break whatever promise it made to the Hotels Association, it should not extend its abuse in the form of a personal attack on people such as Peter Hurley, Adrian and Leon Saturno, Greg Fahey and others who have worked tirelessly to make their busines-

ses successful because, from our viewpoint, there is no sin in that.

They have also worked tirelessly for their communities and ensured that many thousands of South Australian workers and their families have had a pay packet each and every week. I will not get into the whole gaming machine debate that we have had a dozen times on bills from the Hon. Mr Xenophon. I will not enter that arena, but it is unfortunate that Labor ministers and the Premier in particular should so personally attack individual people and their families such as these. It is not required. There should be no criticism if the parliament sanctions a particular activity as being legal, even though members of the parliament might disagree with that in the minority—

The Hon. J.F. Stefani: They introduced it!

The Hon. R.I. LUCAS: The Hon. Mr Stefani says members of the Labor Party introduced it. That is exactly right, and the majority in the parliament were actually Labor members.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: They might have in the past. Let us put this on the record. The Hon. Mr Sneath says that is why the hotel industry and the hoteliers like the Labor Party so much. I tell you what: when that comment gets circulated amongst the hotel industry that the Hon. Mr Sneath is saying that that is why the hoteliers and the hotel industry love the Labor Party so much, they will choke on those words, and so will members of the Labor Party in the time leading up to the next state election.

The Hon. G.E. Gago: You're pretty desperate.

The Hon. R.I. LUCAS: The Hon. Gail Gago says the opposition is desperate in relation to this. We have a situation in another place where the Treasurer says, 'You (the Hon. Mr Kerin) do not have the moral fibre to break your promises; I have the moral fibre to break my promises.' That is the moral background and framework within which this government and the Labor government operate.

The Hon. R.K. Sneath: Small hoteliers love us, too.

The Hon. R.I. LUCAS: The Hon. Mr Sneath says small hoteliers love him as well. The Hon. Bob Sneath obviously wanders around South Australia with the blinkers well and truly on—

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gazzola says he does not go to the pub any more. I am not surprised; he probably drinks in the Parliament House bar so that he does not have to face up to the hotel industry. He does not have the courage to front up to the hotel industry any more.

Members interjecting:

The PRESIDENT: Order! Interjections are out of order.

The Hon. R.I. LUCAS: The point I am trying to make is that on the one hand we accept that the government and its leadership praise some business leaders who have made a success of their industries. Hugh Morgan in the uranium industry and Robert Champion de Crespigny in the mining and resource industry are people who have worked hard. Mr Hugh Morgan is someone who worked very hard in an industry that the Premier thought was the most evil industry on the face of this earth in the early 1980s when he led the charge against Roxby Downs here in South Australia. On the one hand, those business leaders are praised by this administration but on the other hand are hard working people from ordinary backgrounds.

I challenge the Hon. Mr Sneath, the Hon. Mr Foley and others who sneer at the hotel industry to look at the backgrounds of people such as Adrian and Leon Saturno. The Hon. Mr Stefani knows the Saturno brothers very well. Look at their backgrounds and those of Peter Hurley and Greg Fahey. These people were not born with silver spoons in their mouths: these are people who have worked hard to make their businesses successful in an industry sanctioned by a majority in this parliament, and they do not deserve to be sneered at by Labor members and politicians. They do not deserve to be attacked and abused by the Premier and Treasurer of this state in this way.

The Hon. G.E. Gago: They're desperate tactics. You can't get the argument, can you? You have to put words into our mouths.

The Hon. R.I. LUCAS: The Hon. Ms Gago says 'desperate tactics,' and I agree: they are desperate tactics by members of the Labor Party, because they are arguing a position they know they cannot defend any more.

The PRESIDENT: Order! Members will cease to interject. I would encourage the Leader of the Opposition to confine his remarks to the debate before us.

