LEGISLATIVE COUNCIL

Tuesday 1 April 2003

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

NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) AMENDMENT BILL

Her Excellency the Governor, by message, assented to the bill.

PAPERS TABLED

The following papers were laid on the table:

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

Regulations under the following Acts—
- Primary Industry Funding Schemes Act 1998—
  - Langhorne Creek Wine Industry Variation
  - Riverland Wine Industry Variation

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

Reports, 2001-2002—
- Dog and Cat Management Board of South Australia
- Institute of Surveyors Australia—South Australia Division Inc.

Regulations under the following Acts—
- Fences Act 1975—Exempt Land
- Liquor Licensing Act 1997—Dry Areas—
  - Henley and Grange
  - Wattle Park
- Water Resources Act 1997—Far North Prescribed Wells

Rules under Acts—
- Legal Practitioners' Education and Admission Council.

CHILD PROTECTION, SPECIAL INVESTIGATIONS UNIT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement on the Special Investigations Unit made by the Hon. Stephanie Key, Minister for Social Justice, in another place.

QUESTION TIME

NATIVE TITLE

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 native title.

Leave granted.

The Hon. R.D. LAWSON: As was reported today, the Federal Court in Adelaide has dismissed an application for native title lodged by the Dieri people. This claim sought native title over 120 000 square kilometres of the north-eastern part of this state, including Lake Eyre. The claim itself was filed in 1997 by the Dieri people. However, another group of Dieri people, the Edward Landers group, also sought a determination of native title. However, the day before yesterday, in the Federal Court, Justice Mansfield dismissed that application. He expressed regret that the issues could not be resolved by the groups. He said:

> It is regrettable that such an issue could not be addressed and resolved so the Dieri people, as the native title claim group, should be able to press ahead with an application for determination of native title without the distraction of issues such as the present.

This is a matter of great interest to not only native title claimants but also the state itself, as well as the pastoral and mining industries in our state. My questions are:

1. Was the state represented at the hearing before Justice Mansfield?

2. What was the cost to the state of its preparation for and attendance at such trial?

3. What action will this government be taking to assist not only Aboriginal people but also mining interests and pastoral interests to have native title issues resolved expeditiously?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question. Certainly, the first notice I received of the filed application was when I picked up the *Advertiser* today to read some of the details within the explanation. The administration of native title is with the Attorney-General's office but, certainly, the negotiating climate inherent in how native title claims are proceeded with has been an issue for successive governments over the years. We are certainly aware of the time frames by which most of the native title claims have been held and that a lot of time and energy are expended in native title claims, and it is the right of the claimants to do that. Certainly, the government has no influence over the time frames and the way in which courts deal with such applications.

I am interested, as the minister, along with my department and those who are associated with trying to get justice for Aboriginal people in this state, in the process and in the impact that those determinations have on alternatives for delivering some form of justice and economic development—

The Hon. P. Holloway: We have negotiated 27 titles in the Cooper Basin.

The Hon. T.G. ROBERTS: —for the people involved. We have gone about our business in a quiet way and that, I think, is the best way to do business in relation to individual agreements between groups within geographical regions regarding oil exploration and agreements in relation to land use. As the minister interjected, 27 agreements have been negotiated within the Cooper Basin.

We are carrying on the work of the previous government, which put a lot of faith in the ILUA process. I met with stakeholders who are concerned about the progress of some of the ILUAs (Indigenous Land Use Agreements) within the state, and we are doing our best to progress those ILUAs within those regions where the stakeholders have an interest in those outcomes.

So, in regard to the issue of native title, we keep an eye on all of the determinations, not just in this state but also in the commonwealth generally. We look at the basis on which the claims are rejected or accepted. We certainly are not waiting for native title to be finalised in relation to a lot of the applications: we are getting on with the Indigenous Land Use Agreements and other negotiated agreements within the state so that we have more than one string to our bow in dealing with what would be regarded as retrospective justice, in some cases, to and for and on behalf of the Aboriginal people whom we are charged with looking after in relation to land and economic development claims. In relation to court costs, I will endeavour to get those answers to the question from the Attorney-General and bring back a reply.

ADELAIDE PRODUCE MARKETS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the inspection services at the Adelaide Produce Markets.

Leave granted.

The Hon. CAROLINE SCHAEFER: Last week I asked a question with regard to this matter and the minister gave such a long answer that I am sure all members were too exhausted to listen at the end. However, he gave the undertaking that there have been ongoing discussions, and 'I will get an update on them from my department.' Subsequent to that, the minister issued a press release on Wednesday 26 March in which he stated, in part:

> . . . funding has not been withdrawn for the inspection scheme operating at the Adelaide Produce Markets at Pooraka.

He further stated:

> The Market Board clearly indicated in a letter (dated 8/8/01) that if a trial was successful, and it was required to appoint an additional inspector, then funding would be on a cost recovery basis.

He went on to say:

> These discussions are ongoing and funding for the inspections at Pooraka will not be withdrawn on May the first as suggested by the opposition.

He then stated:

> However, the government is keen to bring our produce inspections into line with other states. . .

That is, full cost recovery. My questions are:

1. Has the minister, in fact, had an update from his department? If so, did he read that briefing paper?

2. Has full cost recovery been imposed?

3. Will full cost recovery be imposed as of 1 May? If so, how will that affect the fruit fly inspections carried out in the Riverland?

4. The minister has said that he is not withdrawing funding. Does that mean that funding will continue as of 1 May, contrary to the advice that he gave the Adelaide Produce Markets?

5. Will there be three inspectors paid for by the industry, two inspectors paid for by the industry or one inspector paid for by the industry?

6. If funding will not be withdrawn on 1 May, what funding will remain in place after that time, and why does that then contradict the advice he gave the Adelaide Produce Markets?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): Representatives of the Adelaide Produce Markets wrote to me in relation to this matter—in fact, a letter was received in my office the morning after the Hon. Caroline Schaefer asked her question in parliament. As I indicated in my answer last time, there had been some ongoing discussions—in fact, they began when the previous government was in office in 2001. The nature of all those discussions had been about ways of improving the quarantine inspection service at the Adelaide Produce Markets. There are a number of issues involved in that.

In particular, the Adelaide Produce Markets has been seeking for some time to have all inspection services take place at the produce markets in relation to fruit and vegetables that go through there. There has been a question of legal advice in relation to whether or not that would be legally possible, and that obviously has been a factor in the government's decision. The attitude of this government is no different from that of the previous government in that industry should contribute to costs such as this. As I pointed out in the press release from which the honourable member quoted, the produce markets have recognised that, if there was to be the additional activity in this area (and there was a trial that took place for eight or nine months last year that indicated I think it was of the order of 23 incidents a month), that would have to be paid for by the industry.

The point that needs to be recognised by the council is that, if South Australian produce is exported to some other states, those states impose a quarantine inspection charge for South Australian produce. That means that produce from South Australian growers is ultimately subject to a charge for inspection in the particular state. The government is ultimately seeking a situation where fruit imported into this state by interstate growers that needs to be inspected to protect our industries (we all understand that) should be subjected to a similar inspection charge.

So, in other words, our growers would be on the same footing as growers from interstate. Let it not be argued that the cost of any quarantine inspection charge would be an imposition on South Australian growers—far from it: this is a potential charge that is being negotiated for fruit imported into this state.

There have been ongoing negotiations. I was disappointed that the letter that I received from the produce markets seeking a meeting with me should have been received after the question was asked in parliament. I have always had an open door. If people wish to meet with me, I am happy to do so; otherwise, we can conduct business through the media. There are two ways of doing it and it is up to those people who wish to see me as to how they negotiate it.

Nevertheless, referring to the honourable member's question, the discussions have not been finalised. In fact, they were held between my department and officers of the Adelaide Produce Markets. No settlement has been reached as a result of those discussions. It was certainly my intention that, by the end of this financial year, we would have a situation where there could be full cost recovery for quarantine inspections of fruit, as there is in other states such as Tasmania, Western Australia and Victoria, which all have some form of charging regime for those services.

I am not sure where the 1 May date has come from; it may have been mentioned in negotiations by officers of my department. Certainly, I have not yet given any approval. However, it is my view that we should move towards some cost recovery to start in the new financial year, if that is at all possible. As I pointed out in my press release, that would be the logical end result of the process that was started several years ago.

The Hon. CAROLINE SCHAEFER: As a supplementary question, if, as the minister has now said, he is moving towards full cost recovery for inspection of imported fruit and vegetables to this state, how can he say that there is no change to the funding arrangements at the Adelaide Produce Markets when it is clear that the two inspectors in that area have been government funded until now?

The Hon. P. HOLLOWAY: As I said, there was a trial period of some nine months. I understand that the produce markets had made some contribution in relation to not charging rent for the offices. Those negotiations have not been finalised at this stage but, certainly, they are reaching the final stage. I do not hide from the fact that the government is seeking, through the negotiations, to come to a situation of

full cost recovery, as there is in other states, by charging for inspection regimes. But the negotiations or discussions have not yet been finalised between the produce markets and the Department of Primary Industries.

The Hon. CAROLINE SCHAEFER: As a further supplementary question, in spite of the fact that there have been ongoing discussions since 2001, why, until this stage, has full cost recovery never been mentioned to the Adelaide Produce Markets?

The Hon. P. HOLLOWAY: The Adelaide Produce Markets wrote a letter on 8 August 2001 suggesting that, if it were required to have an additional inspector, the ongoing funding would be on a cost recovery basis. That indicates that cost has always been an issue. I am sure that lots of people in the community would like to have things for nothing. Unfortunately, one of the difficulties of government is rationalising the scarce amount of money that is available, and that is why we have budgets. This government has made clear where its priorities should be.

The Hon. Caroline Schaefer: Not in primary industries.

The Hon. P. HOLLOWAY: If the honourable member thinks we should subsidise interstate fruit growers, let her go out and say that. I would rather assist the growers of this state than interstate fruit growers by allowing them to have their fruit imported free of inspection charges.

ROAD SAFETY STRATEGY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question on road safety and speeding fine revenue.

Leave granted.

The Hon. D.W. RIDGWAY: During the last election campaign, the Labor Party issued a pledge card signed by the present Premier, detailing six pledges that the ALP, under the leadership of Mike Rann, would bring to the people of South Australia. So confident was the Labor Party that it could follow through on these promises that beneath the signature of the Premier the slogan reads:

> Keep this card as a check that I keep my pledges.

Pledge No. 5 on the card reads as follows:

> Proceeds from all speeding fines will go to police and road safety.

I have kept the card and I would like the Premier to show the parliament that his government is keeping its promises. In a press release on 16 October last year, the Minister for Transport (Hon. Michael Wright) outlined a new Community Road Safety Fund, which would be funded with the proceeds of speeding fines, to address all areas impacting on road safety, education, engineering and enforcement. My questions are:

1. Given that this fund supposedly contains an estimated $40 million, according to an article by Catherine Hockley in the *Advertiser* of 17 October 2002, and given also that as at 1 July 2002 South Australians have been paying 4.2 per cent more not only for speeding fines but also for driver's licences, car registration and bus fares, what has the government been doing with this money?

2. What education, engineering and enforcement programs has the Community Road Safety Fund been planning or enacting in rural areas where 70 per cent of last year's fatal road accidents occurred?

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

The Hon. DIANA LAIDLAW: I have a supplementary question. It is my understanding that the government has not yet established this fund but, when it does, will it guarantee that all speeding fines are submitted to this fund and that current funding to Transport SA will not be cut back by a corresponding sum?

The Hon. T.G. ROBERTS: The former minister certainly knows the wily ways of Treasury, and I will take that important question to the minister and bring back a reply.

WINE GRAPE INDUSTRY

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

Leave granted.

The Hon. CARMEL ZOLLO: I understand that all wine regions are expecting below average yields this year as a direct result of the hot and dry conditions that were experienced last summer. It has also been reported that the heavy rains on 19 and 20 February have further compounded this problem. My question is: what impacts have the seasonal conditions had on the expected wine grapes yield this year?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question. There has been some comment in the media in relation to this wine season and I thought it important to provide the council with the latest information that the government has available to it. We will not have accurate figures until the completion of harvesting mid-year, but Rural Solutions SA staff have contacted a number of grape growers and winemakers and, from that, we have been able to get their impressions of the 2002-03 production year.

I have been advised that, overall, the 2003 wine grape yields are estimated to be at least 20 per cent below average across the state. Unfortunately, the untimely rain in February, to which the honourable member referred, resulted in some splitting and berry damage in all wine regions. However, the extent of the damage varies considerably between varieties and across regions. For most cool season grape growers this is the second year of below average cropping. Riverland grape growers are facing yields of 20 to 30 per cent below average, following a 20 per cent above average harvest in 2002. If we look at the specific regions, as a result of that rain the Barossa and Clare Valleys suffered significant damage to their thin-skinned white varieties, especially semillon. In the Barossa, red varieties such as grenache, shiraz and cabernet sauvignon are yielding well but ripening has been delayed.

