LEGISLATIVE COUNCIL

Tuesday 30 March 2004

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry, Trade and Regional Development (Hon. P. Holloway)—

Regulation under the following Act—
Motor Vehicles Act 1959—Demerit Points

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

South Australian Youth Arts Board Carclew Youth Arts Centre—Report, 2002-03
District Council By-law—Yorke Peninsula—
No. K—Boat Ramps.

COURT FEES

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a ministerial statement on court fee increases made by the Attorney-General.

QUESTION TIME

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question on the subject of the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: The Aboriginal and Torres Strait Islander social justice commissioner, William Jonas, made the following statement:

> In watching developments in recent weeks, (I have) been concerned at the scapegoating of the AP council by the South Australian Government for the significant problems in the way that it—that is the Government—has gone about addressing petrol sniffing issues over the past year.

He further said:

> The sheer number of interdepartmental and intergovernmental forums for dealing with issues such as petrol sniffing on the AP lands reads like a nightmare from a Kafka novel.

The Hon. T.G. Roberts: What is the article in?

The Hon. R.D. LAWSON: That is the statement of ATSIC social justice commissioner William Jonas, which was prepared for the launch of the 2003 social justice and native title reports. It is well known that the greatest proportion of financial assistance to the AP lands is provided by the commonwealth government and by commonwealth departments. My questions are:

1. Has the minister, since the announcement of the appointment of an administrator on 15 March this year, had any discussions at all with the federal Minister for Aboriginal Affairs regarding the announcement made by the government or about assistance from the commonwealth government to assist in the resolution of the problems?

2. Does he agree with Dr Jonas's criticism that there are too many interdepartmental and intergovernmental forums, task forces and the like?

3. Has the minister received any report to confirm that the five deaths that have occurred in recent weeks on the lands were, in fact, as a result of suicide?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): In relation to whether I have spoken to the commonwealth minister for Aboriginal affairs since the appointment of the coordinator, no; I have not. I had conversations with the minister when she first changed portfolios and picked up that of Aboriginal affairs. I raised with her the issues of the AP lands and the COAG trial. The minister was very friendly but very new. She asked a lot of questions about the state of play, the state's role and function and about some of the history of the COAG trial development.

Not having had a lot of luck with the previous minister, although he visited the lands and some of the communities, and as this minister was based in South Australia, we wanted to impress on her some of the issues that were raised. I expect that the federal minister took those on board, but there was no further follow-up to that visit. However, the position was to give a briefing to the federal minister on the work in progress. We will be engaging the commonwealth continually because of our shared funding arrangements and shared responsibilities.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Well, eventually we will get around to talking to the minister, but I understand that the Treasurer has spoken to her. It is a continual dialogue, and we prefer to work in a tripartisan way in relation to this important issue. I have stressed quite often in this council how important it is for the states, the territories and the commonwealth to work in unison on these issues. I share Mr Jonas's concerns about the way in which petrol sniffing has been addressed not only in the past 12 months but in the past 25 to 30 years.

The launch of the social justice report includes a lot of valuable information as to why some of the programs have not been successful. We have been trying to avoid many of the mistakes of the past of misdirected funding and programming and to ensure that ownership is taken of the issues by the Anangu themselves—in this case, in relation to the AP lands. There are issues associated with prevention, and the problems of those who are 'social' sniffers, if you like, those who have medium problems and those who have chronic sniffing problems need to be addressed. In some cases, the experts are out. In fact, simpler programs have been put forward by the Anangu themselves—and one I favour in relation to the prevention of early sniffers is to take them out bush to re-establish their connection to the culture. However, we certainly need cross-agency support for those who have been involved in sniffing over a long time.

I have reported to this council the fact that we will look at major problems associated with the health management of those people who have been affected by long-term sniffing and who will have mental problems that will need treatment for a long time, and the standing committee has picked up this issue. It is my view that we should spend our money on prevention programs and early intervention rather than spending it at the most expensive end, which is treating mental health.

The Hon. R.D. LAWSON: Sir, I have a supplementary question. There was, really, a failure to answer the question. Has confirmation been received that all five deaths were the result of suicide?

The Hon. T.G. ROBERTS: I apologise for not answering that question. The information that was given to me by the police officers involved was that there were four deaths: three by suicide and one which was, I think, undetermined but which could have been through natural causes—heart failure. In relation to petrol sniffing, sometimes the cause of death is separated from petrol sniffing, and I am told that, of the four deaths, three were sniffers. I have reported to this council that it does not necessarily mean that the suicides of the people concerned were caused by petrol sniffing, because the information required to link death by suicide with petrol sniffing is, I guess, tenuous. But the fact that three of the people who died were petrol sniffers raises the concern that there is a possible inherent causal link.

Again, I have reported—and it is my opinion—that the living standards of many of the young people who are involved in petrol sniffing, the depression that is caused by petrol sniffing and the fact that people turn to petrol sniffing to experience some mind-altering euphoria indicates that there are underlying problems within the lands that brings this about, and this is the same as the situation in our general community where drug and alcohol abuse and use is of growing concern to many health authorities. In this case, we hope that we can aggregate all our resources and all the intellectual property that resides in the commonwealth, state and, in some cases, local government areas so that we can deal with these problems in a coordinated way.

The Hon. R.D. LAWSON: Mr President, I have another supplementary question. Can the minister confirm whether, in addition to the four cases to which he referred, there has been a subsequent further death and whether that has been confirmed as a suicide?

The Hon. T.G. ROBERTS: If the honourable member is referring to the Mimili death, as reported to me, that involved a sniffer from another community (I think from the west, from Pipalyatjara) who died as a result of exposure due to the temperatures that are reached up in the lands. It could probably be shown (we do not yet have the report) as being as a result of petrol sniffing.

The Hon. NICK XENOPHON: Sir, I have a supplementary question. Does the minister support, and will the minister implement, a radical program to combat petrol sniffing based on the highly successful Mt Theo program in the Northern Territory, which was explained to delegates at the 2002 Drugs Summit?

The Hon. T.G. ROBERTS: We will be looking at all successful programs. A successful program is underway in Darwin at the moment, and there are some individual successful programs. We are looking at all options, and we are trying to involve a wide range of people to deal with petrol sniffing. What we realise from years of dealing with petrol sniffing is that we cannot drop the ball; we cannot, after putting in place government services, then turn our backs away from the community and say, 'Well, that is the job finished', because it appears that the job is never finished in relation to dealing with remote communities.

STATE ECONOMY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the state's economy.

Leave granted.

The Hon. R.I. LUCAS: On 22 March, the Minister for Education and Children's Services, in the House of Assembly, in reference to the state's economy, stated:

> We have come off a very high peak and the economy has slowed, related of course to the drought and the rise in the dollar.

On the following day, her ministerial colleague the Hon. Steph Key, Minister for Employment, Training and Further Education, stated:

> . . . there has been a slowdown in the economy, as there has been nationally. We have had a slowdown in employment growth.

My question to the minister is: does he agree with the views of his two ministerial colleagues last week that the state's economy has slowed?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The best way to determine whether or not the economy is slowing is to look at the statistics for economic growth. Unfortunately, those statistics become available only some time after the event. I have indicated in answers to previous questions that certainly, in relation to employment growth, there has been some decline, although there was very rapid employment growth over the first 18 months or so of this government. In relation to other areas of the economy, we know that there are some external factors that are imposing on this and other parts of the Australian economy, not the least being a couple of increases in interest rates; the housing market appears to be coming off a peak; and the Australian dollar has risen to very high levels, although it has fallen slightly in recent days and, from the point of view of exporters, I would hope that that continues.

There are a number of factors that are impacting upon our economy. I would think that the best measure is those growth figures, but there are a number of mixed performance indicators. However, against some trends, it is also true that there are signs that, particularly in terms of the capital investment, this state is doing very well. I think that there are some mixed signs but I really think that the appropriate minister to speak about that is the Treasurer who has responsibility for this area and, after all, the department has the information in relation to that.

Members interjecting:

The Hon. P. HOLLOWAY: Well, as I said, from the point of view of some of the investment indicators there are very promising signs.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the minister has now conceded that there has been some slowdown in employment growth, does the minister and his government accept any responsibility for that slowdown in employment growth?

The Hon. P. HOLLOWAY: As I said, there was actually a significant increase in employment growth in the early part of this government, far greater than that which occurred under the previous government. If one looks at the eight-year performance from December 1993 to December 2001, just prior to the election, there had been a very poor performance. I think that there was about 1 per cent growth compared to 16

or 18 per cent Australia-wide, but since then there has been significant growth, and it is continuing.