The Hon. R.I. LUCAS: I have been unmercifully attacked by members of the Labor Party during my contribution.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: Malicious as well. During this debate, both in the public arena but also in the debate in the House of Assembly, the government members have sought to make a number of accusations about the approach that would be adopted by the Liberal Party in relation to gaming machine matters. I quote various statements that have been made by the Treasurer, as follows:

> The AHA needs to understand also that the former government, the former treasurer, was doing a couple of things in the last 12 to 18 months he was in office. He was looking at the scarcity of venues after the freeze came into place and at how he could tax that and get revenue from hotels to take account of the scarcity value. Do you know what he did just months before the election? He worked on his own tax proposal—his own super tax proposal.

Later, the Treasurer said:

> The former treasurer knows he was working up an option. He will say that he was not going to implement it—fine. The truth is that he had his own proposal. The Treasury office and department, on the former treasurer's instructions from what I can ascertain, were working up tax options for the former government. The former government knows that. The former treasurer admitted on radio that it was looking very carefully at how it could attract or put in place a mechanism to collect the scarcity value of venues, but also as a government he was working on a super tax not that much different from the proposal I put in place.

A number of other claims have been made by the Treasurer, trying to cover himself by saying, 'Well, yes, we (the Labor Party) broke our promise, but the Liberal Party were not to be trusted either.'

I want very quickly to place on the public record the background to that, some 12 to 18 months prior to the election, from two sources. The first was within Treasury. A senior officer within Treasury raised the issue in relation to revenue of further taxing the gaming machine industry. At about the same time one of my colleagues raised the question as to what an undefined super tax on the poker machine industry might raise. So, it was on two fronts. First, a senior officer in particular within Treasury who, as is not unknown to many, is quite disposed to looking at revenue options, had a strong view that the gaming machine industry sector was one that might be further taxed.

The Hon. J.F. Stefani: The soft option.

The Hon. R.I. LUCAS: As the Hon. Mr Stefani said, it was always the soft option. At that time, some work was done by senior Treasury officers to produce rough estimates—and they were very rough estimates—of what might be gained. I have to say they were nowhere near the levels of the increased tax that this Labor government has introduced. Nevertheless, those options were considered and rejected by the former government. They were considered and rejected by the former government, even in their rough state of working up. No work had been done that was detailed enough to be able to be presented to parliament. They were rejected by the former government, consistent with the commitment we had given after the last tax increase, which made us the equal highest taxing administration in Australia. We said to people, 'We need to give you some certainty in terms of future investment,' and we gave that commitment to the industry. During the election campaign we then went further and gave a further commitment for the next four years.

The Hon. J.F. Stefani: So did the Labor Party.

The Hon. R.I. LUCAS: As Mr Stefani rightly points out, so did the Labor Party. The other issues I will address, after the dinner break, on the gaming machines surcharge legislation relate to both bills, but particularly in relation to the revenue estimates that Treasury has produced for the collection of this new surcharge and tax. They are issues that need to be pursued in some detail. I will also address the issue of how the legislation has been drafted for the new surcharge, and how it might impact upon businesses that are structured as trusts where there are changes to beneficiaries of a trust in the operation of a particular business.

A number of issues like that that will need to be addressed in both pieces of legislation. The opposition indicated in the lower house that it did not support this broken promise from the new Labor government, but it has adopted the position that this is part of a budget package of bills and, for that reason, we understand that the legislation will pass.

The Hon. M.J. ELLIOTT: On behalf of the Democrats I rise to support the second reading of this bill. There have been times that I have argued that there was a case for reducing the tax across the board, just returning the winnings—gaming machines could be modified so that they did not create great losses. However, that is an argument that I have put on other occasions and not won.

This particular tax is not levied on all machines or on all operators; it is levied on those who are making quite significant sums of money from gaming machines. For small clubs and for some hotels, gaming machines have probably not been a huge boon and some clubs have probably not made money with their gaming machines; but, for a small number of operators, gaming machines have just about been a licence to print money.

I suspect that, if this tax did not come in, we would have what has happened interstate where big operators have come in and taken over large chains of hotels and sought to turn them into mini casinos. That has not happened very much in South Australia at this stage, although one or two buyers have started to accumulate hotels. If super profits were available in hotels—and not many hotels are doing this at the moment—we would see a whole lot of operators coming from interstate (large companies) seeking to convert more and more hotels into money-making machines and, with significant investment, they would be able to do that.