In Langhorne Creek, the overall district yields are estimated to be down by 20 to 30 per cent. Berry size is acceptable but berry and bunch weights are down because most berries have below normal juice content. Semillon has been particularly badly hit by berry splitting. With respect to the Southern Fleurieu, damage has been variable across the peninsula. Most areas have been affected by rainfall except the Finniss to Goolwa area, which is in a natural rain shadow. White varieties are expected to be down in yield significantly, with chardonnay being the least affected. Red varieties are also thought to be down in yield but more due to drought than

to the rain. Indications are that, while yields are down, juices are of a high quality and should make good wine.

In the Southern Vales, semillon and sauvignon blanc were the worst affected white varieties, while minimal damage was experienced to chardonnay. Red varieties, except for grenache, have estimated yields down by 20 per cent. All have acceptable juice with good Baume levels. Luckily, after the downpour on 19 and 20 February, in which we saw up to 70 millimetres in 24 hours, the weather was warm, although humid, for two to three days. With quick application of powdery mildew sprays, there has been minimal fungal infection. With regard to the Padthaway and Coonawarra regions, overall yields are estimated to be down by approximately 20 per cent.

In the Riverland, the amount of rain damage varied according to the area, variety and management practices carried out in the region. Generally, some damage was experienced with sultana, chenin blanc, semillon and grenache. This damage varied from property to property. Very few loads of grapes were actually rejected by wineries. According to industry, there was perhaps 5 to 10 per cent damage due to rain in the Riverland. Early indications in the Riverland were that disappointing yields were being experienced for merlot and cabernet sauvignon. These varieties are estimated to be down by up to 50 per cent on last year. Overall, that is about 30 per cent down, considering that last year's crop was about 20 per cent up on average.

Most other varieties are also estimated to be down this vintage to the tune of 20 per cent. We hope to have more accurate figures from the Riverland soon. In general, irrigated vines experienced lower splitting levels while dry-grown fruit took up water rapidly during the downpour, leading to higher levels of splitting. Overall, wineries have had to modify their intake strategies considerably, in light of these greatly reduced harvest predictions and to accommodate damage to some crops. Also, in the last 24 hours or so I received some correspondence from the Australian Dried Fruits Association in relation to some of the conditions facing the dried fruit industry, which are actually quite serious.

The association points out that growers there are facing a very difficult situation, particularly in New South Wales, Victoria and South Australia, as a result of significant weather damage to the latest crop and largely static or falling returns over several years. For this industry as a whole, which is in the Riverland-Sunraysia area and the MIA in New South Wales, early estimates suggest that more than $25 million has been wiped off the 2003 crop payments to growers. So, the dried fruit area has been severely affected by rain damage but, fortunately for the wine industry, which has had a bit of a surplus in recent years, while crops are down this may in fact, as some commentators have pointed out, be something of a blessing in disguise for the industry.

The Hon. R.K. SNEATH: I have a supplementary question. Has the downturn in tonnage resulted in Riverland growers who have not had contracts being able to sell their grapes this year?

The Hon. P. HOLLOWAY: I do not have specific information in relation to contracts. It has been reported that some prices received, depending on the type of grape, but certainly for red grapes, have been down so far this season. The reduction in yields of some 20 per cent within the Riverland should be of assistance in relation to growers in that region being able to sell their crops. Clearly, prices may be affected. I guess we will need to get more information, as I indicated in my answer in relation to the Riverland.

MUSIC INDUSTRY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Premier, a question about live music in South Australian hotels.

Leave granted.

The Hon. SANDRA KANCK: My office has been contacted by a number of hoteliers regarding the classification of entertainers as employees for the purposes of the WorkCover Act. The hoteliers have received a confidential briefing from the Australian Hotels Association alerting them to the fact that, despite assurances from the previous Liberal government the regulation classifying entertainers as employees would be changed, it remains in effect today. The paper goes on to state that the current Labor government has exhibited a distinct reluctance to implement the change.

As a consequence, WorkCover will be demanding that hotels begin paying both past and future WorkCover levies for entertainers. This news has produced alarm amongst some hoteliers and a number have indicated to my office that they are reconsidering their commitment to host live music. They argue they have little or no knowledge or control over the entertainers they hire, and to classify them as employees opens them up to liabilities that outweigh the benefits of having live music in their hotels.

For the purpose of the act, an entertainer is defined as follows:

> . . . performing as a singer, dancer, musician, ventriloquist, acrobat, juggler, comedian, or other entertainer, at a hotel, discotheque, restaurant, dance hall, club, reception house or other similar venue, but excluding work as an actor, model or mannequin or as any other type of entertainer in performing as part of a circus, concert recital, opera, operetta, mime, play or other similar performance.

Members interjecting:

The PRESIDENT: Order! There is too much entertainment!

The Hon. SANDRA KANCK: Recognising that he will have to consult also with the Minister for Industrial Relations, I ask the Premier:

1. Why does the Workers Rehabilitation and Compensation Act make a distinction between a performance of Beethoven and the Beatles in a hotel?

2. Does the act apply to poets performing in restaurants, buskers in the mall, or bands at private weddings and parties? If not, on what grounds is the distinction made between the various performers and venues? Why are entertainers treated differently from other subcontractors such as plumbers and electricians?

3. Is it the case that bands accepting a door deal with the venue are not classified as employees under the act, but those being paid a set fee are? If so, what is the reasoning behind this anomalous distinction?

4. Is it the case that bands incorporated as businesses are excluded from the act? Are sound mixers, lighting technicians and road crews covered by the definition of entertainers under the act? If not, who pays their WorkCover?

5. Could an injury to an entertainer result in the hotel being liable to compensate that entertainer for two weeks earnings from all sources, that is, from a day job as well as their work as an entertainer?

6. Does the Premier believe it is sensible for businesses having little knowledge and less control over the entertainers they hire on a casual basis to be liable for their WorkCover arrangements?

7. What does the Premier believe are the implications for live music in Adelaide?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I believe that most of those questions are probably appropriately addressed to the Minister for Industrial Relations, but the last question did specifically seek the Premier's views, so I will refer the questions to him and come back with a reply.

The Hon. DIANA LAIDLAW: I have a supplementary question. I ask the Premier, as Minister for the Arts, whether legislation to remedy this matter was prepared prior to the last election for introduction to parliament, and whether it is true that the current government has shelved this matter awaiting the outcome of the Stanley report into workers' compensation. Thirdly—

The Hon. Sandra Kanck: If he received the advice, did he read it?

The Hon. DIANA LAIDLAW: Well, I am not sure: it is a very timely question. But, if he has not read it, is he aware that musicians across Adelaide have been told by hotel owners that, until the government fixes this matter, they can play but not for a fee? Generally, however, they have been told they will not be engaged on any terms.

The Hon. P. HOLLOWAY: I will refer that question to the appropriate minister.

The PRESIDENT: I ask honourable members when addressing supplementary questions to remember the rules. Some members are getting into explanation and debate.

PRISONS, DRUG USE

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about drug use in South Australian prisons.

Leave granted.

The Hon. A.L. EVANS: Drug use in South Australian prisons has been recently put under the spotlight. Serial killer James Vlassakis has said that he has received heroin and marijuana while in solitary confinement. We have also been told that prisoners with serious drug addictions are receiving a maximum of six hours' counselling during their time in gaol.

On 4 December 2002 I asked the minister whether he was aware of a device called an itemiser that had been purchased by the Department for Correctional Services that can detect contraband such as narcotics and amphetamines. It was purchased by the department for $140 000 but has not been used for four years because of a loophole in legislation. When I asked the minister, he said that he was not aware of such a device, even though a spokesperson for the Department for Correctional Services said in September 2002 a legislative amendment was being prepared to close the loophole. I understand that similar machines have been operating interstate for some time. In view of the seriousness of drug use in our prisons, my questions are:

1. Has the minister now been made aware of the device known as the itemiser by the Department for Correctional Services?

2. What is the nature of the loophole in the existing legislation?

3. Can the minister advise when the government is planning to introduce amendments to allow the use of the device in South Australian prisons?

An honourable member: That's a Dorothy.

The Hon. T.G. ROBERTS (Minister for Correctional Services): No, it is not a Dorothy Dix question. In fact, I apologise to the member because I do not have all of the detail he requires in the reply. It is true that the itemiser was purchased by the previous government for, I think, $140 000. It is a mechanical device which detects drugs on people's clothing, etc. I am not aware of the department's updated view in relation to its use or any progressively framed legislation for its use, but I will certainly investigate that and reply to the member.

In relation to drugs in prisons, we have improved the cell searches and the use of the Dog Squad, and I have provided the council with official figures of cell searches and the improved responses of the Dog Squad. In fact, I visited the Dog Squad in action just recently and narrowly avoided being tracked down as a carrier of drugs, because the person who was the dummy carrying the drugs was standing right next to me and, fortunately, the dog was accurate enough to not jump all over me.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: No, it was not my ministerial adviser; they were well away from the scene.

Members interjecting:

The Hon. T.G. ROBERTS: But it did show (and the interjection made by the honourable member is an accurate one) that the dogs are good value. Their superannuation and payments are quite low! We have made the dogs recognised operators within the prison system, and we have set a training standard for the dog handlers to enable them to be classified within the intelligence unit for dog handling qualifications for a standard certificate, which is a first in Australia (I understand that the other states are going to try to implement a similar sort of thing). I will endeavour to obtain more details about the itemiser and answer those questions as soon as I can.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the council of the nature of the technicality in the legislation that prohibits the use of the itemiser?

The Hon. T.G. ROBERTS: I will endeavour to bring back a reply for both honourable members.

TRANSPORT SUBSIDY SCHEME

The Hon. T.J. STEPHENS: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about the transport subsidy scheme.

Leave granted.

The Hon. T.J. STEPHENS: Currently, people who receive the 75 per cent subsidy for Access Cabs for treatment are entitled to two books, which total about 120 vouchers, each year. Typically, many people require more than a couple of treatments a week, so the vouchers are quickly used. As an election promise, the then opposition leader promised to delimit the number of 75 per cent subsidy vouchers, that is, remove restrictions on the number of vouchers to which people who are most unable to access standard facilities are

entitled. A country constituent has written to me complaining that he had written to the Premier, the Minister for Social Justice and the Minister for Transport and had received a reply only from the Minister for Transport, and that the minister's response, in the words of the constituent, was curt, to say the least. Can the minister explain why this promise to some of the most vulnerable, needy people in our society was broken, and will the minister now keep his promise and delimit the vouchers?

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

FRUIT FLY

The Hon. J.S.L. DAWKINS: My question is directed to the Minister for Agriculture, Food and Fisheries. Will the minister indicate the frequency of the monitoring of fruit deposit bins at Adelaide Airport? Will he also indicate whether random checks of passengers arriving at the airport are conducted in relation to fruit fly?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will get those details to the honourable member and bring back a reply.

EDMUND WRIGHT HERITAGE AWARDS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, assisting the Minister for Environment and Conservation, a question about heritage awards.

Leave granted.

The Hon. J. GAZZOLA: Last Friday, the Minister for Environment and Conservation announced the formation of the Edmund Wright Heritage Awards which are designed to acknowledge the contribution of individuals and organisations to the conservation, promotion and management of the state's heritage. Will the minister provide the council with details of this important new heritage award?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): As one of the official bearers of good news in this council in relation to the environment portfolio, I bring members further good news in relation to the awards. I can report that the inaugural Edmund Wright Heritage Awards will be presented at a ceremony on 8 August this year. So, members can press their tuxedos and get their little black numbers ready, because it will be a big night! The awards will showcase outstanding examples of the state's heritage which have been interpreted, promoted or protected. The awards will encourage and recognise sensitive use of heritage places and sites and will also encourage the community to take an interest in the state's heritage.

The awards are named in honour of Edmund Wright, a prolific architect, whose works include the Adelaide Town Hall, the General Post Office and the west wing of Parliament House. His finest work is thought to be Edmund Wright House on King William Street. Interestingly, it was the threat that Edmund Wright House might be demolished that prompted the Dunstan government to introduce heritage legislation in 1978. The awards were announced during a visit last Friday to the historic Changing Station at Old Reynella, which is currently being restored by a team of volunteers. Business groups and residents, led by the local pharmacist, Rob Moyse, are hoping that the 19th century ruins will become a tourist attraction. The project may well be in the running for an award. Nominations for the Edmund Wright Heritage Awards close on Monday 2 June. More information can be obtained from the Department for Environment and Heritage. That is a free advertisement for and on behalf of those who are organising the awards.

GENETICALLY MODIFIED FOOD

The Hon. IAN GILFILLAN: My questions are directed to the Minister for Agriculture, Food and Fisheries. The minister indicated that he had received replies from Monsanto and Bayer CropScience to letters that he had written urging them not to plant GM crops. He tabled the response from Monsanto. My questions are:

1. What is the nature and content of any communication between the minister's department and Monsanto since his letter of 6 January this year?

2. What reply did the minister or his department receive from Bayer CropScience to his letter dated 31 October last year?

3. What is the nature and content of any communication since that time?

4. Does the minister have any advice on the time line for the Office of the Gene Technology Regulator to 'restart the clock' on the two applications from Monsanto and Bayer CropScience for commercial release of genetically modified canola (DIR 020 and 021)?