Just last week I read out the figures from the Bank SA Business Confidence surveys. The Bank SA state monitor found that there had been a significant rise in business confidence since late last year. As I said, the recent information has been rather promising. Sixty per cent of businesses in South Australia are confident that business conditions will improve over the next year, and 64 per cent of businesses are confident that their own businesses will benefit from the higher activity levels over the next 12 months.

Sectors such as construction, manufacturing and agriculture are benefiting from high levels of demand. Of course, the previous government was extremely fortunate. The only reason it was able to get even close at the last election was that it had freakish conditions in that it had far and away the best seasonal conditions—

Members interjecting:

The Hon. P. HOLLOWAY: Well, they were freakish conditions. It was the best crop ever in 100 years as a result of freakish conditions—the one in 100-year return. The economic boost in that year (2001) was the only reason why the previous government got close. That was the reality but, of course, as we know, we did have a significant drought in this country in 2002 which, obviously, has had an impact on some sectors of the economy. Of course, one should look at the recent statistics. I said that we have had that significant rise in business confidence since late last year, and that is what the Bank SA report says.

You do have these fluctuations in the economy. If you do go from the best season ever recorded in the country down to one of the worst because of a drought and then it picks up to a more average season you will have these fluctuations, particularly in a state where over 50 per cent of its exports come from the rural sector. As I said, the recent survey is good news for South Australia. There is optimism in other leading indicators, such as the ANZ job advertisement series, which shows that job advertisements in South Australia have been on the rise for nine consecutive months. They are now at their highest level for nearly four years.

Also, other surveys, such as the KPMG survey, found that Adelaide was the number one place in which to do business. This weekend, of course, is the Economic Growth Summit at which the participants will be in a position to report on what has been done over the previous 12 months to boost the state's economy. As I said—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, I have just indicated that the signs over the past 12 months, indicated in that Bank SA survey, are very positive. Economic statistics will always jump around the place, but the recent results of the Bank SA Business Confidence survey, and other surveys, indicate some positive news. This government is confident about the job it is undertaking in relation to managing the economy.

The Hon. J.F. STEFANI: As a supplementary question, does the minister concede that the increased impost of stamp duty on property transactions, which the Labor government has introduced and from which it expects to collect some $28 million over 12 months, has had a negative impact on the economy?

The Hon. P. HOLLOWAY: The housing sector, according to the statistics, is one of the strongest in the country so that, I think, it would be difficult to put the argument that stamp duty has been a deterrent. I would have thought that, if there had been any deterrent to the housing industry (not that there are signs of that), it would be increasing interest rates and the GST which are federal government responsibilities. They would have had a far bigger impact.

REGIONAL DEVELOPMENT BOARDS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about regional development boards.

Leave granted.

The Hon. CAROLINE SCHAEFER: The CEO of the Northern Regional Development Board has recently resigned to take up a position interstate. My questions to the minister are:

1. Is it true that the board was told that it was not to advertise that position as the Office of Regional Affairs was considering appointing someone to the job?

2. Is it true that, although it has now been allowed to advertise, the board has been informed that its selection may be overruled and that the Office of Regional Affairs may still appoint someone?

3. Does the minister agree that such an action is a complete travesty of the intent of regional development boards and, if carried out, will remove their autonomy and turn them into nothing more than pseudo public servants?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): Given the role that regional development boards play and the close relationship they have with local government, I really do not think there is any credibility in that last question whatsoever. I do know that the former head of that Regional Development Board has left to take up a position interstate. I am not aware of what action has been taken in relation to that position. I do know that one of the recommendations that came out of the economic summit was in relation to reviewing boards. I understand some action has been put in place in relation to fulfilling that particular recommendation. As to the details of the office in that northern part of the state, I will have to check to see what information was provided. If it had, I suspect it most certainly would have been before I took up this portfolio. I will check that.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. If the minister finds out that the allegations are correct, will he take steps to change that decision? Will he allow the boards to advertise for and appoint their own staff?

The Hon. P. HOLLOWAY: I did indicate that it is my understanding that there is to be some review in relation to one of the recommendations of the Economic Development Board in relation to—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It has been under way. In relation to that matter, I can only repeat the undertaking I gave, that is, I will go back and look at it. I am certainly not prepared to concede that that has been the case until I have had some report in relation to that matter.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. What is the minister's personal opinion of allowing the Office of Regional Affairs to

supersede and overrule the autonomy of regional development boards? Does he or does he not support it?

The PRESIDENT: Questions seeking opinion are not necessarily in order, but the minister can answer if he wants to.

The Hon. P. HOLLOWAY: It is a hypothetical question. On the information I am not prepared to concede that that is necessarily the case. It is really only an allegation by the honourable member. I will investigate the matter. I will not comment on a hypothetical question because, clearly, that is against the standing orders of this parliament.

TODMORDEN INDIGENOUS LAND USE AGREEMENT

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Todmorden ILUA agreement.

Leave granted.

The Hon. CARMEL ZOLLO: An article in *The Coober Pedy Times* dated 25 March 2004 is entitled 'Breaking new ground—Todmorden Station's historic agreement: something to be proud of'. The article states:

> After two years of negotiations the Todmorden Indigenous Land Use Agreement has been signed.

This agreement, according to the article, was signed on 14 March and more than 100 people attended a signing ceremony in the state's far north. Given this, my questions are:

1. Did the minister attend the signing ceremony?

2. Will the minister inform the chamber of the significance of this ILUA?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Along with the shadow minister for Aboriginal affairs (Hon. Robert Lawson), I did attend the signing of the Todmorden agreement. In fact, we travelled together but we did not return together. I returned with the honourable member's coat and we left the honourable member on another flight. They were soon brought back together the next day when we went to Port Augusta.

I have spent an inordinate amount of time of late with the honourable member, in a bipartisan way looking at issues impacting on Aboriginal affairs in a constructive way as opposed to some of the lines of questioning in relation to the AP lands. It does show that there is ground for us to agree on a range of issues, including the ILUA process itself. The ILUA process was started under the previous government and the negotiations around the Todmorden signing were long. The process itself brought together people who were able to reconcile their differences.

It is a good indication that the changes that are required for the redressing of many of the issues that face Aboriginal people today are being handled in a sensitive way by people within the pastoral industry, within government itself and the opposition and certainly with the Aboriginal people themselves embracing the process.

South Australia's first pastoral ILUA was history making. It was signed on Todmorden cattle station in our far north between Oodnadatta and Marla after two years of negotiations. This important breakthrough resolves many native title issues about grazing on the 7 000 square kilometre station, thereby providing greater certainty for activities by lessees and traditional owners.

There is an agreement between the Yankunytjatjara and the Antikirinya native title claim group. The Todmorden pastoral lessees are the Lillecrapp family and the state and it was tendered by the negotiating committee for the Yankunytjatara and the Antikirinya native title group. Members of the Lillecrapp family who operate the cattle station are the local pastoralists. Also, members of the South Australian Farmers Federation and many local Aboriginal people travelled for long distances to be there. The agreement is an important step in dealing with native title claims through negotiations, rather than litigation. We have seen probably the worst of those results with the Rose Hill outcomes. I think we have created an important outcome that hopefully will impact on future negotiations around ILUAs within this state.

ILUA sets out a process of communications. It also sets out rights and responsibilities. There is an understanding on how the lease and the pastoral activities will work and operate while respecting the rights of Aboriginal traditional owners and the ceremonies and the claims that Aboriginal people have in relation to the use of that land. It is put together by agreement.

The government is quite happy with the outcome that has been provided by these negotiations. We would be happy to see more indigenous land use agreements being settled through negotiations with stakeholders rather than going through the litigation process, but I would certainly like to thank all of the people who were involved: Douglas Walker, spokesperson for the Yankunytjatjara Antikirinya people native title group, Perry Agius and certainly the Lillecrapp family who put in a lot of time, energy and effort and were certainly very enthusiastic on the day of the signing. Everyone was quite proud of the achievements that both sides were able to make and respectful of each others' positions. We thank all those parties again, and we hope that there will be some more indigenous land use agreements in the future.

The Hon. R.D. LAWSON: I have a supplementary question. Is the minister able to advise the council whether there are any other indigenous land use agreements which are near to conclusion?

The Hon. T.G. ROBERTS: I will take that question on notice and bring back a reply.

BICYCLES

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, a question relating to bicycles carried on suburban trains.