As I see it, not only is this creating a revenue stream for the government but it probably would provide a disincentive for operators to expand into chains of hotels, with each of them setting out to be mini casinos in terms of the way they operate. So, for both reasons, the Democrats support the second reading.

The Hon. DIANA LAIDLAW: I support all the remarks made by the Hon. Robert Lucas in his contribution to this debate, and I intend simply to confine my remarks to—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I do not always give him unqualified support. I simply wish to confine my remarks to an amendment which the Liberal Party will move in this place, and that is in relation to the dedication of some of the revenues from poker machines for community purposes such as the Gamblers' Rehabilitation Fund and the Sport and Recreation Fund.

Honourable members would know that these specific funds arose from Labor Party amendments to this legislation when it was introduced back in 1994, and sums were set in the bill at that time which provided for the Sport and Recreation Fund to receive $2.5 million a year; for the Gamblers' Rehabilitation Fund to receive $3 million a year; and for the Community Development Fund to receive $19.5 million. As I said, those figures were set and arose from Labor Party amendments at the time, a decade ago, when it had been estimated by Treasury that there would be revenues of some $120 million to $140 million arising from the proportion of tax on gaming machines.

What has happened since is that the state is now receiving $100 million more a year than first estimated, yet the sums to the Sport and Recreation Fund, the Gamblers' Rehabilitation Fund and the Community Development Fund have not changed in terms of the sums provided in the act.

The Hon. J.F. Stefani: Not even CPI adjustments?

The Hon. DIANA LAIDLAW: No. That's right—not even CPI adjustments. The Liberal Party is proposing that, because of the Labor Party originally moving amendments for the establishment of the funds a decade ago, and because of the windfall revenues that have been received by the government since that time, it is now appropriate to increase the funding to ensure that they work effectively and with the intention for which they were originally established.

In addition, there is one change that the Liberal Party is proposing in the amendments, and I will speak to that at greater length in the committee stage. It is to provide $500 000 a year under the umbrella of the Community Development Fund specifically for live music. I am quite confident that the government will support the Liberal Party's amendments to this bill, given the Premier's rhetoric as Minister for the Arts and that of government members opposite in terms of their support for live music.

Everybody says that they support live music; everybody says that they support youth; and everybody says that they want strong local hotels within their community. However, what the live music industry and our local musicians say generally is that poker machines have, in part, been responsible for decreased opportunities for live music in our local pubs. It is therefore appropriate that poker machine revenue be used to support live music and our young people through this hypothecated sum of money.

It is also important for us as members of parliament to support urban growth boundaries and increased densities across the wider metropolitan area, and to understand that with increased densities of populations we will have greater tensions from time to time with live music and other noisy

activities unless we act responsibly now to help hotels soundproof their venues and provide places where live music can be performed in the interests of the community and for the benefit of our youth.

I think that, in setting aside a specific sum of money which reflects the recommendation of the working group report on live music that was chaired by the Hon. Angus Redford, we will be investing appropriately in our community, in our hotels and in support of live music and our young people; and young at hearts such as the Hon. Mr Stefani, the Hon. Mr Gilfillan and me.

So I would urge very strongly the support—or at least favourable consideration—of other members of parliament for the amendments that the Liberal Party will move to this bill in favour of increasing the hypothecated sums for the Gamblers Rehabilitation Fund and the Sport and Recreation Fund, and for the amended terms of reference in increased funding to the Community Development Fund to accommodate live music initiatives.

The Hon. A.L. EVANS: I support this bill and I commend the government for introducing it. This bill seeks to implement a new tax structure to raise funds for South Australia through gaming machines. I am pleased that the bill will ensure that clubs and hotels generating annual net gambling revenue of less than $75 000 will no longer be required to pay any gaming machine tax. The importance of community not-for-profit clubs should not be underestimated. Clubs provide an environment in which families and community groups are able to come together to participate in social and leisure activities which may otherwise be out of the reach of some families. However, I am disappointed that the government has bowed to pressure from the hotel industry and failed to keep to its original budget proposal.