5. Will the minister rule out the introduction of genetically modified crops in South Australia over the next year?

6. Can the minister assure the council that a genetically modified crop that is grown in another state, particularly Victoria, will not be transported through South Australia or exported from any South Australian port?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The member has asked a series of questions. It was my understanding that I tabled the letter from Bayer CropScience. It was certainly my intention to table the letters from both Monsanto and Bayer, but I will check that with the table staff. If they have not been tabled, I will endeavour to do so.

The honourable member asked when the Office of the Gene Technology Regulator would 'restart the clock'. The latest advice that I received a couple of weeks ago was that the clock had not restarted; however, I will obtain an update. There is always a possibility that the OGTR could restart the clock, although I have seen some media reports that suggest that it would be unlikely that, even if the OGTR were to restart the clock, it would be possible to plant GM crops this season. It is obviously getting fairly close to that date, given that, if the clock were to be restarted, there would be some time to go before final approval, but that is a matter of conjecture.

In relation to this state, I can only repeat the information that we have received, that it has been reaffirmed by the companies concerned that they have no plans to grow GM canola crops commercially within this state this year. I have indicated on a number of occasions that the state does have some contingency plans, although I have also been at pains to point out to this council and to everyone else that there are some legal doubts over the state's powers in this area. Nevertheless, we are prepared to exercise those powers should it be necessary, regardless of that advice. I have also indicated to the council on a number of occasions, including as recently as yesterday, that we are looking at further legal

advice on that matter and we are also consulting with other states about this issue.

It is not our intention that GM crops be grown commercially in South Australia this year. Beyond that, we will await the outcome of the report of the select committee and the resolution of a number of other issues before a decision is taken on this matter. I hope that answers all the questions that the honourable member has asked.

The Hon. IAN GILFILLAN: I have a supplementary question and I thank the minister for his answer. He indicated that he intends to table the first replies from Monsanto and Bayer CropScience. Has there been any further communication from Monsanto and Bayer CropScience since their original response? Will the minister also comment on the transport of genetically modified canola through South Australia from Victoria?

The Hon. P. HOLLOWAY: I am not aware of any further written responses, but those companies have spoken to officers of my department. One might well understand that those companies may be somewhat more reserved about putting some of their plans into the written word. However, there have been discussions with officers of my department and other departments in relation to that. If there has been any subsequent correspondence, I will check and let the honourable member know.

The final question asked by the honourable member was an important one about the transport of commercially grown GM canola through South Australia. These are important issues that would have to be considered by the state. I imagine that it would be highly unlikely that crops grown in Victoria would be marketed out of South Australia, although the cost of transport might mean that it is slightly cheaper to take wheat that is grown near the Victorian border to Port Adelaide than to Portland. In theory, it could be an issue, but because of the segregation matters that need to be resolved in relation to GM crops that will need to be addressed.

I will get some further advice on that matter. It is also something that I hope the select committee will look at because, if Victoria were to agree to the commercial growing of GM crops in that state before South Australia was ready, it would raise a number of issues for us that would need to be considered. I will get some further advice for the honourable member in relation to that.

The Hon. J.F. STEFANI: I have a further supplementary question. Will the minister advise the council whether any contamination has occurred where experimental crops of GM canola have been planted next to neighbouring properties and, if so, have they been reported to the department?

The Hon. P. HOLLOWAY: It would probably be wise to take that question on notice. Some years back, before the office of the Gene Technology Regulator came into being and the Genetic Material Advisory Council (GMAC), which was a voluntary body, existed, there were some allegations, including in the South-East of this state, about what one might describe as lax practices in relation to the handling of those experimental crops.

I would hope and expect that, since the legislation was introduced and since the Office of Gene Technology Regulator was established, those early problems would have been addressed. In relation to Tasmania I think there were also some allegations of contamination with experimental crops some years ago but, again, I believe that applied to the period before the new legislation was established. If the honourable member is referring to incidents after the commonwealth legislation was enacted and the OGTR set up, then I will seek some advice on that.

GAMBLERS' REHABILITATION

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about gambling problems and the corrections system.

Leave granted.

The Hon. NICK XENOPHON: Last week I asked a question of the minister in relation to gambling-related crime and, in particular, the lack of gambling counselling services within the corrections system. This followed sentencing remarks made by the Chief Justice (His Honour John Doyle) almost 18 months ago, when he said that it was regrettable that treatment aimed specifically at gambling disorders is not available in prison. He drew that to the attention of prison authorities at that time, to do all they could to facilitate the continuation of such appropriate treatment for the person whom he was sentencing. Last Friday I attended a forum organised by the Adelaide Central Mission as part of Problem Gambling Awareness Week, in relation to gambling and crime.

The forum heard from a woman who had recently been released from prison for a gambling-related offence (fraud and embezzlement, as I recollect), who claimed that up to 15 of the inmates at the women's prison were there because of gambling-related offences. I understand that there are 87 inmates currently at the women's prison, which would mean that 17 per cent of inmates, according to the former prisoner, were there because of gambling-related offences. This former prisoner also said that she had considerable problems before eventually obtaining assistance for her gambling problem within the prison system late last year. My questions are:

1. Will the minister confirm that his department has made a specific request for funding of gambling rehabilitation programs in the prison system, given the $39 million windfall that Treasury has received from the poker machines super tax and, if so, what is the nature of such a program and how much funding has been sought for such a program?

2. Has the minister or his department investigated screening mechanisms for inmates to determine whether there is a link between the offence for which they have been sentenced and a gambling problem? Has the minister looked at the system that has been used in New Zealand, as I understand it, to screen prisoners for gambling-related problems when they are first processed through the system?

3. Will the minister comment on the assertions made by the former inmate referred to as to the significant number of women currently in the women's prison for gambling-related offences? Do the minister or his department know of the extent to which prisoners within the women's prison are there because of a gambling-related offence?

4. Are any statistics kept by the department in relation to gambling-related crime and, if not, is the minister planning for there to be some statistical compilation in relation to the link between gambling and crime?

The Hon. T.G. ROBERTS (Minister for Correctional Services): In relation to the statistics on gambling, crime and incarceration, there is more information around now linking gambling, crime and incarceration and the suggestion that the honourable member makes is a reasonable one. It is not an instruction that would cost a lot of money, to do the screening

to link the evidence of gambling, crime and incarceration. It would not be expensive, either, to run programs in prisons, if people availed themselves of them voluntarily, which might have some benefits for people who wanted to break the link between gambling and the disassembling of their personal lives. It is a problem that is not only linked to females; it is certainly linked also to many males in prisons.

Obviously, I cannot talk about the budget deliberations or the preparation of budget programming, but I can assure the honourable member that we will be putting in a request for rehabilitation programs across the board for our prisons. Again, it is a matter of availability of funding made to corrections through the budget process. I understand that there are also some private non-profit organisations that might be interested in those sorts of counselling programs, which we may have to examine.

It is a bit like, say, the child sexual abuse programs—and I do not like to draw comparisons of accuracy of statistics or any evidence—that are running in prisons. The jury is still examining the problems that are being dealt with in working out whether a program is of particular use and whether or not it is successful. Those are the sorts of questions that we are looking at in preparation for our new budget, and I will take the honourable member's suggestions into the discussions for this current round of funding regimes.

UNDERSPENT FUNDS

The Hon. DIANA LAIDLAW: I ask the Minister for Agriculture, Food and Fisheries to refer the following questions to the Treasurer. Further to the answers provided by the Treasurer in the House of Assembly yesterday to a question asked by Mrs Redmond relating to portfolio underspending and carryovers, I ask:

1. What projects did each of the following agencies—Arts SA, Planning SA, Transport SA, the PTB and Trans-Adelaide—submit to Treasury and/or then cabinet as part of their claim to gain approval for the carryover to this financial year of underspent funds in 2001-02?

2. What were the grounds applied when assessing whether or not each claim by the above agencies would be approved in full, in part or not at all?

3. Why did Transport SA gain carryover approval for only $953 000 from an underspend of $4.5 million and why did the PTB gain carryover approval for only $600 000 from an underspend of $3.055 million?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will direct these questions to the Treasurer and bring back a reply.

REPLIES TO QUESTIONS

GENETICALLY MODIFIED FOOD

In reply to **Hon. CAROLINE SCHAEFER** (19 February).

The Hon. P. HOLLOWAY: As the honourable member would remember from her time in this portfolio, the Gene Technology Grains Committee is a non-statutory broadly-based grains industry and supply chain working party that convened of its own volition for the sole purpose of developing a management framework and protocols for the coexistence of different grain production systems and supply chains. State and territory governments do not have representative members on this committee, but are invited to attend in an observer capacity. A serving officer from PIRSA does attend in that capacity.

PIRSA did not make a submission to the Gene Technology Grains Committee in relation to the recent consultation period for the canola industry stewardship protocols—nor did any other state or territory agency. The efforts of relevant agencies across jurisdictions tend to be directed instead toward supporting the Gene Technology Ministerial Council, which has oversight of the national regulatory framework, and the Primary Industries Ministerial Council, of which I am a member, which will also be carefully monitoring industry issues relating to potential impacts on agricultural systems and impacts on trade.

COUNTRY FIRE SERVICE

In reply to **Hon. A.L. EVANS** (19 February).

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

1. I am advised by the CFS that in recent times, the arrangement has been that the siren will only sound in the following circumstances:

- On total fire ban days;
- Warning the public when necessary;
- Activation of a fire alarm at an aged care, hospital or nursing home; or,
- Failure of the paging system.

The CFS advises that sirens were not activated for every call out as some members of the community objected to the noise. You can be assured that the CFS arrangement adequately provided notice to residents of incidents that may have threatened the community.

2. As of late January 2003, due to requests from brigades and the community, some sirens will now be activated for all incident call outs between 8 a.m. and 10 p.m.

FOOD SA

In reply to **Hon. T.J. STEPHENS** (18 November 2002).

The Hon. P. HOLLOWAY: The future appointment of in-market commercial representatives by Food Adelaide in additional markets is being considered in the context of the future development and funding of the food export centre. The food export centre was established in September co-locating Food Adelaide, Flavour SA, Food South Australia and National Food Industry Strategy Ltd. A business plan is being developed to integrate the programs and activities of these organisations as far as is possible. Included in this will be consideration of in-market commercial representatives because this is a very successful part of the Food Adelaide model in generating new export sales.

NO REDUNDANCY POLICY

In reply to **Hon. R.I. LUCAS** (4 December 2002).

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

1. As always, the Department of Treasury and Finance is authorised to review spending across government and to consider ways that the government can be streamlined and more efficient.

2. The Australian Labor Party's policy on the public sector is well known and is available on its website at www.sa.alp.org.au.

STATUTES AMENDMENT (ROAD SAFETY REFORMS) BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 1954.)

The Hon. R.K. SNEATH: In July 2002 cabinet approved a suite of measures to address the fact that South Australia lags behind other states in its road safety record. The measures seek to improve the road environment such as infrastructure, education of drivers about road safety, and to bring South Australia in line with the regulatory measures that already apply in other states. These measures are about changing driver behaviour, getting drivers to understand the

risks every time they get into a vehicle, and how each and every one of them can help to reduce the risk for themselves and all other road users. Each year in South Australia, around 150 people die on our roads and every day more than 20 people are admitted to hospital following a road accident. Road accidents cost the state about $1 billion per annum, which works out to a yearly average of around $700 for every South Australian.

The PRESIDENT: Order! There is too much background conversation. Members understand the rules.

The Hon. R.K. SNEATH: South Australia performs about 10 per cent worse than the Australian average for injuries and fatalities resulting from road accidents, with 10.2 per cent fatalities per 100 000 of the population compared with the national average of 9.1 per cent. Only Tasmania and the Northern Territory are worse. We are currently at work on a national level to reduce the statistics to 5.6 deaths per 100 000 by the year 2010, or around 85 lives lost, compared with the present annual rate of around 150. Unlike other states, South Australia has not implemented any new road safety initiatives of late. With the exception of the Northern Territory, South Australia now has the least rigorous regulatory regime in the commonwealth. This begins to explain why our safety performance is worse than the national average.

The new road safety initiatives consist of the following measures. In relation to infrastructure:

- the implementation of a black spot program to target accident hot spots—a $3.5 million program was announced in the budget;
- an increase of $1.7 million to a total of $5.1 million in 2002-03 and $6.8 million in each of the following three years to increase road shoulder sealing;
- road safety audits applied and the program of priority works adjusted as necessary to act upon the findings of the audit.

A question was asked today about rural roads and accidents in the rural area, and the measures include:

- a rural rest areas program to be implemented over the next five years.

In relation to education, the initiatives include:

- the continuation and extension of education programs in major areas of road safety, including seat belt use, speeding, drink driving and fatigue. There is no doubt that fatigue is one of the biggest killers on country roads; and
- the expansion of the safe routes to school and walk with care programs targeting schools and aged persons.

Transport SA, the Motor Accident Commission and SAPOL are collaborating on the development of an appropriate program to be ready for implementation when all measures are approved.