Leave granted.

The Hon. IAN GILFILLAN: Several members of the public have approached me describing problems they have experienced in taking, or trying to take, their bicycle onto trains. Most of these are regular commuter cyclists and they ride their bicycles to and from their place of work each day. One constituent on some occasions, usually at the end of the week, will catch a train home with his bicycle to avoid the hill climb on the last stage. He would in these circumstances ride the train from Mitcham to Blackwood. Recently, he was barred from taking his bicycle on the train by a railway inspector. This, he tells me, is the first time it has happened to him in more than two years of commuting in this fashion.

My staff have followed up this inquiry and have been advised by TransAdelaide that there are two kinds of rail cars

in use, one which may safely carry four bicycles and a modified style which can safely carry 12 bicycles. My understanding is that this—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: Have you had personal experience, Mr Redford?

The Hon. T.G. Roberts: Riding down the hill but not up!

The Hon. IAN GILFILLAN: He gets on his bike often enough. It is my understanding that this line often has modified carriages running because mountain bikers like to catch the train to Pinera and ride downhill through Mitcham council parks back to the railway station. It is also my understanding that Mitcham council is looking to encourage this by increasing the number of appropriate paths.

It is legitimate to restrict the access of cyclists in a situation where a railcar is crowded and the bicycle would block access for other passengers, or where the car already carries the legal number of bicycles on board. So it was an unhappy surprise to get another message today from a constituent, who stated:

> Last night, a woman I know was one of two people with bikes wanting to board a Belair-bound train from Mitcham. The other was a lad in his mid-teens. She was allowed on but the lad was prevented from boarding. Once on the train—

Members interjecting:

The Hon. IAN GILFILLAN: Yes, there are appropriate cries of sympathy. I know that opinion is not to be expressed, but I cannot resist. My constituent continued:

> Once on the train, she found that she was one of only three cyclists in a half-empty carriage.

It appears clear that it is not TransAdelaide staff endorsing the rules for safety but for some other motive entirely. As the minister has initiated and encouraged cycling as a means to a fit, healthy lifestyle, I ask:

1. Why are TransAdelaide personnel turning away cyclists, especially as cyclists pay an extra fare for carrying their bicycles on a train at peak times?

2. What steps will the government take to prevent cyclists from being singled out for what appears to be heavy-handed treatment?

3. What plans does the government have to increase the number of modified cars to carry extra bicycles so that all rail users feel encouraged to travel in this environmentally sound manner?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will endeavour to get an answer from the Minister for Transport and bring back a reply for the honourable member.

CLIPSAL 500

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, questions regarding public transport and the Adelaide Clipsal car race.

Leave granted.

The Hon. T.G. CAMERON: The recent Adelaide Clipsal motor race was, by all accounts, a great success. Early reports suggest that up to 200 000 people attended, many from interstate and overseas, with the resultant benefits flowing into our state economy. At a time when the state government and the Adelaide council are promoting a more sustainable future and trying to encourage more people onto public transport, it was disappointing to see that TransAdelaide saw fit to provide additional early bus, tram and train services on the Sunday only. Many thousands of people were forced to get to the races on the other days by car or other means. My questions are:

1. Considering the number of people who were attending this year's Clipsal car race, why did TransAdelaide not provide additional early bus, tram and train services for the Friday and Saturday?

2. Will TransAdelaide undertake a review of its operations in relation to the Clipsal car race and other major events to ensure that the needs of patrons are taken into consideration for next year's race?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will take that question from the honourable member and get a reply from the Minister for Transport.

HOLDFAST SHORES

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question on the topic of Holdfast Shores.

Leave granted.

The Hon. A.J. REDFORD: Last month I asked a series of questions of this minister concerning Holdfast Shores, all of which remain unanswered. The questions included whether or not he saw the developer's lawyer's legal opinion as to whether the development was a hypothetical development and whether there is legal advice that says the developer has an entitlement to develop the site. The questions concerned issues regarding conflicts of interest and also the status of legal advice put in the cabinet submission. I also note that one of the developers has been active of late in making political donations to the Labor Party, donating over $40 000 to the ALP since April 2001 and over $30 000 since January 2002.

Documents provided to me under FOI raise a number of issues regarding the development and the material that the minister had prior to the cabinet decision in January this year. They are as follows:

- minister Weatherill extended the size of the development on 17 July 2002 when he had a conflict of interest;
- Planning SA acted as both design adviser and planning assessor under minister Weatherill's supervision from August last year—a further conflict of interest;
- minister Weatherill was told he had a conflict of interest in August last year; and
- minister Weatherill told ABC presenters Bevan and Abraham 'Well, that's right. It's a genuine process of consultation' in regard to this development in December last year, despite minister Weatherill's assurance to the ABC that it was a genuine process of consultation.

The minister received the following advice in October last year:

> In this regard, you may consider the possibility of a public meeting during the exhibition period. Whilst not a statutory requirement, you as minister can request the proponent to consider participating in a meeting organised by Planning SA. The meeting could also draw criticism of the government, as it has indicated support for the proposal through DAIS.

The minute continues as follows:

> Given a public meeting will provide a forum for media and public controversy, Planning SA suggests not to conduct a meeting.

The urban design section recommended changes to the project, describing parts of the project as being out of keeping with the Moseley Street frontage, 'anodyne' and reducing

public access, and it recommended increased landscaping. Finally, an opinion was sought from crown law, when Planning SA questioned the validity of the opinion of Stephen Walsh QC, because it overlooked the fact that the Magic Mountain site was being used for stormwater disposal. In that respect, the project was described as lacking quality and it was stated that there was 'an imbalance in the quality of the proposed solution and the obvious status and kudos imparted by the location'. The minister undertook the assessment of this development and, in the light of that, my questions are:

1. When will we get answers to questions asked on 26 February this year?

2. Why did the former minister for urban development and planning extend the size of the development when he had a conflict of interest?

3. Why was Planning SA allowed to get into a conflict of interest, being both design adviser and planning assessor, in this project?

4. Why was minister Weatherill's promise to David Bevan and Matthew Abraham—namely, that there would be a genuine process of consultation—broken?

5. Why was a project described by the minister's own department as lacking quality in Adelaide's premier site approved by the minister and cabinet?

6. Did crown law give the cabinet an opinion on whether Stephen Walsh QC's opinion was correct?

7. Can the minister assure us that crown law's opinion supported Mr Walsh QC's opinion?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take question 1 on notice and follow up as to where the replies to those questions are in the system and bring back a reply. I will refer questions 2 to 7 to the minister in another place and bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question arising from the minister's answer. Does the minister have any recollection of considering any issue in relation to this approval?

The Hon. T.G. ROBERTS: Questions 2 to 7 were directed to another minister, and they will be referred to the minister in another place. In relation to the first question, those questions were put on notice and they will be replied to in due course. In relation to my position in cabinet, I cannot answer any questions relating to the cabinet process or discussions that were held inside cabinet.

The Hon. A.J. REDFORD: I have a further supplementary question. In the light of that answer, is the minister now saying that he acted only as a postbox in relation to this matter and did not exercise any discretion of his own in dealing with it?

The PRESIDENT: The minister has said that he will not discuss his cabinet responsibilities.

The Hon. A.J. REDFORD: I have asked the minister a question.

The Hon. T.G. ROBERTS: I have made a commitment to question 1 relating to the questions asked previously by the honourable member in a similar vein. I have said that I will refer the other questions to the minister responsible in another place and bring back a reply.

The Hon. A.J. REDFORD: Mr President, I have a further supplementary question. Does the minister now agree with me that the whole process of referring the matter to him as a consequence of an alleged conflict of interest was a sham?

The Hon. T.G. ROBERTS: It was a cabinet decision—a cabinet process.

The Hon. J.F. STEFANI: Will the minister advise the council whether any member of cabinet at any stage had a financial interest in the project by way of purchasing a unit or an apartment and, if so, when did that occur? Has any member of cabinet ceased to have an interest in the project and, if so, when did that occur?

The PRESIDENT: There is a series of questions there which are not necessary to the answer and which are capable of being answered in a number of ways. The minister can answer the questions if he wishes, but it is pushing it. It is up to the minister.

The Hon. T.G. ROBERTS: I can only indicate that I did not have a financial interest in any of the matters raised by the honourable member. I cannot answer on behalf of other members. I have given a commitment on the other matter.

RAIL TRANSPORT FACILITATION FUND

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Transport, a question about the Rail Transport Facilitation Fund and South-East rail.

Leave granted.