Under that proposal, the government had set the higher tax threshold at $2.5 million. Under this bill we now see something different. The government has moved the threshold level for a higher tax rate up to $3.5 million, and hotels with annual net gaming revenue between $1.5 million and $3.5 million will incur smaller increases in the rate of tax. The government may call this revising the budget but, in simple terms, it is clearly a situation of the government bending to the pressure from the hotel industry.

There is no doubt that the hotel industry has profited enormously through the introduction of gaming machines. The financial revenue, however, has been obtained at a huge price. The price has been paid by individuals and families who have ploughed into gaming machines with funds which would otherwise have been used to carry and hold up families. While I am concerned over the way in which the government has weakened to the pressure applied by the hotel industry, I am supportive of the bill as a whole.

The Hon. J.F. STEFANI: I did not intend to speak, but I feel compelled to make a brief contribution. First, I endorse the Leader of the Opposition's remark that some of the families operating in the hotel industry come from very humble beginnings; the Saturno family is one of those families. The Saturno family employed my father on weekends to build some of their premises. My father, who was a construction carpenter, undertook the work to earn extra money so that we could repay the £1 000 that we borrowed to come to Australia in 1950. Those families were not rich barons—as described by the Premier. They worked very hard to establish themselves as families, contributing to the South Australian economy and making a real contribution to the employment of people, including my father.

Having said that, I remind the council that it was a Labor government that introduced poker machines. I recall very clearly that momentous occasion at 4 a.m. when my colleague the Hon. Mario Feleppa was put under the pump. I will never forget that for as long as I live, because no-one has been subjected to the pressure and the intimidation suffered by the Hon. Mario Feleppa. I also want to put on record—and I would like the minister to take note—that I will be raising certain questions during the committee and third reading stages. I would like the minister to provide answers to the following matters.

First, will the minister provide details of the moneys collected from poker machines from January to June this year and when those amounts were received by the government? That is, I want to know the amounts and the dates on which they were received. That should be a very simple process: Treasury should have those details at its fingertips. I want to place on record that information so that we have complete details of the amounts collected between January and June and the dates on which they were received by the government. That information will be useful so that I can judge how and why this measure has been introduced by the government.

I believe it is important that we all understand the progression of revenue collected from poker machines, and it would be useful for parliament to know the rate of collection and the acceleration—if it can be so called—of revenues collected from poker machines by the government.

I am, and have always been, totally against poker machines: that has been my consistent position. However, I do recognise that, if an investment is made on the basis of a law, it is very unfair for any government to introduce measures that punish people who have acted within the law and have gone about their business to invest money and, at times, to borrow heavy amounts against the investment decision they have made. With those brief remarks, I look forward to the minister providing answers to my questions during the committee stage.

The Hon. R.K. SNEATH: I did intend to speak, either. However, I will make a brief contribution and refute some of the remarks made by the Hon. Rob Lucas in his contribution. I have a number of friends in the hotel industry. I certainly do not begrudge anyone who has worked their way up in any industry, and I do not begrudge those who had money before they started, either, and who have become richer or who have bought extra hotels. In fact, my brother had a number of hotels at one stage: he is still in the hotel industry. My good friend Allan Scott is also in the hotel industry. Therefore, I inform the Hon. Mr Lucas that I was not smirking at the fact that these people have done well: I congratulate them for doing well. I sincerely congratulate anyone who does well in any industry.

There is one thing that has not been touched on today, and that is that the Treasurer's actions have provided some relief for the small hoteliers—and most country hotels come under that category. I imagine that the small country hoteliers would be quite happy to pass on their gratitude to the Treasurer for his proposed changes under the bill.

The Hon. G.E. GAGO secured the adjournment of the debate.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ON-LINE SERVICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 August. Page 953.)