In order to regulate and enforce these measures, a number of legislative changes are required, and I mention a couple in support of the bill. This bill suggests the application of demerit points for speed camera offences and an increase in penalties if a company pays the fine on behalf of its employee. Investigation of crashes shows that speed is a major causative factor in 20 per cent of all fatal crashes and an important contributing factor in 50 per cent or more of all road accidents—another issue of concern on country roads, in particular. In 2001 about 265 000 speed offences were detected yet only 51 000 of these were detected by police officers, thereby attracting demerit points.

For those drivers able to meet the cost of a speeding fine or whose company pays the fine, speed cameras are not much of a deterrent as their licences are not at risk. In order to combat this, it has been suggested that the accrual of demerit points when caught by speed camera and eventual loss of licence will act as a significant deterrent against speeding—much greater than fines alone. It is interesting to note that South Australia is the only state besides the Northern Territory that does not apply demerit points to camera detected speeding offences.

It is also proposed that red light camera and speeding offences be combined. Currently, red light cameras are not operated as speed cameras, even if they have dual capabilities. At red light camera sites in Adelaide the reduction in injury crashes, compared with similar non-red light camera intersections, is 20 per cent. However, at the Marion Road and Sturt Road intersection, an average of 353 speeding offences in excess of 70 km/h were detected daily, with 267 of these offences occurring on the green light phase.

This bill provides for a person detected of a speeding offence and a red light offence to incur demerit points and a fine for both offences. This is necessary because one of the most dangerous situations where serious injury occurs is when a person runs a red light at speed. It also provides for higher penalties for companies to dissuade them from shielding employees' driving company cars from demerit points by paying fines on their behalf.

Illegal concentrations of alcohol are involved in about 30 per cent of fatal road crashes in South Australia, and the likelihood of having a crash doubles for every .05 increase. Currently, around 1 000 South Australian drivers are apprehended each year for .05 to .079 offences. At the moment the national legal limit for blood alcohol concentration is .05 but, unlike drivers in all other states except for the Northern Territory, South Australian drivers do not incur a mandatory loss of licence for drink driving offences between .05 and .079.

Among other things, this bill proposes a mandatory loss of licence for offences of driving with a reading between .05 and .079 as follows:

- first offence—three months' disqualification from driving;
- second offence within a five-year period—six months' disqualification; and
- third offence or any subsequent offence within a five-year period—12 months' disqualification.

The first offence is to be dealt with by an expiation notice and any subsequent offence can be dealt with by an expiation notice or summons, thus reducing the pressure on the court system. There are quite a few other proposed changes to the legislation in this bill including:

- giving police the power to stop any driver and submit them to an alcohol or breath test;
- learner drivers must complete a minimum period of six months before the date of a practical driving test;
- the requirement that a provisional licence must be held for two years or until 20 years of age, whichever is longer;
- adding a period of licence suspension to learners' permits and provisional licence periods;
- strengthening theoretical testing for learner drivers; and
- preventing a person who fails a driving test from taking another test immediately.

Some provisions require change to regulations only and these include:

- the implementation of a 50 km/h default speed limit in built-up areas;

- reducing the open road speed limit to 100 km/h or less according to road conditions, except on high standard major roads;
- strengthening anti-drink driving enforcement campaigns; and
- strengthening enforcement campaigns concerning seat belts and child restraints.

It is beyond belief why people today jump into a car which is fitted with seat belts and do not put them on themselves or their children. The provisions in this bill are supported by research, some of which was done by Professor Jack McLean, Director of the University of Adelaide Road Accident Research Unit. This bill will save lives and, therefore, I strongly support it.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank members for their contributions. I hope we can proceed as quickly as possible with this bill. A number of points were raised along the way, but I do not propose to address each and every issue raised by members—that is best left to the committee stage. However, I will make several general points and deal with three specific questions asked by the Hon. Diana Laidlaw, who was the minister for transport in the previous government.

The first point I want to make is that, on the basis of its road safety outcome in 2002, South Australia is now the worst performing of all the states and territories, except the Northern Territory. South Australia slipped from being sixth worse to seventh worse. Last year, South Australia's fatality rate was 10.3 per 100 000 of population, which is a long way from the National Road Safety Strategy goal of 5.6 fatalities per 100 000 of population by 2010. I have noted the Hon. Robert Lawson's point about not pursuing national uniformity in road laws for the sake of uniformity. However, the better road safety performance of other states and territories reinforces that South Australia needs to catch up. The important measures in this package have been shown to be effective in other states. For this reason, the government believes South Australia should adopt them, not just for uniformity's sake.

In his contribution, the Hon. Robert Lawson referred to a suggestion that the Minister for Transport has said that this bill is being held up in the Legislative Council. The minister has asked me to clarify that that is not the case. Speaking about the state's road safety performance, he has noted that the government's road safety package is progressing through the parliament and, specifically, through the Legislative Council. He has also called on all members of parliament to get behind the legislation.

I also want to make a point about rural fatalities. In her second reading contribution, the Hon. Caroline Schaefer said that this package of road safety measures discriminates against country people. I respond by drawing members' attention to the fact that, in 2002, 65 per cent of road fatalities occurred in rural areas—in fact, some people quoted 70 per cent. Over the previous five years, an average of 59 per cent—approaching two thirds—of fatalities were in rural areas. This point was acknowledged by the Hon. Diana Laidlaw, who hypothesised that most of those rural fatalities were city people who were unaccustomed to travelling on rural roads. I inform members that that is not correct.

The Hon. Diana Laidlaw: I said that? I never said that.

The Hon. T.G. ROBERTS: No, this point was acknowledged by the Hon. Diana Laidlaw. I inform members that that is not correct. The vast majority of fatalities on rural roads (some 71 per cent, on average) occurred among people from outside metropolitan Adelaide. This figure excludes drivers from interstate or overseas, that is, it is rural people who are dying in crashes on rural roads. Before we move into the committee stage I will answer three very specific questions by the Hon. Diana Laidlaw. First—

The Hon. Diana Laidlaw: Somebody is reading me.

The Hon. T.G. ROBERTS: Yes, somebody is taking notice. First, the honourable member asked whether the National Competition Council is still taking an interest in the state's performance in implementing national reforms. (South Australia is competing very well in the fatalities race: we are at the top of the list.) The answer is that the NCC still does not assess and report on state and territory performance in national competition policy matters. The particular occasion the member recalls was when competition payments were at threat of being withheld from the Northern Territory because it had not implemented the national demerit points scheme as part of a national drivers licence and registration reform. I can report that the NCC is satisfied that South Australia, along with New South Wales, Victoria, Queensland and Tasmania, has completed all NCP road transport reform obligations as of 30 June 2002.

Second, the Hon. Diana Laidlaw asked whether the police will be ready to implement the measures in this package, given her experience as former minister and encountering hold ups in the implementation of demerit points for red light cameras. The information I have is that key government agencies are working together effectively to ensure that all measures will be implemented expeditiously. Having said that, there is obviously a limit to how much time and expense can be justifiably put into preparing to implement something before parliament has approved it.

Finally, the Hon. Diana Laidlaw, who has been very busy preparing her speech and notes, sought information on the number of speeding offences over the last 10 years, and I have that information for the honourable member in table form. Speed camera offences issued for the year 1994-95 were 171 347 (the Hon. Mr Cameron should be here to hear this); for 1995-96, 135 211; for 1996-97, 258 459; for 1997-98, 288 074; for 1998-99, 247 796; for 1999-2000, 255 057; for 2000-01, 244 338; for 2001-02, 257 733; and for 2002-03, bearing in mind that we are only into April, 142 404. The 2002-03 figures are for June to January. So, with those replies to the honourable members who made contributions, I look forward to the committee stage of this bill.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. NICK XENOPHON: I move:

Page 3, After line 9—Insert:

(2) A reference in this Act to the principal regulations is a reference to the *Motor Vehicles Regulations 1996* (see *Gazette* 30 May 1996 p.2751), as varied.

This is, in essence, a consequential amendment relating to an amendment that I will be moving in due course.

The Hon. Sandra Kanck: It is a pre-sequential amendment.

The Hon. NICK XENOPHON: It is pre-sequential, not consequential. I thank the honourable member for her assistance. I propose to move an amendment relating to demerit points for using a hand-held mobile phone, and I have been advised by parliamentary counsel that the appropri-

ate way to deal with this is that, because demerit points are prescribed by the Motor Vehicles Act regulations, we need to amend the regulations in the bill to include the offence because, normally, these offences are dealt with by regulations and I am attempting to do it within the body of this bill. So, in a sense, it is a pre-sequential amendment, if there is such a word.

The Hon. Sandra Kanck: We just made it one.

The Hon. NICK XENOPHON: Yes. I ask honourable members to consider that and, if they are supportive of mobile phone users losing points, I ask them to support this. I note that some members may be looking at this in their party room in the not too distant future, so it may well be that, even if this amendment is defeated at this stage, this clause may be recommitted.

The Hon. T.G. ROBERTS: I think the honourable member has pre-empted the government's position with his pre-sequential amendment. We will be examining the proposal in another package of amendments to the act phase two, but we will have to consult. I thank the honourable member for drawing up the recommendation prior to the drafting of this bill, but we will have to undertake consultation before any recommendation is included in another package.

The Hon. SANDRA KANCK: I support this amendment. When the Hon. Diana Laidlaw was transport minister, we introduced the first legislation that dealt with people driving while making mobile phone calls, and I was a strong supporter of it at that time. Since it has become law, it is as if many drivers who have mobile phones in their hands are just flouting that law—thumbing their noses at it, so to speak—and I think that we have to get tougher on it. Quite clearly, people who drive with mobile phones in their hand are not driving as carefully on the road as others. I think this is a welcome move.

The Hon. CAROLINE SCHAEFER: My party held discussions this morning. It does not at this stage support the series of amendments of the Hon. Mr Xenophon in regard to increasing the penalty for speaking on a mobile phone without a hands free device. I was puzzled when I read the debate on this bill in another place, in that we keep being told about another batch of amendments to this act in some future time. I would have thought that, since this is a major rewrite of the act, many of these things could have been addressed in the long break, as was indicated by the minister. That not being the case, at this stage my party will oppose these amendments—but that is not to say that we could not revisit them at another time.

The Hon. DIANA LAIDLAW: I am in a bit of a dilemma in relation to this matter and the position put by my colleague the Hon. Caroline Schaefer. It is true that the Liberal Party today considered this matter and determined that at this stage it would not support it. But I will not be around when a further bill is considered, so I would indicate support for this amendment, knowing that the numbers are not there for its passage. It would be wrong of me, having championed at an earlier stage the banning of hand held phones while driving (not only in South Australia but also across Australia), to then today not indicate my support for what I think would be a more effective penalty regime in terms of this offence. I have no idea whether the mover of this amendment intends to divide. I certainly indicate my support for the provision. Is the minister aware of how many people have been picked up, fined or prosecuted for using hand held telephones while driving?

The Hon. Sandra Kanck: Not enough.

The Hon. DIANA LAIDLAW: I agree with the interjection. I am equally interested to learn what resources the police apply regarding this practice because, as we know with respect to road safety overall, unless there is perceived to be an effective enforcement regime, drivers are under no pressure to change their habits. I have often felt that road safety is as much about education through enforcement of the legislation as it is simply about the legislation itself and the penalties. If the minister does not have those answers at this stage, I would be pleased to receive them promptly at some later stage.

The Hon. A.L. EVANS: I support the amendment. Having occasionally, in my former days, tried to drive and talk on a mobile phone, and having seen what a problem I was to other people on the road and how dangerous it is, I have now reformed, and I have a proper cradle for the telephone. I support the amendment.

The Hon. T.G. ROBERTS: I would have thought that the Hon. Mr Evans had a hotline straight to the man. I do not have the details in relation to the number of people apprehended. I understand that it would be a police resourcing issue, and one of proof. With respect to the Hon. Caroline Schaefer's position and why we have not included all our projected amendments, I think the Hon. Diana Laidlaw put her finger on it. We try not to be too draconian in advancing new legislation without testing it amongst a wide range of stakeholders.

With respect to drink driving limits, South Australia, by degree, came into alignment with the other states from .08 per cent down to .05 per cent. In Europe, I understand that there was a move down to nil; one was not allowed to have any blood alcohol concentration while driving. No-one is saying that we should be draconian in any other ways. Many people would be saying that the laws that we are introducing at the moment are harsh and discriminatory. If we continue to have a high number of fatalities in this state and we do not have in place regimes that are part of other states' regimes in relation to road safety, we would be seen as not doing our duty to bring about what would be regarded as a road safety package that went at least part of the way towards getting a good package of reasonable road safety measures in place with the amendments in this bill.

Amendment negatived; clause passed.

New clause 3A.

The Hon. CAROLINE SCHAEFER: I move:

Page 3, after line 9—Insert new clause as follows:

Minister to report on operation of act

3A. The minister must, within 12 sitting days after the second anniversary of the commencement of section 1, cause a report on the operation of the amendments contained in this act to be laid before both houses of parliament.