The Hon. D.W. RIDGWAY: On 12 December last year the then minister for transport (Hon. Michael Wright), in a press release and in an interview on South-East radio, discussed the announcement that morning that the government had rejected the tender by Gateway Rail to operate the reopened South-East rail corridor. Last year when the Auditor-General's Report was tabled in parliament the Rail Transport Facilitation Fund had a balance of $6.15 million. I recently received an answer to a question that I asked late last year. The question was: 'For which projects does the minister intend to use the $6.15 million remaining in the transport facilitation fund?' I received an answer last week, on 22 March, some three months after asking the question. The answer was as follows:

> The government has made provision for $8.4 million to be spent from the Rail Transport Facilitation Fund (some $2.25 million more than is in the fund) on the South-East rail project.

In the light of this, my questions are:

1. What is the exact nature of the new South-East rail project, given that the minister announced on 12 December that the government had rejected the tender process?

2. What assets are to be sold, or what funding stream is to be used, to bring the balance of the transport facilitation fund up to the $8.4 million allocated for this new South-East rail project?

3. Given that the current railway is in such a state of disrepair (I recently observed some gum trees 20 feet high growing out of the railway line), when does the government anticipate commencing work on the South-East rail project?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer that question to the Minister for Transport in another place and bring back a reply.

WATER CONSERVATION

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs

and Reconciliation, representing the Minister for Administrative Services, a question about water conservation.

Leave granted.

The Hon. G.E. GAGO: The introduction of water restrictions in July 2003, followed by the introduction of permanent water conservation measures in October 2003, heralded a serious commitment on behalf of the state government to conserve our most precious resource. Can the minister advise the council how water restrictions and conservation measures have had an impact on Adelaide's water consumption?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question. I am advised that Adelaide's water consumption for the period July 2003 to February 2004 was 123.9 gigalitres compared to 150 gigalitres for the same period last year. This level of consumption represents a reduction of 17 per cent compared to last year; it also is a reduction of 10 per cent on average consumption for the past 10 years. Members can see that it is significant. Water savings achieved so far clearly demonstrate the positive response of the community towards water conservation, including my two small children who I tell to get out of the shower quickly or else the birds and the fish will be affected, so they jump in and out as quickly as possible.

Research undertaken late last year and earlier this year shows a high level of awareness about permanent water conservation measures. Most householders said they used less water than at the same time last year, and they had a high level of support for each element of the permanent water conservation measures, including sprinkler restrictions. In fact, 41 per cent of people indicated that they were planning to install more water efficient devices in their homes and, in this regard, members are reminded that rebates for water-saving devices are still available (this is an unpaid advertisement) until 30 June 2004.

The scheme offers rebates on water efficient shower heads, flow restrictors and tap timers, which the Democrats have been promoting and this government has been promoting and using for a long time. Despite the good results to date, we cannot afford to be complacent. As the cooler weather approaches, reductions in consumption need to be maintained if we are to make long-term changes in the amount of water we consume and to reduce the state's reliance on the River Murray.

HOUSING TRUST

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Housing, questions about the sale of Housing Trust properties.

Leave granted.

The Hon. KATE REYNOLDS: On 4 March this year, *The Advertiser* published a story about the Housing Trust planning to sell off 2 000 high value properties in the city, Marion and Modbury areas to reduce debt. The claim was denied by both the former housing minister and the Treasurer. However, my office has been informed that this sell-off was, in fact, the basis of a submission by senior Housing Trust staff to the then housing minister, intended to raise $400 million to reduce debt by half and to free up $30 million a year that could be used to build new homes. I understand that this sale is now back on cabinet's agenda following discussions at a cabinet sub-committee which apparently did not reject the sell-off. I also understand that there is an agreement between the state stakeholders, including Treasury, that Commonwealth-State Housing Agreement funds of between $20 million and $75 million were transferred to other parts of the Department of Human Services but not spent and are now available to be returned to housing.

Recently the Housing Trust sold two stone houses in Mile End for $400 000. These houses blended in with the local community and were not obviously trust homes. Concerns have been raised with me that, as demonstrated by those sales mentioned, there is a campaign to sell 'normal' houses and further stigmatise those who live in 'typical' trust homes. Representatives of the housing sector have told me that they are concerned that the government has not acknowledged that many disadvantaged people need to live near the city and services rather than in the outer suburbs. They say that they are concerned that profits from the sales would result in all new building activity being forced to the outer suburbs instead of in or near the city. My questions to the minister are:

1. Given that the Treasurer has quarantined $30 million of CSHA funds to cover trust risks, why does the trust need to sell a significant portion of its assets within the next year or two?

2. If the trust sells its high value inner metropolitan properties, how does the minister believe the trust will be able to buy back into those areas in the future?

3. Other than the 605 homes expected to be sold this financial year, will the minister rule out the sale of 2 000 homes in the near future?

4. Is the minister planning a media campaign to accompany the sale of Housing Trust homes?

5. Why has the release of the state housing plan been delayed for, so far, more than six months?

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

The Hon. J.F. STEFANI: As a supplementary question, will the minister advise whether any homes are due to be sold in the Gilberton, Walkerville and St Peters areas?

The Hon. T.G. ROBERTS: I will refer those questions to the minister in another place and bring back a reply.

LOTTERIES COMMISSION

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Deputy Premier, questions about the Lotteries Commission.

Leave granted.

The Hon. NICK XENOPHON: I note that several years ago the Lotteries Commission entered into a commercial relationship with Gtech, an American company that provides software and computerised gambling systems for lottery terminals and games, such as Keno, including designing such games. A report earlier this month in the *Boston Herald* reports that Gtech Holdings Corp said that it had entered into a licensing arrangement with Hasbro Inc., the game board company, and that Gtech said that it planned to launch Monopoly and Battleship electronic games to be played on lottery terminals in the United States. Concerns have been raised by anti-gambling groups in the US that such games

would target the youth market and impact on problem gambling. My questions to the minister are:

1. Is he aware of any plans by the Lotteries Commission to offer new products, particularly Keno, based on popular family board games?

2. What protocols and procedures does the Lotteries Commission have in place to vet new products for their potential impact on problem gambling and to ensure that such games are not targeting (even inadvertently) youths and underage gamblers?

3. What independent assessment currently takes place on new lotteries products and their potential impact on problem gambling?

4. Will the minister support an increase in the age for buying Lotteries Commission products from 16 to 18, in line with other gambling products?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Deputy Premier in another place and bring back a reply.

SOUTHERN SUBURBS INFRASTRUCTURE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Minister for Urban Development and Planning, a question about southern suburbs infrastructure.

Leave granted.

The Hon. T.J. STEPHENS: The minister recently placed a temporary hold on large new subdivision releases in the Aldinga and Sellicks Beach district on the basis of ensuring that vital infrastructure for the area will be met and provided for future expected growth. Members will be aware that the current state of infrastructure in the southern suburbs is totally unacceptable and has been the focus of much attention in the local media. I understand that the Office for the South and Planning SA have discussed the need for a school in that area, but that the school will probably not be operational until at least 2007, possibly 2008, and that there is no firm date for health and human service provisions in that area in order to address the current lack of infrastructure. My questions are:

1. Will the minister give a time line by which he expects the infrastructure to be sufficient to allow the new subdivisions to be released in the Aldinga/Sellicks Beach area?

2. Will the subdivisions be released only if there is excess capacity in existing infrastructure, given the minister's desire to meet the needs of expected future growth?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I will refer those questions to the Minister for Transport and Urban Planning in another place and bring back a reply.

HOUSING TRUST

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Housing, a question about the South Australian Housing Trust.

Leave granted.

The Hon. A.L. EVANS: Recently a member of the community wrote to me and raised questions concerning public housing availability in South Australia. She expressed concern at the current trend of the South Australian Housing Trust of privatising funds away from purchasing new properties to providing applicants with bond assistance to access housing in the private rental market. Along with her letter, she attached an article which was published in the *Leader Messenger* of 18 February 2004 and which made mention of issues currently facing the New Zealand government. The article stated that, during the 1990s, the New Zealand government reduced its public housing stock by a considerable amount and instead allocated funding towards providing bond assistance to assist applicants to access the private rental market.

The result, I understand, was devastating. Many New Zealanders who have no alternative found that they had to share accommodation with others, because the costs were too high. The overcrowding led to problems in regard to public housing, including the outbreak of diseases such as meningococcal because the condition of the houses in the private rental market were substandard.