The Hon. R.D. LAWSON: I indicate opposition support for this bill. A bill containing identical provisions was introduced by the Liberal government in June 2001. It was referred to a select committee of the Legislative Council, and that select committee recommended that the bill pass with certain amendments, which have been incorporated in the bill presently before the council. The recommendations of the select committee were supported by the chair, the then attorney-general the Hon. K.T. Griffin, and by the Hons P. Holloway, J.F. Stefani and C. Zollo. The Hon. Ian Gilfillan did not agree with the recommendations and put in a minority report. The amended bill was passed through the Legislative Council in November last year, but it lapsed when parliament was dissolved.

This bill creates two offences, namely, knowingly or recklessly, by means of an online service, making available or supplying to another person either objectionable matter or matter unsuitable for minors. Objectionable material or objectionable matter is defined as internet content consisting of a film or computer game which is or would be classified either X or R, R meaning refused classification. This includes sexually explicit material, child pornography or material instructing in the commission of a crime or inciting criminal acts. That is the definition of objectionable material. Matter unsuitable for minors is defined as material which does not fall into the X or R category but is nevertheless appropriate to be restricted to adults and is or would be classified R.

The provisions are directed at the content provider—and this is an important distinction—and not the internet service provider. This bill is part of a complementary national scheme. Victoria, the Northern Territory and Western Australia have similar legislation. The New South Wales parliament passed similar provisions but they did not come into effect, and I will mention in a moment the situation in that state.

Not surprisingly, the pornography industry in Australia and some people who see themselves as libertarians have attacked this bill on the ground that it is futile to seek to regulate the internet. However, the scheme of this bill is consistent with the classification system that applies to film and other media. We should not overlook the fact that it will indeed be very difficult to police the internet, but the bill should be supported notwithstanding that difficulty.

I mentioned that the New South Wales parliament passed a bill to this effect. However, that bill did not come into effect and it was the subject of an inquiry by the Standing Committee on Social Issues of the New South Wales upper house. Labor and Democrat members participated in the deliberations but, for some reason, the Deputy Chair, the Hon. Doug Moppett of the National Party, was indisposed and unable apparently to participate in the report. I put on the record the New South Wales committee's conclusions, as follows:

> At the centre of this inquiry has been the tension between the right of adults to see and hear what they want, a right that underpins democratic and cultural expression, and the need to ensure that vulnerable people, especially children, are protected from exposure to dangerous and exploitative material. While this tension has always been apparent in classification law, it poses new problems in the rapidly developing medium of the internet.
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> The committee heard that this balance had not been properly struck by the proposed model for the regulation of internet content. We heard that the negative impacts of the legislation were likely to be far greater than any benefits that would be realised. On this basis the committee has recommended that that part of the act regulating the internet be repealed.
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> It does not mean that we believe there should be no regulation of internet content. Criminal sanctions should apply to those who make abhorrent, exploitative or demeaning information online or who attempt to use the internet for predatory purposes. However, the proposed model would be likely to restrict law-abiding content providers while doing little to deter those with malicious motives.

Notwithstanding the reservations of that New South Wales select committee, we believe for the reasons that I have stated that it is appropriate for South Australia to join other states in introducing this measure, which seeks to deter people from placing on the internet objectionable matter and matter that is unsuitable for minors.

I indicate that I, and I imagine other members, have received a letter from Mr Geoffrey Campey, who is a legal analyst with SoftLaw Corporation in the Australian Capital Territory. Mr Campey's interest arises because this bill was the subject of his law honours thesis, and he believes that, as a law student having studied the issue, he can contribute to what he describes as this emotional topic with, as he describes it, his objectivity grounded in research. I want to thank Mr Campey for the trouble that he took in preparing quite a detailed submission. I do not have the time this evening to run through his arguments. He disagreed with the conclusions of the South Australian Legislative Council select committee. I believe that we should accept the recommendations of this committee of our own parliament and that this bill should be enacted. I indicate that the Liberal Party will be supporting the bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ADJOURNMENT

At 6.28 p.m. the council adjourned until Wednesday 16 October at 2.15 p.m.