This is a simple amendment, which requires the minister to report to the parliament within 12 sitting days of the second anniversary of the commencement of section 1. As has been indicated in the second reading contributions, there will be significant changes to the act at the end of this debate, we assume, and we believe that it would therefore be appropriate for the minister to report on the impact of these amendments within that two-year period so that an assessment can be made at that time as to whether the amendments are in fact working, or whether they need some fine tuning in one way or another. So, it is a simple amendment requiring the minister to report to the parliament.

The Hon. SANDRA KANCK: I indicate that the Democrats support this amendment. This bill contains quite a number of controversial measures, and the arguments on the pros and cons of some of those will be teased out as we move further into committee. There certainly is some disagreement about the need for and the efficacy of some of those measures; therefore, it is reasonable to support the opposition amendment so that we can check the progress of the implementation and effectiveness of the legislation and compare it to other states where it is different. This gives the government the opportunity to come back to parliament and say, 'We were right,' or, 'We were wrong,' and for us to look further at other amendments that might make the act more effective.

The Hon. NICK XENOPHON: I indicate support for the opposition's amendment. In relation to this very significant package of road safety reforms, it is not particularly onerous to require the government to report back to parliament after two years. It is a sensible amendment, and I certainly support it.

The Hon. T.G. ROBERTS: It probably seems sensible to opposition and Independent members; it is awkward for government to do it through legislation. The minister is asking for an undertaking that would achieve the same thing, but I understand that the numbers might fall the way of the opposition on this amendment. We prefer that it not be done through legislation.

The Hon. DIANA LAIDLAW: I am exceedingly disappointed in the minister's response. I understand that it is not necessarily his personal response but that he is talking to instruction. All honourable members who participated in road safety reform initiatives and legislation in this place over the eight years that I was minister would recall that time and again I was more than willing to incorporate or take amendments from the Democrats and the Labor Party relating to a reporting back mechanism being defined in the legislation. This initiative is not only important in terms of the discipline it imposes upon the minister (and ministers can change) but also because it is important that the parliament knows that this work will be undertaken and that we recognise that reporting back to parliament is an important part of the education of the broader community. I express my disappointment in the government's response to this amendment.

New clause inserted.

New clause 3A.

The Hon. NICK XENOPHON: I move:

Page 3, after line 9—Insert:

Variation of regulations by Act not to affect power to vary by subsequent statutory instrument

3A. (1) Subject to subsection (2), the variation of the principal regulations by this Act does not affect the power to vary or revoke those regulations by subsequent statutory instrument.

(2) A statutory instrument that varies or revokes the item inserted in Schedule 7 of the principal regulations by this Act cannot come into effect unless it has been laid before both Houses of Parliament and—

(a) no motion for disallowance is moved within the time for such a motion; or

(b) every motion for disallowance of the statutory instrument h has been defeated or withdrawn, or has lapsed.

I move this amendment because, if a miracle happens and, towards the end of the committee stage, there is a change of heart, it may well be that it could be recommitted. As my colleague the Hon. Sandra Kanck says, it is a pre-sequential amendment in relation to the issue of regulation powers. Whatever I said previously applies to this clause equally.

New clause negatived.

Clauses 4 to 7 passed.

New clause 7A.

The Hon. CAROLINE SCHAEFER: I move:

Substitution of s. 74

7A. Section 74 of the principal Act is repealed and the following section is substituted:

Duty to hold licence or learner's permit

74. (1) Subject to this Act, a person who—

(a) drives a motor vehicle of a particular class on a road; and

(b) is not authorised to drive a motor vehicle of that class on a road but has previously been so authorised under this Act or the law of another State or a Territory of the Commonwealth,

is guilty of an offence.

Maximum penalty: $1 250.

(2) Subject to this Act, a person who—

(a) drives a motor vehicle of a particular class on a road; and

(b) is not and has never been authorised, under this Act or the law of another State or a Territory of the Commonwealth, to drive a motor vehicle of that class on a road,

is guilty of an offence.

Maximum penalty: For a first offence—$2 500.
For a subsequent offence-$5 000 or imprisonment for 1 year.

(3) For the purposes of this section, a person is authorised to drive a motor vehicle of a particular class on a road if—

(a) the.person holds a licence under this Act that authorises the holder to drive a motor vehicle of that class; or

(b) the person—

(i) holds a licence under this Act; and

(ii) has the minimum driving experience required by the regulations for the grant of a licence that would authorise the driving of a motor vehicle of that class; or

(c) the person holds a learner's permit.

(4) When the holder of a licence under this Act drives a motor vehicle on a road as authorised under subsection (3)(b), the obligations imposed by section 75A on the holders of learner's permits and qualified passengers for learner drivers apply to the holder of the licence and any accompanying passenger with such modifications and exclusions as are prescribed by the regulations.

(5) Where a court convicts a person of an offence against subsection (2) that is a subsequent offence, the following provisions apply:

(a) the court must order that the person be disqualified from holding or obtaining a driver's licence for such period, being not less than 3 years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) cannot be, reduced or mitigated in any way or be substituted by any other penalty or sentence;

(c) if the person is the holder of a driver's licence-the disqualification operates to cancel the licence as from the commencement of the period of disqualification.

(6) In determining whether an offence is a first or subsequent offence for the purposes of subsection (2), any previous offence against this section or section 91(5) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the period of 3 years immediately preceding the date on which the offence under consideration was committed.

This amendment has been introduced by the opposition in an attempt to focus on those drivers who are absolutely irresponsible—in particular, unlicensed drivers. The statistics indicate that at least 2 per cent of fatal crashes involve an unlicensed driver. The unofficial statistics (because none of us really knows) are that many thousands of drivers on Australian roads do not hold a licence, either because they have had their licence removed or because they have forgotten to renew their licence. More importantly, many people drive for many years having never held a licence or having never been

subjected to a driving test or a test on road knowledge. They constitute a startling 2 per cent of those involved as the drivers in fatal crashes.

With this amendment, I have attempted to differentiate between the person who has deliberately never bothered to get a licence and the person who has forgotten to renew it—for example, someone who may have been overseas for some time, or who has forgotten to renew their licence for some other reason. That would seem relatively difficult to do since a number of reminders are sent and a period of time is given before that person becomes unlicensed after they have forgotten to renew their licence. Nevertheless, this amendment, with a penalty of $1 250, differentiates between that person and a person who has deliberately never bothered to get a licence.

We believe that these deliberately unlicensed people are a danger on the road. They are irresponsible and they are flouting the law. As such, we believe that they should suffer the consequences of their actions or, in this case, their lack of action. We propose a $5 000 fine. In addition, a person convicted of a subsequent offence of driving while unlicensed would be disqualified under this amendment for three years.

The Hon. T.G. ROBERTS: I indicate that the government accepts the amendment put forward by the Hon. Caroline Schaefer—in the spirit of bipartisanship. I will share a story that comes from a country area with which I am familiar. A young person who had been up on charges of speeding and dangerous driving was being admonished by the magistrate, who said that he would take away the offender's licence for six months. This made the young person burst into laughter. The magistrate said, 'What are you laughing at?' He said, 'You can't take if off me for six months. I haven't got a licence.' The magistrate said, 'You can stop laughing long enough to ask somebody to pack your toothbrush and a pair of undies. Next case, please!'

The Hon. DIANA LAIDLAW: I acknowledge the government's support for this amendment, although I was just preparing a diatribe to give the minister, assuming that the government would not support it! I was going to remind government members that, when the same amendment was introduced by me as minister when in government 18 months ago, they supported it, so let me say how pleased I am to see the conviction from opposition to government. I hope that it will apply to all the other amendments that the Hon. Caroline Schaefer will move.

Does the minister have any figures on the number of unlicensed drivers and how that number might have increased with the fine default legislation that was introduced by the former government, where one of the penalties for non-payment of fine can be loss of licence or a refusal to register a motor vehicle? If the minister does not have those figures, perhaps they could be provided to me either by the end of this debate or during question time later this week.

The Hon. T.G. ROBERTS: I apologise because I do not have those figures with me, but I will be happy to provide them. It would probably be subject to apprehension, and in a lot of cases unlicensed drivers do not come into contact with the police unless they have committed an offence. We will get the figures that are available.

New clause inserted.

Clauses 8 to 11 passed.

Clause 12.

The Hon. CAROLINE SCHAEFER: I move:

Page 5, line 21—Leave out paragraph (a).

This clause proposes to make it mandatory that a driver must be 20 years of age before one can obtain a full licence. The opposition believes that it is more appropriate that a person be required to hold a probationary licence for not less than two years. There are a number of reasons for that. One is the interchange of licences and licence requirements between states. Another is that it is quite possible for a person to get an L-plate licence at the age of 16½ or for someone at the age of 23 years to get an L-plate licence. We believe that the purpose of a probationary licence is to enable a person who may be a very competent driver but who has no knowledge of the road and other traffic, particularly in the case of country people, to acquire those skills under some regulatory constraints.

However, we feel that it is probably quite unfair for someone who has initial driving skills to be required to keep their probationary licence, and therefore conform with the restrictions placed on them, for 3½ years, nearly four years, if they have done nothing that indicates that they are incapable of driving. We believe that the holding a probationary licence for a mandatory time of no fewer than two years is a more appropriate method of ensuring we have safe drivers on the road.

The Hon. T.G. ROBERTS: We are sticking to the age of 20 years. Consultation within the community has indicated support for that and the RAA supports it. Young people are certainly overrepresented in crashes and fatalities. That is not to say that young drivers are not skilled. I am aware of a young driver who is able to do doughnuts one-handed with three full long necks in him without running off the road.

The Hon. Caroline Schaefer: With or without oil on the tyres.

The Hon. T.G. ROBERTS: Yes, with or without oil on the tyres. The skill level is not the problem. The problem is the responsibility that comes with age and experience. We all know that, the further we move away from the age of 16, the more likely we are to have the maturity that goes with the responsibility of having a licence. We all know young people of 16 or 17 who have the maturity of a 25 or 30-year old. We could push the age rate up to 30 and some people would still not have the maturity that is required to drive responsibly. I am sure that, as the age limit moves towards 20 years of age and over, a certain degree of responsibility is built into that. The government is insisting on 20 years of age and we are using the statistics to support our argument.

The Hon. SANDRA KANCK: The Democrats will be supporting this amendment. As I indicated in my second reading speech, a lot of what the government is doing in regard to the length of time on P-plates is a bit over the top. I am not convinced that, given the amount of time that young people spend on the road, their record is all that much worse than anyone else's. As I also indicated in my second reading speech, I believe that we are trying to target the wrong group. It is young males in their twenties who are the problem from the point of view of the statistics, not the group that we are targeting in this measure. It seems to me that it is likely to be ineffective in decreasing the road toll because it targets the wrong group. We will support the opposition's amendment.

The Hon. NICK XENOPHON: Whilst I am sympathetic to the government's position, I will be supporting the opposition's amendment. There are some other issues at stake. I know that some jurisdictions in the US and in New Zealand, in concentrating on reducing the road toll among young people, have imposed restrictions, particularly on probationary licences, as to the number of young people in

a vehicle. Some may find that draconian but, in terms of the research that I recollect in this regard, if you get three or four 16 and 17 year olds in a vehicle, apparently the risk of peer pressure and the risk of an accident is much greater. That should be debated in this place at another time.

The Hon. Diana Laidlaw: Didn't you introduce a private member's bill for that purpose?

The Hon. NICK XENOPHON: I did introduce a private member's bill and it is something that I flagged, but I cannot remember whether that was a clause in that bill. It is certainly something that I have looked at, and we should revisit it as a mechanism that I believe would be more effective in dealing with the road toll, given the quite alarming statistics that I have seen in that regard.

The Hon. DIANA LAIDLAW: I would like to ask on behalf of my nephew who, last Friday, with my urging, finally got his Ps at 16½—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I told him that, if he did not get a move on, he would get caught. Finally, he got through with a test, which I did not advocate as the way in which to get his Ps, but he has too much Laidlaw in his blood: he will always do what he wants! With the passage of this legislation, will it be applied retrospectively to all P plate drivers or will it be applied only from the day on which this legislation is proclaimed? This enables me to ask my question on clause 2: when does the minister aim to ensure that this legislation is proclaimed? Is it proposed that it be proclaimed in full as one act or in part?

The Hon. T.G. ROBERTS: We hope that the proclaiming would all be done in one act but, if there are aspects of it that may hold up the majority of the other parts that we would see as significant changes that are required, perhaps it will be done in stages. As far as the honourable member's nephew is concerned—

The Hon. Diana Laidlaw: And all P platers.

The Hon. T.G. ROBERTS: And all P platers, there is no retrospectivity. As far as his being a Laidlaw and doing what he wants, the honourable member has been confined to standing orders in this place as far as her activities are concerned.

Amendment carried.

The Hon. CAROLINE SCHAEFER: I move:

Page 5, line 25—Leave out paragraph (d) and insert:

(d) by striking out paragraph (a) of subsection (2) and substituting the following paragraph:

(a) in the case of an applicant who is under the age of 19 years—

(i) until he or she turns 19; or

(ii) until two years have elapsed, whichever occurs later;;

I must admit that I understood that that was all inclusive of the one amendment, so I will not speak further to that. I think I have outlined our reasons for the amendment.