In an article published in *The Advertiser* of 11 March 2004, in response to claims from the opposition that the state government had a firm proposal to sell 1 500 high value Housing Trust properties in Stow Court, Fullarton, the housing minister said that discussions in respect of the future of the site were at a preliminary stage. My questions are:

1. Would the minister advise whether the government intends to sell all the Housing Trust properties at Stow Court, Fullarton?

2. If not, would the minister advise what the government intends to do with the site?

3. Would the minister advise the number of applicants assisted and provided with a bond to access private rental properties for the period July 2000 to June 2003?

4. Understanding that in March 2000 the South Australian Housing Trust introduced changes to the management of its waiting list, would the minister advise how many applicants on the waiting list categorised as priority 1 or 2 decided to apply for bond assistance to access the private rental market for the period 1 July 2000 to 30 June 2003 rather then remain on the waiting list?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and reconciliation): It is true, inherent in the honourable minister's question, that the movement of commonwealth funding for state housing providing vouchers or subsidies for people to go into private rental has hurt a lot of people, and certainly the policies that the states have to administer has made it much more difficult for people to find emergency housing as most landlords are not attracted to those people who either do have large families or have difficult circumstances. There are a lot of social issues associated with housing and housing matters. I will refer those questions to the minister in another place and bring back a reply.

REPLIES TO QUESTIONS

SCHOOL LEAVERS

In reply to **Hon. J.F. STEFANI** (18 February 2003).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

The Department of Education and Children's Services does not systemically collect data on the school leaving intentions of 15 year olds.

However, as at August 2003, enrolment figures for 15 year olds in 2003 were approximately 500 higher than the estimates in place prior to enactment of the legislation to raise the school leaving age

to 16. Apart from the classroom teachers and support staff that the extra 15 year olds have needed, the State government has also appointed 80 student mentors in 45 high schools for 15 year-olds 'at risk' of leaving early under a new $2 million initiative introduced last year.

This State government is committed to tacking social exclusion and disadvantage at its most fundamental level. Raising the school leaving age to 16 is about making sure that students are best prepared for their lives after school. It is a fact that adolescents who drop out of school early are at greater risk of ending up on welfare, in low-paid unskilled work, or on the streets, on drugs or involved in petty crime.

Engaging young people in school, reducing absenteeism and improving school retention rates are key priorities for this state government. To achieve this, a $28.4 million action plan has been put in place to increase the number of South Australian students completing 12 years of school. This action plan aims to make school more relevant to those students who are in danger of dropping out.

The four-year action plan includes:

- $13 million to help early school leavers, young offenders and those being frequently suspended or excluded to get back into learning. A mobile team of teachers, youth workers, family practitioners and mental health workers will assist school counsellors and 80 new Student Mentors who will work with young people who fall into this category.
- $7.5 million will fund initiatives in areas with some of the worst retention rates in the state. Schools, businesses, local councils, community groups and government agencies will come together as I-CAN! networks to find local solutions to barriers to learning. These might include school-based child care for young mums, life skills programs or student mentoring from local business identities.
- $1.2 million will be provided for community-based activities such as being a volunteer with the CFS or Surf Life Saving will count towards achievement of the secondary education certificate. This 'school without walls' initiative will recognise valued learning that takes place outside the classroom. More young people will be encouraged to volunteer in their communities and become involved in community planning and decision-making.
- $5.3 million is allocated to address the outcomes of student-run forums to be held across the State as part of the investigation into ways to make schools and the subjects offered more interesting, fun and relevant to young people's lives.
- $1.4 million for accommodation and summer holiday mentoring programs will be provided to some aboriginal students studying SACE as part of efforts to help them complete school. Programs run by schools already excelling in the area of Aboriginal education will be spread across the system.

In addition, the State government's new Futures Connect Strategy is supporting students to complete Year 12 (or vocational equivalent) and successfully negotiate their transition to adult life. Through this Strategy, state students receive an individual transition plan for moving through school and beyond, and those who require it will be offered on-going support after they leave school.

The transition brokers and VET coordinators employed under the Futures Connect Strategy also work with 80 student mentors appointed last year.

The student mentors each work with around ten 15 year olds at risk of disengaging from their schooling to provide the required support, encouragement and planning to help the students to strive for success.

A number of new subjects will also be offered to year 11 and 12 students at South Australian schools from 2004, including Extension Studies, a ground-breaking concept which will allow students to intensively study an area that interests them.

As well, two new vocational education and training subjects are being added—business services and financial services—bringing the total number of VET subjects to 13, up from the 3 VET subjects offered by the previous government. A host of vocational pathways are now available to students in our State's schools, which open a whole new range of opportunities to the modern-day student so they are able to meet their individual needs.

BIKIE FORTRESSES

In reply to **Hon. R.D. LAWSON** (23 October 2003).

The Hon. P. HOLLOWAY: I confirm my statement of 23 October that, at the time I answered the honourable Mr. Lawson's original question on 21 October, neither I, nor the officer advising me, was aware of any pending application for development that could have been subject to the new provisions of the Development Act had the legislation commenced at that stage.

I am advised that the application for development approval referred to by the Attorney-General was made to the City of Charles Sturt on 23 September. However, the officer concerned was not made aware of this application until the evening of 21 October, some five or six hours after my statement to this place. I was not made aware of the application until 23 October.

The City of Charles Sturt has advised that this new application related to premises located in Chief Street, Brompton, premises that were the subject of an earlier successful application for development approval. The Government understands this earlier application lapsed, no development having been commenced within the prescribed time.

EXPORTS

In reply to **Hon. R.I. LUCAS** (24 February).

The Hon. P. HOLLOWAY:

1. The newly formed Export Council is currently developing an export strategy to be completed within the next few months. The recommended strategy will then be subject to Cabinet approval before its release. I will provide Parliament and the Opposition with a copy of the State's Export Strategy as soon as it is available.

2. Recommendation number 48 of the Economic Development Board's (EDB) 'A Framework for Economic Development in South Australia' stated:

> 'Industry move quickly to establish an Export Council as the peak industry body to lead the development and implementation of the South Australian export strategy with representatives from industry bodies, trade unions, export champions and, in particular, small and medium businesses.'

As the lead minister now in this matter, I will be responsible for ensuring that this recommendation is acted upon.

The Export Council, comprising senior industry representatives, has been established and is working, as a priority, towards completion of a State export strategy, for consideration by Government.

Consistent with the EDB's recommendation, the Government took steps necessary to initiate development of the State's first-ever export strategy by the Export Council. Following its consideration, South Australian industry and exporters will work in partnership with the Government and the EDB to implement the strategy.

YOUTH OPPORTUNITIES PROGRAM

In reply to **Hon. A.L. EVANS** (19 March 2003).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

1. Yes, I am pleased to hear anecdotal reports that the Youth Opportunities Program has been successful in raising the self-esteem of students and improving their motivation.

2. The local management of a school may provide the Youth Opportunities Program for their students if they consider it appropriate to do so. The schools global budget would then be used to fund the Program.

At Craigmore High School for example, Youth Opportunities will provide four intensive 10-week programs to develop the personal skills, self-esteem and planning skills of up to 80 year 10 students to help the school in its drive to improve student performance.

Youth Opportunities have worked with a number of State Schools in the past and representatives from my Office have met with Youth Opportunities to explore ways of furthering its partnership with schools.

3. As with Youth Opportunities, if the local management of a school considers it appropriate to provide a program from a private organisation, schools may then use funds from their global budget. The State Government is supportive of organisations with objectives that are shared with this Government.

The State Government is committed to improving student attendance and improving school retention rates.

In October with the Premier, I announced a $28.4 million action plan to increase the number of South Australian students completing 12 years of school. Government programs such as the Student Mentors Program and the Futures Connect Program have been put in place to provide students with additional support to help them finish high school and find a suitable pathway for further education or employment.

4. Statistics that demonstrate the success of an organisation in assisting students to complete high school and enter employment or further education may be available from the individual organisation concerned.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from February 25. Page 1099)

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank honourable members for their support for this bill. The government has acknowledged that this bill is not intended as a complete review of the parole system. The second reading clearly states that the government's objective was to achieve a review of those matters which were of major concern to the government and the community. It may be that other matters will be dealt with at a later date.

The review was conducted by Mr Warren McCann, chief executive of the Department of Premier and Cabinet. The report was not presented as a stand alone report but rather in the form of a draft cabinet submission recommending amendments to the act. The Hon. Mr Lawson questioned the credentials of Mr McCann to undertake the review. For those members who are unaware of his background, I advise that, before coming to South Australia, Mr McCann was the chief executive of the department of justice in Victoria and in that capacity was responsible for correctional services. Given his background and experience, the government is confident that Mr McCann has a good understanding of prisoner management and parole.