The Hon. T.G. ROBERTS: We would oppose it on the same grounds.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 6, after line 4—Insert new paragraph as follows:

(g) by inserting after subsection (2a) the following subsection:

(2b) If—

(a) a person holds a licence subject to the conditions referred to in subsection (1); and

(b) the person has held that licence for two years or more; and

(c) the licence was issued to the person before the person attained the age of 18 years; and

(d) the person has produced to the Registrar evidence to the satisfaction of the Registrar that the person has successfully completed a course of training in defensive driving accredited by a person or body prescribed by the regulations for the purposes of this subsection; and

(e) the person would, but for the operation of subsection (2), be eligible for the issue of an unconditional licence,

the Registrar must, on application made by the person in accordance with section 75, issue an unconditional licence to the person.

I will not spend a great deal of time on that. I have partly argued my case in supporting the opposition's previous amendment about the fact that the government is targeting the wrong group. As a way of attempting to ameliorate the fact that it is targeting the wrong group, I am moving this amendment so that we can allow this group of mostly young people to be able to get off their P plates after two years of holding a licence, provided that they have undertaken an accredited defensive driving course.

The way it is written, it will depend on regulations for the government to define exactly what would be involved. I recognise that there is a bit of a weakness here in the sense that the government could simply choose not to promulgate any regulations, but I would hope that, if we can get this amendment passed, it will in good faith prepare some regulations. My husband and son have both done defensive driving courses. I think they were half day courses, and they were very impressed with them. From recollection, my husband said that one of the first things they did was get all the people involved in the course to drive around the track they were on and, when they got back, the instructor told everyone except my husband that they had been driving too close to the car in front of them.

In that process, all those drivers became very much aware of the sorts of distances that you need to keep between you and the next car, depending on what sort of speed you are doing. Most drivers, when you see them on the road, do not seem to understand that at all. As well as allowing someone to get off their P plates that little bit earlier, I think this will be a very positive move for drivers at large on the road to gain that little bit of extra knowledge that will assist them in being safer drivers.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Sandra Kanck's amendment. Only yesterday the Hon. Terry Cameron asked a question in relation to motorcycle rider training and, as I understand it, it was a very effective course. I think it is overdue that we take this sort of approach, particularly with respect to new drivers.

The Hon. T.G. ROBERTS: The government is trying to put together a second package of amendments for another grab at the legislation, and observations have been taken of the structure of the ACTU Road Ready scheme, along with similar schemes operating in New South Wales and overseas, in its examination of road safety education and driver training as part of phase 2 of the road safety package. It is as a matter of progressive education in preparation for that second road package that we would say that we agree with the amendment but it would be at the time we were putting the second package together, which would allow driver education readiness, if you like, for the Road Ready scheme, if it is to be called that, to be put in place, so that people, particularly young people, are prepared for the changes that are coming.

Just as the Hon. Diana Laidlaw has prepared her nephew, parents and others, young people and educationists are doing likewise. I know that there are programs running in schools

now for driver education. We would prefer that it be part of the second package, but we will not go to the wall over it.

The Hon. CAROLINE SCHAEFER: Similarly, the shadow minister for transport and I have discussed this reform with the Hon. Ms Kanck and we would be inclined to support her, other than for the practical logistics of how such a course could be implemented for young drivers throughout the state. It would at this stage necessitate country people coming to the city to access such a course, which would be at considerable cost to them. This method of road reform seems like dripping water on marble: I do not know when we are actually going to see the extent of this government's reforms but, when the second package comes out, if the government is able to show us that it will provide the resources for such courses to be provided to probationary drivers throughout the state, then I feel confident that we would be willing to support it.

Anyone I know who has done the defensive driver course at any age believes that it has been very worthwhile. It is actually a package, in spite of what has been said previously, that is about driving skills, and I have a belief that a lot of people actually lack driving skills, particularly driving skills on the open road. So, I am personally in favour of this if the logistics could be put into place to ensure that no person was disadvantaged by having to undertake such a course. I oppose the amendment at this stage.

The Hon. DIANA LAIDLAW: I seek clarification from the minister. Is he saying that he supports the amendment, but that this would be one part of the bill that would not be proclaimed at the time the rest of it, because the proclamation would be held over until the second package of reforms had been debated and passed?

The Hon. T.G. ROBERTS: We prefer it to be part of an educative program in the lead-up to a second package.

The Hon. DIANA LAIDLAW: It will not be proclaimed as part of the first package but, rather, would be held over until the proclamation of a second package.

The Hon. T.G. ROBERTS: We would bring it forward as part of a whole package, if that were the case, but we prefer—

The Hon. Diana Laidlaw: Which package: first or second?

The Hon. T.G. ROBERTS: Second package.

The Hon. DIANA LAIDLAW: It will not be proclaimed as part of the first package but, rather, held over until the passage and proclamation of the second package.

The Hon. T.G. ROBERTS: We are opposing the amendment.

The Hon. DIANA LAIDLAW: I did not understand that: your explanation was not clear to me.

The Hon. T.G. ROBERTS: We prefer it not to be in the first package but, rather, part the second package.

Amendment negatived; clause as amended passed.

Progress reported; committee to sit again.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

HEALTH AND COMMUNITY SERVICES COMPLAINTS BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 2031.)

The Hon. A.J. REDFORD: This is a bill which has been the subject of some considerable gestation and debate and which seeks to establish the office of the health and community services ombudsman. In this contribution I do not propose to traverse all the arguments put by the government or the Hon. Diana Laidlaw in one of her final innings on behalf of the opposition. I want to raise some specific concerns regarding the bill, particularly given that I chaired an inquiry into the Ombudsman (Private or Corporatised Community Service Providers) Amendment Bill, which was introduced by the Hon. John Hill in another place on 28 May 1998. The bill was referred to the Legislative Review Committee, which tabled its report on 28 November 2001 and which made a number of important observations.

The committee, in reviewing that bill, assessed whether accountability should be maintained by extending the state Ombudsman's jurisdiction (as proposed by the bill introduced by the Hon. John Hill) or by measures such as industry specific ombudsmen. In making that assessment, the committee recognised that community services that had been corporatised should be subject to the same high levels of accountability that applied before corporatisation. It noted the policy intention of the bill, which is to ensure effective and independent ombudsman supervision of corporatised services.

It went on and noted that there has been some tendency in the period between when the bill was introduced in May 1998 and the time that the committee tabled its report to move towards industry-specific ombudsman schemes. One example of that is the establishment of the office of the electricity ombudsman. The committee emphasised the independence of an ombudsman and the importance and critical nature of that independence to any ombudsman scheme and, therefore, made a number of comments and views about the appointment of the ombudsman and the transparency of the process.

Interestingly, the committee noted that the intention of the Hon. John Hill's bill was to address the 'diminution of the state Ombudsman's jurisdiction' and seek to extend the officer's powers, including an extension to the operation of hospitals and other health services, including those hospitals which are now in the private sector but had formerly been part of the public sector.

In that respect, the report referred to the evidence of Mr Rick Snell, a prominent commentator on administrative law and a lecturer in administrative law at the University of Tasmania. In the report, his evidence was summarised as recommending a generic approach whereby the jurisdiction of the state Ombudsman extends to all services and is as inclusive as possible, as opposed to the approach of divvying up the Ombudsman's jurisdiction amongst various different ombudspersons in relation to dealing with specific types of complaints.

Interestingly, the issue of the Ombudsman's budget and funding was also a topic which the committee looked at. Mr Hill MP, as he then was, stated that the budget for the state Ombudsman should continue at its current level, despite the diminution of his jurisdiction—and he was talking about the diminution that was occurring because of the outsourcing or sale of various government activities or enterprises. He stated:

> I would think that in South Australia, if a range of services is ultimately privatised or outsourced, no government would cut the budget for the Ombudsman.

It will be interesting to see whether Mr Hill has any influence in this government should this bill go through in its current form and whether he will be held to the statement and the

evidence that he gave on that occasion to the Legislative Review Committee. He further stated:

> The Ombudsman's budget would continue and he or she would continue to provide the services they currently provide but over a diminishing range of territory.

So, Mr Hill, who is still a senior member of this government's cabinet, said that, notwithstanding any changes, there should not be any changes in the Ombudsman's budget, but I am not sure that there has not been some change in the approach of members opposite in the transition to government.

During the course of that inquiry, the committee also looked at whether or not the Office of Fair Trading was sufficient to be able to deal with the delivery of some services, and I will put it in this context. One model might well be that, in terms of the delivery of health services through the public sector, the Ombudsman continues to maintain his or her current role and the Office of Fair Trading should provide services delivered by the private sector. In fact, as the presiding member at the time, I directly put that proposition to him. His response was:

> [That] is a distinctly different sort of role—

referring to the Office of Fair Trading—

> to that of the Ombudsman. It is very much like the debates we come across with all sorts of agencies where they say we provide certain remedies. For instance, the private health area is an analogy. The choice is for the aggrieved person to go to the Medical Board where it is really very much a disciplinary process, and, quite frankly, the complaints I have in that area are not satisfied with that process generally, or the law courts. The Ombudsman's Office has to be more flexible, I believe, with a wide range of remedies.

The committee, having heard all the evidence, looked at the opposite, that is, the concept of industry-based ombudsman schemes. At page 18 of that report the committee noted:

> . . . the corporatisation of services may bring with it unforeseen consequences that may be more appropriately handled by an industry-based ombudsman scheme. For example, the increase in electricity services-related complaints would place a considerable burden on the State Ombudsman.

This is the committee's observation. It continues:

> The burden could be increased with the corporatisation of other community services. In contrast, the funding arrangement for the Electricity Industry Ombudsman provides adequate resourcing through a 'user pays' system.

So, if one analyses that observation, one might come to the conclusion that, in terms of the establishment of other offices of ombudsmen, one might look at how they are funded—that is, the electricity ombudsman is directly funded by the industry, whereas the Ombudsman that we currently have in this state is funded through the public purse and, indeed, the proposed health complaints ombudsman would be similarly funded.

Indeed, Mr Finn, a lecturer in law at Adelaide University and also a very prominent commentator in the area of administrative law, had a comment to make about this particular issue. In a very important and pertinent observation about the role of the ombudsman, he said:

> I do not think you want dozens of different bodies floating around the place.

The Hon. Diana Laidlaw: Who said that?

The Hon. A.J. REDFORD: This is Mr Finn, Professor of Law at Adelaide University. It continues:

> That will probably be more expensive and confusing for people. They will not know which body to go to much of the time. At the Ombudsman level, I would definitely favour a single body.

To be fair, Mr Hakof, the Electricity Industry Ombudsman, took issue with that comment but, again, Mr Finn distinguished the separation of the offices by the fact that the electricity ombudsman is not funded out of public funding but from other sources.

In summary, the distinction in terms of dealing with this health complaints issue is a question of whether we need a separate body—the creation of a new infrastructure—to deliver a complaints process and a complaints system, as the public is demanding, as evidenced by this bill and various other matters which have occurred in the past, which have been adequately covered in other contributions. In any event, I think I should draw members' attention to the two most recent annual reports of the Ombudsman to look specifically at what he has been saying and what sorts of things he has been looking at in relation to ombudsmen.

First, as noted in his annual report of 2000, there was an appreciable increase in the number of new complaints received in relation to public hospitals. It is important to note that the Ombudsman has been dealing with health complaints in the South Australian health system for quite some considerable time, and my understanding (and I stand to be corrected) is that some 33 per cent, or about one-third, of the Ombudsman's office is taken up with the process of dealing with health complaints.

If this bill is successful in its current form, would they be taking those officers out of the Ombudsman's office, together with his budget, and, basically, creating a whole new office in some other part, and what additional cost would be likely to be incurred as a consequence of economies of scale? I would be most interested to hear the minister's response to this matter. In his 2000 report, the Ombudsman made a number of observations about his role, and I urge members who are considering this matter to look at what he said in the report about health complaints. He said:

> . . . I think timeliness of service is most significant. Timeliness implies reasonableness. There is a considerable comfort to an aggrieved consumer when the consumer is aware of the opportunity of having a valid concern properly investigated by an independent agency such as the Ombudsman.

He said that the critical features of an ombudsman are their independence, their impartiality, their credibility and the flexibility of their office. Indeed, in the more than 30 years that we have had the Ombudsman's office in South Australia, the successive ombudsmen have, in my view, managed to earn a significantly good reputation in each of those areas. The Ombudsman in that report also referred to the fact that he has liaised closely with various other internal complaints bodies that have been set up within each of the hospitals and institutions in the health area. In regard to corporatisation and dealing with non-government hospitals, he said (and I think this is an important observation):

> I think it entirely consistent with the public face of the Ombudsman in the modern age of administration, which involves inter alia, a changing face of government itself, with contracting out, privatisation and corporatisation for the Office of the Ombudsman (including the Health Complaints Unit) to deal with certain kinds of private sector issues, provided that the nature of any such dealing is carefully defined in order that the role of the complaint-handling body (whatever its formal title may be) is not misconceived as being regulatory or overlapping in its role with other more appropriate remedial bodies, including professional registration boards, tribunals and courts.

I think what he sums up there is the importance in terms of delivering a proper complaints system to our community—that we do not have duplication; that we do not have lots of

different boards out there bumping into one another and creating confusion in the minds of members of the public as to where they should go to make a complaint.

I know that there are some people within the community who go forum shopping. There are some people who will complain to the medical board, the Ombudsman, the professional body and various other institutions. The question that I want to ask when we reach the committee stage is: how does the minister propose to deal with that issue? At the moment, whilst it can create some complications (and I will give an example a little later in this contribution), if there is a complaint about the ethical conduct of a doctor, the complainant is referred to an appropriate body. If there is a question of seeking damages and compensation in a monetary sense, whilst the Ombudsman might provide advice to a particular person, those persons are referred to the appropriate people, such as those in the legal system, in order to agitate those complaints. The Ombudsman said:

> In my view, there would be no inherent inconsistency in the Ombudsman maintaining his role in the investigation of health complaints, provided there is no radical departure from the Ombudsman's core inquisitorial/conciliation functions.

That is a very clear statement of where the Ombudsman sits in relation to this issue, and I would be most interested to hear the minister's response as to what criticisms he makes of the Ombudsman's observations—which were made so clearly and which were almost crystal ball-like in relation to what structures this bill proposes to establish. The Ombudsman also referred to the importance of the corporate knowledge of investigators generally. He said:

> Investigators in the health complaints unit use similar reliable fact finding procedures as do other investigators in the Ombudsman's office, based invariably on unrestricted access to relevant evidence, information and expertise.

What I believe he is referring to there is the fact that the process of investigating a complaint—whether it be a complaint about the Housing Trust, the Office of Fair Trading or the water catchment management board (one that I have at the moment)—and the importance of training in relation to investigation processes are just as relevant to complaints about housing and other issues as they are to health, and that the costs of training a whole new range of investigators in what one needs to do to investigate something is another issue that needs to be considered.

Another issue which is important, and which the Ombudsman raised in his annual report, is as follows:

> Another factor paramount to the Ombudsman in dealing with health complaints is the effectiveness in securing compliance with his recommendations. Without compliance, the process of investigation and recommendatory opinions would be largely of academic interest or at best involve the Ombudsman in the writing of numerous adverse special reports to be tabled in parliament. There has been no resistance to the recommendation or remedial suggestions of the Ombudsman that have caused me to prepare a special report.

That is a remarkable statement, and it demonstrates the extraordinary success that the Ombudsman has had in this state and the confidence that the Ombudsman enjoys. I say that for this reason. Under our Ombudsman's Act, the Ombudsman has very few coercive powers. He has some coercive powers in terms of the investigation process and what he can demand in terms of documents and information. He also has a power to injunct an agency from proceeding to implement a decision while he is making his investigation. Other than that, the only power he has is to table a report in this parliament.

It is interesting that the Ombudsman enjoys such confidence within the public sector that he manages to resolve these complaints without the necessity to table reports on numerous occasions in this parliament. It is important that we acknowledge that confidence in the impartiality and the objectivity of the Ombudsman of those who are the subject of complaint is vital to achieving proper and good outcomes in public policy and public administration.

The Ombudsman in this state has managed to achieve that status. I wonder how long it will take a new office with new people in a new address to create that level of confidence in the health system today. I do not want to get into the politics of this, but we know that the health system is under great pressure in Australia today. We know that, by and large, the health system is staffed by some extraordinarily devoted, hardworking and committed professionals. It is vital that we have an institution that generates confidence within that sector, particularly when dealing with very difficult areas of health complaints and sometimes very emotionally charged situations.

I am grateful for the Ombudsman because, in his 2000 report, he has set out a number of different examples of complaints he dealt with. I will deal with a couple, because they were interesting. One case involved the complaint of a spouse of a 72 year old female patient from a non-English speaking background, whose knowledge of English was limited, and related to a misdiagnosis. The Ombudsman made some critical comments in relation to the way in which the institution communicated with the patient and implemented, or sought to implement, a process so that non-English speaking background people do not go through that same process again. That was in relation to the North Western Adelaide Health Service.

Another example was an allegation in relation to the Women's and Children's Hospital that a child had received inappropriate treatment which resulted in death. Indeed, the child, who had been born with a congenital abnormality, had required significant intervention by health workers. It was thought that a successful outcome had been achieved but, tragically, an unforeseen, unavoidable physiological event resulted in the child's death. After the complaint, the hospital wrote a letter to the complainants expressing regret. That further angered the family, as the letter appeared to offer different reasons for the child's death from the original explanation.

In that case, the Ombudsman reported to the parliament that, whilst measures had been taken to improve the complaint handling procedures and commended that, it was disappointing that a patient adviser was not appointed. As a consequence, he reported to parliament that the position of patient adviser at the Women's and Children's Hospital had not been made at the time of reporting.

Another example was a systemic complaint through a series of events, rather than complaints, involving the Adelaide Central Community Health Service and related to the manner of interaction between some staff and clients involving migrants from a non-English speaking background. The Ombudsman dealt with that again through a conciliation process. He congratulated the board of directors in acting promptly by employing educational strategies to reinforce the expectations of the agency.

They are some examples from the 2000 report. It is interesting to note that in 2000 the Ombudsman received some 490 complaints involving some 43 institutions. The following year he received 356 complaints involving 40

institutions. In that small snapshot, there had been a reduction in complaints which, with the sorts of pressures on the health system, is a rather extraordinary achievement on the part of our health system.

In his report, the Ombudsman refers to some processes and recommends some internal processes that should take place in complaint management. Indeed, he also developed some brochures and educational processes for agencies in that respect and went on to say that he was continuing to work on a number of issues. It is pleasing to see that the Ombudsman is continuing to work on it.

Another case study he referred to was an issue of a 90 year old not being properly diagnosed, and he made some comment about improvement on the part of the Flinders Medical Centre in dealing with elderly patients. He made comments in relation to a matter which was raised in parliament by a politician (he does not name the politician) concerning the death of a patient at the Modbury public hospital. One need not be a Rhodes scholar to work out who that might have been. Having fully investigated that case, the Ombudsman said:

> I regard this case as important because, although it appeared in the press and was raised in parliament with legitimate concerns, there was a tendency to oversimplify some of the issues.

He went on to say:

> I endeavoured to obtain opinions from people who have achieved professional standing and who have many years of clinical experience. I regard this as crucial in terms of the weight given to the views they express and the suggestions or recommendations which might follow from their advice.

Indeed, it is a practice that I adopt. When I want advice on what position I will take on bills such as this, I endeavour to obtain opinions from people who have achieved professional standing and who have many years of experience. In this case—and I note the Hon. John Gazzola nodding at this proposition—I have sought the views of the Ombudsman, because he has many years of experience in this area, and I highly regard his viewpoint. I note that the Hon. John Gazzola is still nodding in agreement with that proposition.

Another case study was the North Western Adelaide Health Service, in which a medical student (and I know I would be annoyed) had rung a patient's home. The phone was answered by this patient's mother and the request was for the patient to ring the North Western Adelaide Health Service because they wanted to discuss something about her recent breast reduction surgery. Unfortunately for the person who rang, the daughter, who was of age, had not explained to her mother that she had undergone this surgical procedure. There was a pretty hostile complaint about the breach of privacy in relation to that.

The Ombudsman's action as a result of that complaint was to go to the various teaching institutions and the teaching hospitals, and I am pleased to say that now there are upgraded education sessions on the importance of client confidentiality, privacy and clients' rights as part of the curriculum in the Medical School of the University of Adelaide. Anyone who knows how difficult it is to get the university to change its position and respond quickly would understand that that is a very important issue.

One matter that the Ombudsman raised in the report related to a complaint involving the Mount Gambier & Districts Health Service Incorporated. I will not go into any detail about the complaint, but he made this important and pertinent comment in dealing with country hospitals:

> The issue of my jurisdiction in terms of country hospitals has always been somewhat vexed. In general once a person becomes an inpatient in a publicly owned country hospital, then I have jurisdiction. In an emergency department of a public hospital it may depend on exactly what the complaint involves. There is invariably some aspect which may come under my jurisdiction as these are public premises which are being used, however the link may be tenuous at best, because the medical officer may be self-employed and renting the premises. This has caused difficulties in the past where the public and private systems intertwine and it underlines the fact that we remain the only state in Australia which has never had any public complaints system for the private health sector.

In that respect, the Ombudsman has correctly identified the issue and justified the importance of this bill and why it is being introduced. However, he has, although not directly, raised a number of issues in relation to how we deal with it and, as I have said, the case is yet to be made out for transferring jurisdiction or creating a whole new office when he has quite a history in dealing with complaints.

I have not finished my process of consulting with a particular stakeholder in relation to this issue, so in a couple of minutes I will seek leave to conclude. Before I do so, I should raise some issues in a very general sense. Some clauses of the bill beg some difficult issues and they highlight why there will be problems in the creation of a second office. I will give an example. The definition of 'community service' is as follows:

> (a) a service for the relief of poverty, social disadvantage, social distress or hardship; or
> (b) a service for the provision of emergency relief or support; or
> (c) a service for the social advancement of disadvantaged groups; or
> (d) a service of a class included within the ambit of this definition by the regulations; or
> (e) an administration service directly related to a service referred to in a preceding paragraph,
>
> but does not include—
>
> (f) a service that provides employment search or placement services, or that provides employment related training or retraining; or
> (g) a service of a class excluded from the ambit of this definition by the regulations;

That is an extraordinarily broad definition. If one looks at the first limb, it includes relief from poverty, social disadvantage, social distress or hardship. My first concern is that this would give jurisdiction to the health complaints ombudsman to deal with important areas of community service such as Family and Youth Services or the Housing Trust, which is an extraordinarily broad range of complaints. If we allow the duplication, we will get confusion and a waste of public resources. If we do not allow the duplication, we get some confusion from complainants as to who they go to—the health complaints ombudsman or the state Ombudsman.

It is really important, particularly for people in the community who are concerned, upset and distressed about the delivery of services, that they know where to go. This definition is so broad that it will not fix that at all. Another question that I would like a response to is whether the minister is happy with this definition or whether this might have the effect of inadvertently causing double coverage or inadvertently removing things such as Family and Youth Services and the Housing Trust from the existing jurisdiction of the Ombudsman. If that is the case, how can that possibly be justified, given the extraordinary standing and reputation that the Ombudsman and his officers have in this state?

Another paragraph concerns a service for the provision of emergency support. That might include the police and our fire services. Again, I would like answers to the same questions as I asked in relation to paragraph (a). Nowhere in the world

are government agencies cut out of the Ombudsman's process. This is the first time in all the work that I have done in the past five or six years in the Legislative Review Committee that I have ever seen any example where a government has deliberately said that it wants to take a big slab of an ombudsman's jurisdiction away from him; yet there has been no justification for that. No statement that I have seen says that the Ombudsman has not been fulfilling the Ombudsman's responsibilities as currently charged.

I know there are criticisms about some people falling through the cracks, but that is not a criticism of the Ombudsman or his office. That is a criticism of the legal structures within which the Ombudsman operates, and he specifically referred to that issue, and he has referred to that issue consistently over the past number of years, and in that respect I have already quoted him in another area. Before seeking leave to conclude, I will deal with one other issue, and that is the use of the word 'ombudsman'. The term 'ombudsman' has a peculiar understanding in the eyes of the public, and I know that, if I asked ordinary members of the public what the Ombudsman is, they would think that he is the person who is charged with looking at making sure that government agencies and departments do not make mistakes with administration.

Unfortunately, over the years, the word has become bastardised. We now have a banking ombudsman who is a wholly owned subsidiary of the banking industry. We have an electricity ombudsman, who is a wholly-owned subsidiary of the electricity industry. I say that in the sense that they are funded by those bodies. I think it is vital that we protect and preserve the name of ombudsman to the Ombudsman: the state Ombudsman or the commonwealth Ombudsman. Indeed, ombudsmen at national conferences and in annual reports year after year complain about the bastardisation of the name 'ombudsman'. I congratulate the government because the government recognised this and I cannot see why the minister in this case has not when, in looking at the honesty and accountability legislation, he agreed to an amendment protecting the Ombudsman's name.

It seems to me that, having only a couple of days ago agreed to that protection, the government now wants to create a separate office. With those words and subject to a short concluding statement either tomorrow or Thursday, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

CONSTITUTION (GENDER NEUTRAL LANGUAGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 March. Page 1977.)

The Hon. R.D. LAWSON: I support the second reading of this bill. In doing so, I commence by commending the Hon. Diana Laidlaw for introducing it. Many might say that a bill of this kind is unnecessary because the fact is that women can stand for parliament, can hold office and have served with great distinction in our parliaments. However, as the Hon. Diana Laidlaw pointed out, it is necessary at the moment to look not only at the Constitution Act to see that but also to look at the provisions of the Acts Interpretation Act. The predecessor of the Acts Interpretation Act was a delightfully named South Australian act called the Language of Acts Act, no. 9 of 1872. That act provided:

> In any Ordinance or Act heretofore passed, or hereafter to be passed, unless there is something in the context repugnant to such construction, every word importing the masculine gender. . . shall be construed to include the feminine.