During the review process, discussions were held with the secretary of the Parole Board of South Australia, the parole boards of Victoria, the Australian Capital Territory, New South Wales, the Northern Territory, Tasmania, Queensland, Western Australia and New Zealand. Information was also provided by the Commissioner of Police. The bill was formally sent to the chair of the Parole Board before it was settled for introduction. The Hon. Mr Lawson requested details of the resources that have been allocated to enable the board and the department to satisfy the additional responsibilities and the inquiries that were made of the board and the department about the workload required to discharge those additional responsibilities.

The requirements are being discussed with the board and being considered by government. The Hon. Mr Lawson has foreshadowed amendments, which he will move in the committee stage. He also queried the amendment in relation to section 67(4)(c). The current provision allows the Parole Board to take into account the gravity and circumstances of the offence, 'but only insofar as it may assist the board to determine how the prisoner is likely to behave should the prisoner be released on parole.' The Hon. Mr Lawson is concerned that this could have the affect of allowing the Parole Board to, in effect, resentence the accused, which is not the intention. The government accepted the position put in the review that there may be times when it would be necessary or desirable for the board to have regard to the gravity of the offence, etc., in reaching a view in respect of that release, including, for example, the likely effect of release on a victim.

It was thought that an argument could be put that the retention of the words 'but only in so far as it may assist the board to determine how the prisoner is likely to behave should the prisoner be released on parole' would preclude this. It is not intended that the board would second guess the sentencing court. Rather, it is intended when making a decision on parole that the board should be able to take into account all relevant information.

The Correctional Services Act sets out rules for the release of prisoners. It adopts different approaches depending on the period of imprisonment for which a prisoner has been imprisoned. The Parole Board is required to release prisoners sentenced to less than five years within 30 days of the expiry of the non-parole period. The Parole Board has no discretion to refuse parole for this group of prisoners. The government's bill would result in prisoners serving sentences for sex offences being excluded from section 66. Other classes of offence could also be excluded by regulation.

The Hon. Mr Gilfillan suggested that the amendments to section 66 should go further so that automatic parole is removed altogether. This would mean that the Parole Board would be involved in decisions in relation to the release of all prisoners, or all persons subject to a non-parole period. This position would have significant practical problems for the operation of the board. I understand that at the current time, as a rough guide, approximately 720—

The Hon. Ian Gilfillan: They asked for it.

The Hon. T.G. ROBERTS: Who asked for it? The prisoners? I understand that at the current time, as a rough guide, approximately 720 prisoners would be serving sentences of five years or less. It is likely that a very large number of these would therefore be affected by the Hon. Mr Gilfillan's amendment.

In terms of the possible ongoing effect, I am advised that the Parole Board deals with approximately 130 applications for release each year, which usually involve a personal appearance before the board as part of a formal hearing to enable a decision on release to be made. Currently, approximately 600 people get automatic parole each year. The Parole Board sets conditions of release for such prisoners, but the process does not usually involve an appearance before the board, nor does it require the preparation of detailed reports or much consultation with specialists.

I am advised that any need for an additional 600 or so people to appear personally before the board in a formal hearing process with the associated preparation of more detailed reports would represent a significant increase in workload for the board and the department and would require significant reworking of how the board operates and is structured.

The Hon. Mr Redford queried the limitation to sexual offences and posed an example where the nature of the offence that is committed may be preparatory to or associated with a sexual offence, although not strictly falling into the category of a sexual offence. It is true that if the offence committed does not fit within the definition of sexual offence included in the bill automatic parole would apply to the prisoner unless a regulation is promulgated excluding a prisoner of that class from the operation of section 66.

The Hon. Mr Gilfillan queried the meaning of the word 'paramount' in clauses 11 and 12. In general terms, the 'paramount' consideration would be the most important or

chief consideration of a number of potentially competing considerations that may have to be taken into account in reaching a decision. The term is used in several pieces of legislation, including the Children's Protection Act and the Guardianship and Administration Act. The New Zealand Parole Act provides that the most important consideration for the New Zealand board is community safety. New Zealand is getting a bit of a flogging today.

In a judgment of the Full Court in 2000 in CLT v Connon & Ors, Justice Gray, in looking at the term 'paramount consideration' in the context of the Children's Protection Act, stated:

> As the child's interests are paramount, other interests in conflict or potentially in conflict are subordinated to that paramount interest.

The phrase 'the safety of the community' is already included in legislation, for example, in section 269S of the Criminal Law Consolidation Act. The court has held that the section recognises the safety of the community as outranking other matters to which the court will have regard in the making of discretionary orders.

The Hon. Mr Gilfillan has filed a set of amendments aimed at removing the role of the Governor in decisions on parole for persons serving life imprisonment so that the Parole Board would be given responsibility for release of these prisoners on parole. The government will oppose these amendments. In South Australia, convention dictates that the matters are referred to the Governor by Executive Council. Therefore, in making a decision on the recommendation of the Parole Board, the Governor acts on the advice of Executive Council. In advising the Governor, Executive Council need not and should not merely act as a rubber stamp to a Parole Board recommendation. The act provides that prisoners serving sentences of life imprisonment can only be released if the Parole Board so recommends and Executive Council confirms that recommendation. That is how the act is intended to work. The current procedure was included in the act because it was argued by the government of the day that it was more acceptable to the general public that the government be accountable for the release of such prisoners back into the community. This government agrees with that approach.

The Hon. Mr Redford has expressed concern at the role of the government or Executive Council in relation to the Parole Board's decisions and suggests that the government should be obliged to disclose reasons for its decision. The Hon. Mr Lawson has also advised that he intends to move an amendment to require the tabling in parliament of the reasons for the approval or disapproval of parole by Executive Council. The Hon. Mr Lawson suggests that similar legislation applies in Western Australia.

Under section 14 of the Western Australian Sentence Administration Act 2003, when a parole order has been made by the Governor in Executive Council in respect of a prisoner being detained in strict safe custody (that was the old Governor's pleasure provision), the minister must cause a copy of the parole order and a written explanation of the circumstances giving rise to the order to be tabled in parliament. There is an identical tabling requirement under section 26 of the act when a parole order is made by the Governor in Executive Council in respect of a prisoner serving strict security life imprisonment. Neither of these provisions requires tabling of any information when the order has not been made.

The Hon. Mr Redford queried the level of remuneration for Parole Board members. I am pleased to advise that cabinet has recently approved increases in the remuneration payable to the board. The new remuneration structure incorporates an allowance in recognition of the need to attract and retain members of the calibre required for the proper operation of the board. The Hon. Mr Redford also inquired about the registration of victims. When a victim reports an offence to the police, the receiving officer is required to give the victim a copy of the Information for Victims of Crime book. To encourage the police to comply with this requirement, the Commissioner of Police has instructed officers to record on the police crime reporting system whether or not they gave the victim a copy of the book and, if not, the reason for not doing so. The book covers, amongst other things, victims' rights as per the declaration of principles governing the treatment of victims in the criminal justice system (part 2 of the Victims of Crime Act 2001). The book has also information on the Victim Register and the Parole Board.

The Victims of Crime Coordinator maintains a web site with information on victims' rights and contact details for government agencies and non-government organisations that help victims. The Victims Services Unit in the Department of Correctional Services also produced a pamphlet that explains the Victim Register and gives information on how to obtain an application form to register as a victim on the Victim Register.

The Hon. Mr Redford has queried the application of the secrecy and publication provisions. He queried whether the media or members of parliament could get access to that information. Section 85C of the Correctional Services Act is concerned with confidentiality and makes it an offence to release information obtained in the administration or enforcement of the Correctional Services Act relating to a prisoner, probationer or parolee, except in certain circumstances. The information which this section seeks to protect is that obtained in the administration or enforcement of the act. This section applies to a person engaged in the administration of the act and places limitations upon that person divulging information to a third party.

Certain exceptions appear in paragraphs (a) to (e) of section 85C. Sections 77(4)(d) and 85D(2)(d) permit limited information to be disclosed to any person who has a proper interest. Potentially that gives sections 77 and 85D a wide application. The meaning of the term 'proper interest' is not defined in the act. However, in deciding whether a person has a proper interest under sections 77 or 85D, the Parole Board or the chief executive officer or his delegate, as the case may be, would have regard to the purposes of the act, the type of information covered by these sections and the purposes for which the information is sought.

Where the person seeking release of the information could use it to harm the prisoner's interest, the Parole Board or chief executive could not be satisfied there is a proper interest. Furthermore if there is no legitimate reason for the request, the Parole Board or chief executive officer could not be satisfied that there was a proper interest. The onus rests with the person seeking release to persuade the board or department that he or she has a proper interest in seeking the information. In practice, information is not provided as a matter of course and any decision would depend on the circumstances or whether release would assist in the administration of the act. For example, a decision may take into account that a prisoner has escaped and that the information could assist with recapture. It is a matter of judgment for the

Parole Board or the chief executive or his delegate, as the case may be.

The Hon. Mr Redford also suggested that he would favour the process of parole being more public and asked whether the government would favour allowing parole hearings to be open to the media and to the public. I am not sure whether that is Mr Lawson's view. The government has not previously examined the matter, but on first blush it would be highly problematic. The act provides that the board may conduct its proceedings as it thinks fit. However, there are also strict confidentiality provisions in section 85C that must be observed. It is unlikely that the general power to conduct proceedings could be used to override the express provisions regarding confidentiality. I think this is appropriate.

The board receives reports and submissions and discusses confidential information about prisoners. Its deliberations are less formal than a court process and involve an interchange of information between members when making a decision. It would be inappropriate for such deliberations to be public. Any move to make the proceedings of the board public would be subject to an ability of the board to close the hearings and suppress the information to protect the privacy of prisoners, victims and the integrity of the process. The government is currently discussing with members some of the amendments and it is hoped we may have some agreement in time for the committee stage of this bill.

Bill read a second time.

GENETICALLY MODIFIED CROPS MANAGEMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1. Clause 6, page 7, line 14—Leave out 'and'

No. 2. Clause 6, page 7, after line 14—Insert:

or

(iii) to cultivate a genetically modified food crop on the basis that all dealings with the crop will be undertaken by the same person (or by a person or persons acting on behalf of the same person) under a closed loop system that includes processes and procedures designed to ensure the segregation of the crop, and of any GM related material, from other crops, materials, products or things in order to preserve the identity of those other crops, materials, products or things; and

No. 3. Clause 6, page 7, line 17—After '(ii)' insert 'or (iii)'

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendments be agreed to.

At the committee stage of this bill, I indicated that the Minister for Agriculture, Food and Fisheries would examine between the houses the subject of some of the amendments proposed—specifically, matters relating to appeals and to liability. I can report that these matters were discussed by senior officers from the Attorney-General's Department, parliamentary counsel and PIRSA, together with staff of the department of the Minister for Agriculture, Food and Fisheries.

In the case of providing mechanisms for appeal of ministerial determinations to the Environmental Resources and Development Court, it was determined that an adequate appeal mechanism on matters of process already exists through the administrative and disciplinary section of the District Court and that the matter need not be taken further at this stage.

In relation to the matter of liability (and this relates to the Hon. Mr Gilfillan's amendment), the amendment contains several complex legal issues with the potential to establish some significant precedents. However, given the need to expedite the passage of the bill, the matter was not able to be considered adequately in the time available. However, I give an undertaking to the committee to raise this issue formally with the Minister for Agriculture, Food and Fisheries and the Attorney-General to see whether it can be examined in greater detail in 2004. In doing so, I will ask that this examination also be informed of developments in this area in the UK and Europe. The Minister for Agriculture, Food and Fisheries or I will duly report back to the committee on the outcomes. I point out that a level of comfort is provided here by the intention to declare the state to be effectively GM free for three years until the legislation is reviewed, thereby greatly diminishing any perceived need for these additional powers.

In relation to the amendments, I understand that these were moved by the opposition in another place and, should there be any questions regarding those, I am happy to answer them. However, I seek the support of the committee to accept the amendments so that this bill can pass into law.

The Hon. CAROLINE SCHAEFER: Obviously, the opposition supports the motion, given that it was an opposition amendment in the first place. However, I cannot resist the temptation of offering my sympathy to the now deposed Minister for Agriculture, Food and Fisheries, given that, as late as Thursday, he explained to me that this amendment would not work, was not necessary and, in fact, was contrary to the will and desire of the bill, only to be scuttled by the new Independent minister in another place, who readily and rapidly accepted this amendment and agreed with my sentiments. So, we can only look forward to some interesting times when we debate and discuss matters relating to agriculture, food or fisheries between the two houses. Obviously, the opposition supports its own amendment.

The Hon. IAN GILFILLAN: Equally obviously the Democrats oppose the amendment with some vigour. We are an independent house, and I think the shadow minister makes an interesting observation about the chemistry of what happens. However, there is no reason why this committee should be bullied into accepting an amendment which we rejected when it was last before us just because those in another place have decided to give it another run. Before we vote, I remind members that we saw an enormous, gaping hole in the attempt to establish South Australia as a GM free state by leaving in the original bill clause 6(2)(a)(ii) which, I remind the committee, provides:

However, the minister must not confer an exemption unless—

that is, incidentally, an exemption against a three-year moratorium:

(a) the purpose of the exemption is to allow a specified person—

. . .

(ii) to cultivate a genetically modified food crop on a limited or small scale at a specified place or places.

My understanding of the English language—and I certainly have not heard any other translation—indicates that that is a door flapping in the wind to allow people to plant genetically modified crops on a so-called limited and contained basis (but these aspects are not defined) in any place that the minister of the day chooses to be satisfactory, and the minister grants

the exemption. The minister has to take advice from or consult with the advisory committee, but there is no obligation to take note of what it says.

As we pointed out as vigorously as we could, here was the first flapping door to lose the reputation of South Australia as a GM free state. But, blow us all down, we now get an even heavier king hit to our trying to keep South Australia a GM free state—one which I felt the government, at least, clearly understood. I think that it is appropriate that I read this amendment which, according to the shadow minister, was so enthusiastically received by the now Minister for Agriculture, Food and Fisheries. It provides:

> However, the minister must not confer an exemption unless—
> (a) the purpose of the exemption is to allow a specified person—
> . . .
> (iii) to cultivate a genetically modified food crop on the basis that all dealings with the crop will be undertaken by the same person (or by a person or persons acting on behalf of the same person)—

that is pretty cute—

> under a *closed loop* system—

where is that defined in all its wonderful detail?—

> that includes processes and procedures designed to ensure the segregation of the crop, and of any GM related material, from other crops, materials, products or things in order to preserve the identity of those other crops, materials, products or things.

That is the second door, but it is not even flapping in the wind: it does not even exist. It is an open channel for the minister to allow a person (and I am not sure whether that is a specified or an unspecified person, but it does not matter two hoots) to plant at GM crop under a so-called closed loop system. This is a commercial crop, just as paragraph (ii) relates to a commercial crop. The bill does not provide that the products of these crops must be burnt in a publicly viewed situation and scrutinised by international inspectors who will then guarantee that South Australia does not have one grain of genetically modified material rampant around the state.

The international marketing community is hypersensitive to genetically modified crops and contamination. How can we expect the Japanese to have complete faith in our state if there is a profusion of limited and so-called contained crops growing (which is one lot, but another closed loop lot is growing elsewhere)? The word will be out that South Australia is growing genetically modified crops. However, people will say not to take any notice because they are only limited crops. They will be asked what 'limited' means, but it is not defined. They will be asked about another lot that is closed loop and about the sort of security that exists with closed loop, but we do not know. So, customers will receive a little card that states: 'This product from South Australia is guaranteed to be GM free, except there may be the odd crop which has been grown as a limited crop or a closed loop crop.'

If international consumers are bemused about that, so are we here in South Australia. These two clauses are the two steps that will guarantee that South Australia cannot retain its reputation of GE free from the day this bill is passed. That is where I see the idiocy not only of leaving in subparagraph (ii) but, to add insult to injury, to then put in Monsanto's dream system, the closed-loop system, the biggest con that South Australia has been conned into accepting in my time in this place. I think it is a ridiculous amendment and I hope that the committee throws it out.

The Hon. NICK XENOPHON: I strongly endorse and support the comments of the Hon. Ian Gilfillan. I will not restate what he said. This really does make a further mockery of the government's commitment to keep this state clean and green. It makes a mockery of the Hon. Mr Rann's commitments at the last state election about genetically modified foods and crops to ensure that our reputation as a clean and green producer of agricultural produce would not be tainted. This is a potential disaster for this state's reputation and for our export markets.