So, from 1872, at least, the word 'his' should be taken to include 'her' unless something in the context was repugnant to that construction. It is worth examining some of the legal history. Mary Cecil Kitson was the first South Australian woman admitted as a legal practitioner. In order for her to be admitted, the parliament had to pass a special act called the Female Law Practitioners Act 1911, but when Mary Kitson, the first South Australian solicitor, applied to be also a Notary Public, the court ruled that she was not eligible to be a Notary Public. The appointment as a Notary Public arises under the Public Notaries Act. Section 3 of that act provides:

> Every person who shall be desirous of obtaining an appointment to act as a Public Notary in the said Province (South Australia) shall apply by petition. . .

When Mary Kitson applied to be a notary, the court said:

> On the affidavit before the Court there can be no question as to the ability of Miss Kitson to perform the duties and exercise the functions of a Notary Public. The only question is whether the Court is, on account of her being a woman and not a man, able to so appoint her.

The court said with great wisdom:

> 'Person' is a word which, in its ordinary sense and in ordinary collocations with other words, includes both men and women.

But then the question posed by the court for itself was: does it include women in section 3 of the Public Notaries Act? After a great deal of legal analysis, examination of the Acts Interpretation Act and its predecessor, the Language of Acts Act, the court concluded that a woman could not be appointed. The court said:

> No woman has ever been appointed by this Court as a Notary, nor have I been able to discover that prior to the Public Notaries Act any woman ever practised here as a Notary. Nor have I found any reference to a woman so practising in England, notwithstanding the great antiquity of the office of notary there.

Although the parliament passed the Female Law Practitioners Act in 1911, it did not see fit 'to remove the disability which by the Common Law women are under with regard to filling the office of Public Notary'.

So, Mary Kitson was disappointed in her application. Notwithstanding the fact that she was a person, the court held that she was not, because of the context in which that section appeared, eligible to be a notary. It was required of this parliament to pass in 1921 an act that removed that disqualification. It also removed the disqualification from a woman being appointed as a justice of the peace, called the 1921 Sex Disqualification (Removal) Act. The next stage in this rather interesting legal history occurred in 1959. In that year there was to be an election on 7 March for the Central No. 2 district of the Legislative Council. Mrs Margaret Scott had been endorsed by the Australian Labor Party at its annual convention a couple of years before, in June of 1957, and Mrs Jessie Cooper had been pre-selected by the Liberal Party at the end of January 1959.

As I said, the election was to be held on 7 March but, one day before nominations closed and only three weeks before the election, a Mr Chapman, who had failed to gain LCL preselection in the Central No. 2 district, and a friend, Mr Ernest Cockington, launched a legal challenge to the women standing for the seat. These two men made an application to the court for an order directing that the returning officer reject the nomination papers of any woman as a candidate, and both

parties then endorsed an emergency candidate, Norman Young (later Sir Norman Young), who was nominated to fill that emergency role for the LCL. I do not know the name of the Labor candidate who was appointed.

The case came on for hearing, as you would imagine, at fairly short notice, and it was argued in the court for five days. The parties were represented by counsel: Dr Bray QC was for the challengers; Mr Roderick Chamberlain QC, then Crown Solicitor (later Sir Roderick Chamberlain), acted for the returning officer; Mr A. J. (Tacky) Hannan QC and Miss Jean Gilmour appeared for Jessie Cooper; and Don Dunstan, then a member of parliament, later premier, appeared for Mrs Scott. There was over five days of considerable argument. I think it is worth putting on the record what some of those arguments were. Mr Chamberlain, who was for the returning officer, submitted that there was nothing in the Constitution Act which suggested that women were disqualified from being elected to the Legislative Council. He pointed to sections 11 and 12 of the Constitution Act, which deal with membership of the council. The words used were 'member' and 'person'; in other words, gender neutral terminology. He said:

> The history of the Legislative Council shows that it is now and always has been since it became an elective house open to women.

He contended that right from the very beginning in 1855 or 1856 it was possible for a woman to be elected to the Legislative Council—not that anyone at that time had thought to nominate and notwithstanding the fact that women did not have the right to vote at that time.

Mr Hannan, on behalf of Mrs Cooper, submitted that there was no reason why, if women were competent to be members of the House of Assembly, they should not also be competent as members of the Legislative Council. He applied the Acts Interpretation Act, which deems that references to the male gender shall include the feminine. Mr Dunstan, like Mr Chamberlain, submitted that women always had the right to sit in the Legislative Council and that there was no disqualification. Dr Bray, on the other hand, said that if women had the right to sit in the Legislative Council it must have been given to them by the act of 1855. It was not expressly conferred. He submitted that, if it had not been expressly conferred, it could not have existed. He said that the case of Mary Kitson resolved the issue. After five days of argument, the court decided that it did not have jurisdiction to grant the order and that it should be resolved by a Court of Disputed Returns after the election, if, indeed, either woman was elected. The decision was handed down just days before the election was held.

There is a very interesting and entertaining account of this case in Helen Jones's book, *In Her Name*, which I am delighted to see was revised, updated and reprinted in 1994. As Helen Jones reminds us, the newly elected LCL government then introduced the Constitution Act Amendment Act which removed any possible doubt about the entitlement of a woman to stand for the Legislative Council.

The reason why I spend some time dwelling on this now somewhat arcane area of history is to remind the council and the parliament of the battles that have occurred over the years; of the fact that, notwithstanding language which, as early as 1872, had said that the masculine gender should include the feminine, there were always arguments.

Notwithstanding the fact that we have removed those arguments from our Constitution, fortunately, in 1959, it is still appropriate that our Constitution, which is the cornerstone of South Australian democracy, should be expressed in gender neutral language. It should say specifically what it means. There should be no room for misunderstanding. The Constitution is not some historic relic that we admire and keep in its pristine condition. It is a living instrument which ought to be updated continually. We are to have a Constitutional Convention later this year and it will be interesting to see whether in the process of that there are further updates to our Constitution. Certainly, the way in which it is expressed and the language which is used, it should not only say what it means but also send a message to the wider community that we as a parliament are interested in ensuring equality of the sexes in every respect.

The Hon. R.K. Sneath: What happened in 1959?

The Hon. R.D. LAWSON: In 1959, when Jessie Cooper was elected but Margaret Scott was not, there was no challenge because the government, as I mentioned, passed legislation which removed any doubt about the capacity of a woman to be a member of the Legislative Council. Having repeated the ending, once again I commend the Hon. Diana Laidlaw for introducing this measure.

The Hon. SANDRA KANCK: What the Hon. Diana Laidlaw is proposing in this bill is perfectly reasonable. That might be the problem with women. For so long they have been perfectly reasonable: sometimes they need to be a little unreasonable. I think it is insulting and patronising to be told that he means she and his means her, because I am not a he and I resent being asked to accept this at any time. Only the dominant group, which is men, would accept such a provision because it advantages them. One can imagine what men would say if we began using the words she and her and saying that they also mean he and his. There would be howls of protest. Yet women are expected to simply accept that they are subsumed in the use of male dominated language.

It is discrimination that is very subtle, but it is discrimination that continues to undermine the fact that it is still men who hold the cards in our society. In order to find what I wanted to say in this particular speech, I looked on the web. I was looking for a study which I read in 1975 but which I could not find. When looking at university sites, it was interesting that in almost every university—in fact, I could not find one anywhere—they did not have something at the beginning of the site explaining that they expected language to be gender neutral, that is, in Australia, the US, and anywhere I looked.

One of the things I came across was something called *The Bedford Handbook* by Diana Hacker. She refers to the early years of the women's movement when language was a hotly debated topic. She said:

> Many people, both men and women, felt there was nothing wrong with using he to mean he or she or with using words like mankind—and they resented being asked to change their ways. They argued that according to tradition everyone knew that such terms included women. Feminists attempted to expose the absurdity of this view with sentences like these:
>
> Man, like the other mammals, breastfeeds his young.
>
> Everyone should be able to decide for himself whether to have an abortion.
>
> In addition, feminists argued that sexist language has a powerful negative impact on women: it makes women invisible, reinforces stereotypical gender roles, and limits women's opportunities and even their aspirations.

I have mentioned this 1975 research that I have read and cannot find. I remember being particularly struck by it. I was at teachers college at that stage, studying children's literature, and I undertook, as a choice from one of a number of topics,

to look at the issue of non-sexist children's literature. Even my lecturer gave the view that there was no such thing as sexism in language. So, it was very interesting to read this research—and I wish I could find it, or at least remember who had written it—in which young children were asked to draw pictures to match words that they were given.

The children in one group were given gender specific words and others in another group were given words that were gender neutral for the same thing. For instance, one group was given the word 'mankind' and asked to draw a picture of mankind, and the other group was asked to draw pictures of human beings. They mixed this so that the children in one group did not get all gender specific terms or all gender neutral terms. Another example is that one group was given the task of drawing a picture of a policeman and the other group was asked to draw a picture of a police officer. This is back in 1975, and the children who were given a gender specific term—the one that was male based—always drew a picture of a man. Those who were given a gender neutral term at least some of the time included women in their drawings. So the use of language is very powerful.

Amongst many of the articles on the web about sexist language I came across some correspondence on a site where someone had asked for feedback about how people felt about sexist language in treaties, such as the NAFTA treaty. Somebody wrote back saying:

> I was recently reading a publication directed to import entrepreneurs. Although the publication claimed that such entrepreneurship is as open to women as to men, it went on to explain that in certain foreign countries it is unacceptable for a visiting importer to bring his wife along on business meetings. In a non-sexist business environment it might have been okay to say the importer's spouse should not be included in business meetings. This reference was clearly sexist. Women trying to make their way through public life are constantly getting the message through sexist language and actions that they are unwelcome.

I am sure that all women members of parliament—although perhaps my colleague the Hon. Kate Reynolds may be lucky coming in in slightly more enlightened times—have, at some time, received a letter inviting the 'Hon. So-and-so, MLC, and wife' to attend a function. I know I have. There is always that assumption that we are males.

The Hon. Diana Laidlaw: I still get things addressed to me as Diana Laidlaw and then 'Dear Sir'.

The Hon. SANDRA KANCK: Yes, I still get those, and it is usually a male who has written it, so I write back 'Dear Madam' in my reply. The point about MPs and their wives is that, clearly, women MPs do not have wives, although we very often opine that we would like to have one—in fact, we would very much love to have one because we know the advantages that wives bring.

We in parliament are behind the times if we continue to use language in this outdated way. Society has changed, and the language of parliament and the legislation that we deal with should reflect that. The Democrats are very pleased to support the Hon. Diana Laidlaw's legislation, and we applaud her for the initiative.

The Hon. DIANA LAIDLAW: I wish to thank sincerely all honourable members who have contributed to this debate. I thank them for dealing with this bill so promptly, because that is not always the fate of private members legislation, let alone government business. I also commend all who have spoken—the Hon. Carmel Zollo, the Hon. Robert Lawson and the Hon. Sandra Kanck—especially for the research that they have undertaken in addressing this bill. I think that some really interesting material has been put on the parliamentary record.

It was great to see members opposite listen and learn from the history that was unfolded by the Hon. Robert Lawson. The time of the court case seeking to bar the first woman ever to enter this place, the Hon. Jessie Cooper, is not a proud period in the history of the Liberal Party. That action, as the Hon. Robert Lawson said, was taken by a Liberal man seeking to prevent the Hon. Jessie Cooper's entry as the first elected woman.

So, we have moved further from that point but, as the Hon. Sandra Kanck has indicated, every day in our role as legislators and as men and women in our community we should, with great care, think about the use of language because it can bar opportunity for women simply by adding to the perception that women do not have the privilege of participating generally in society.

Certainly, I believe it is the goal of all governments to ensure that, whenever there is a rework of any act, it is returned to this place with gender neutral language, and I suspect that arising from the Constitutional Convention, at some stage this year or next year, major amendments will be proposed to the Constitution Act and at that time gender neutral language will be introduced. I was not prepared to wait that long. In fact, there are so many proposals proposed by the Hon. Peter Lewis which I do not support that I wonder in what form such a bill would have come to this place, if ever.

So, it seemed opportune, with my pending retirement, to address this issue, and I value the fact that members have dealt with it so promptly so that, pending its passage through the House of Assembly and with the Governor's assent, it will come into force immediately. I also want to put on the record my appreciation for the role played by the Hon. Steph Key as Minister for the Status of Women, who took this matter to the Labor caucus and obtained the agreement of the Labor Party and the Attorney that they would accept this bill as government legislation—

The Hon. R.K. Sneath: It wasn't hard.

The Hon. DIANA LAIDLAW: Thank you—to fast track this measure in the other place.

Bill read a second time and taken through its remaining stages.

ADJOURNMENT

At 5.46 p.m. the council adjourned until Wednesday 2 April at 2.15 p.m.