The Hon. P. HOLLOWAY: I totally reject the notion that the acceptance of this amendment will in some way tarnish our reputation or in any way permit large-scale cultivation of GM crops within this state as one would understand it. I wish to read the comments of the Minister for Agriculture, Food and Fisheries when he spoke on this amendment during the committee stage in the House of Assembly. He first made the point that he is reading this new clause in conjunction with clause 6(4), which provides: 'An exemption may be granted by the minister on such conditions as the minister thinks fit.' The minister then said:

> Certainly, it would never be my intention to allow a broadacre closed loop crop under subclause (3), and I do not think that is what is being asked for. The Office of the Gene Technology Regulator certainly used an area of something like nine hectares when it was talking about taking it to R&D. I am not saying that you would strictly confine yourself to nine hectares, but we are not talking about 1 500 hectares, or anything like that. We are simply, in conjunction with subclause (4), indicating that conditions will apply specifically to a closed loop system. So, I think the checks and balances are still there, and that is why I am taking the advice that this does not significantly add to but to some extent clarifies the wishes of the select committee.

Let me again disabuse those members of the committee, or those who might be misled by members of the committee, that this amendment in any way provides some loophole that will in some meaningful way threaten the proposals of this government that there should be, effectively, a three-year freeze on the commercial growing of GM crops in this state. This exemption will simply allow for those practices which have continued in the past, which, as I understand it, include some seed production for trials. It is not our intention that this clause should be used in any way as some back door measure for the commercial production of GM crops, and it will not be used in that way.

The Hon. IAN GILFILLAN: Will the minister inform the committee why the government opposed this amendment when it was being considered in some detail in a previous debate?

The Hon. P. HOLLOWAY: As I indicated with respect to a number of measures during the debate, the responsibility for this bill is now with the Minister for Agriculture, Food and Fisheries, and I think I indicated a number of areas in respect of which the minister would consider some issues as they went to the other place. He has obviously had a look at it and believes that the passage of this amendment would, in his words, to some extent clarify the wishes of the select committee. That is his prerogative, and the government has absolutely no problem with that.

The Hon. IAN GILFILLAN: I do not find that to be a particularly logical answer. It may be the power of the politics that is involved. However, I think it is important to place on the record that this place did debate the bill during the committee stage—in fact, we spent probably a little over six hours last Thursday going through it in some detail, and that was just the committee stage. I would have thought that, as the amendments were widely known prior to that stage, the

government would have been in a position to give an intelligent response to this amendment.

I cannot compel the minister to reveal what was in his mind at that time, but it appears as though there has been a dramatic change of heart, from the government's point of view, in its approach to this amendment when we dealt with it and when it went down to the House of Assembly and I simply ask: what was the logic behind the government's opposing the amendment in the debate during the committee stage in this place? If the minister is unable to answer that question, so be it.

The Hon. P. HOLLOWAY: I believe that I have answered that question.

The committee divided on the motion:

AYES (14)

Cameron, T.G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stephens, T. J.	Zollo, C.

NOES (5)

Gilfillan, I. (teller)	Kanck, S. M.
Reynolds, K.	Stefani, J.F.
Xenophon, N.	

Majority of 9 for the ayes.

Motion thus carried.

MEAT HYGIENE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1194.)

The Hon. IAN GILFILLAN: This is a confession I do not make happily. It is with some confusion that I rise to speak to the Meat Hygiene (Miscellaneous) Amendment Bill 2004. I point out that the focus of my perplexity is that, while the government has asked us in this place to amend the Meat Hygiene Act 1994, it is at the very same time asking members in the other place to repeal the Meat Hygiene Act 1994. The shadow minister indicates that she is aware of this, and it seems to us to be either a waste of time or there is some confusion between the left and right hands of the government. The Primary Produce (Food Safety Schemes) Bill is spelt out in its long title as:

> A bill for an act to provide for food safety matters relating to the production of primary produce; to repeal the Dairy Industry Act 1992 and the Meat Hygiene Act 1994; to amend the Prevention of Cruelty to Animals Act 1985; and for other purposes.

I emphasise that it is to repeal the Dairy Industry Act 1992 and the Meat Hygiene Act 1994. One is forced to wonder why we are taking time in this place debating an amendment which, in all likelihood, we will be repealing. I note that the opposition has indicated support for the bill, hence the bill will be passed by this place. I will take some time to discuss its contents.

While there are some technical amendments to the act, the key element of the bill is an expansion of the types of businesses that will come under the regulation of the Meat Hygiene Act 1994. The act currently provides that anyone involved in the processing of meat must hold accreditation except in the cases where the processing of meat is not going to be sold; the processing of meat occurs in the course of the retail sale of meat; or the processing of meat occurs in the course of the preparation of food for consumption by customers or guests of the person carrying out the processing. This will be modified by the bill to tighten the situations in which retail businesses are exempt from regulation by the act. Instead of a simple exemption for the retail sale of meat, now the exemption will apply only to those who store and sell meat in the package in which it was received or those involved in the cutting or slicing and packaging of ready-to-eat meat in a supermarket or delicatessen. The effect of this will be that all butchers and supermarkets that have butchering sections will come under the regulation of the Meat Hygiene Act.

There are currently over 500 meat retailers in the state, approximately 232 of which are regulated by the Meat Hygiene Act. This may be because they sell large quantities of processed meat to other retailers or because they occasionally chop up a chook for the hotel across the road. Perhaps, in summing up, the minister could give us a typical profile of however much wholesaling the majority of these 232 retailers actually do. We are concerned that the intentions of the Meat Hygiene Act are being expanded beyond its initial scope and that this will disadvantage our smaller retailers.

I note and concur in the comments of my colleague the Hon. Caroline Schaefer in regard to the more onerous obligations that would be placed on butchers as well as the increased costs involved. I fail to see the need to amend this. The Food Act and the Meat Hygiene Act are equivalent in terms of providing safeguards to our food supply. In fact, the only difference that will occur is that butchers will now all be regulated by primary industries officers rather than local council or human services officers. It has been remarked to me that this amounts to little more than an exercise in empire building by the Meat Hygiene Unit in PIRSA. While the Democrats support the technical amendments to the act suggested by this bill, we will be opposing clauses 6 and 7 in the committee stage.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank honourable members for their indications of support. During her second reading contribution the Hon. Caroline Schaefer asked several questions. She asked, first, whether any meat trader retailer is caught by both acts; that is, is it possible to be required to be audited and registered under both the Food Safety Act and the Meat Hygiene Act? The answer to that is that accreditation under the Meat Hygiene Act will be recognised under the Food Act, and only one food safety inspection or audit process will be required. The Food Act specifically recognises the Meat Hygiene Act as delivering the same outcomes in terms of food safety and hygiene. The Minister for Health has exempted businesses regulated under the Meat Hygiene Act 1994 from parts 5, 7 and 8 of the Food Act 2001 pursuant to section 108 of the Food Act 2001. It was notified in the *Government Gazette* on 17 July 2003. Under the proposed amendment, retail meat processing businesses such as butcher shops, fresh poultry shops and meat processing sections within supermarkets will be accredited pursuant to the Meat Hygiene Act and will come under the same exemption. Supermarkets are not concerned with two agencies auditing and inspecting, provided they are auditing or inspecting different parts of the business.

The second question asked by the honourable member was whether that gives the large retail food outlets a commercial advantage against the smaller retail butchers given that the

audit is $220 per annum per premises. My advice is that all processing will be covered and that costs charged for accreditation and audit reflect the size, complexity and risk of a business. Therefore, a larger and more complex operation such as a central operation for Woolworths, for example, would incur higher audit and accreditation costs, and thus I would argue that this does not give those larger retail food outlets a commercial advantage. If there are any further questions in relation to the bill I will be happy to deal with those in the committee stage. I commend the second reading of this bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. CAROLINE SCHAEFER: I want to take this opportunity to voice my amusement, I suppose, rather than anything else. I am surprised that this was not put on Orders of the Day for Thursday of this week, which is April Fool's Day, given that we are debating a bill that is already on notice to be repealed by another bill in another place.

I indicated in my second reading contribution that I intended to move an amendment, which would require the government to meet at least 70 per cent of the audit fees, given that it is my belief that food safety audit fees in this case are a matter of public good and should not be subject to full cost recovery by the industry. However, when I, too, saw that the bill was to be repealed in the near future, I saw little point in complicating the issue. I spoke to parliamentary counsel, and I was informed that there would be some difficulty with a transition phase if we were to change the method of paying for those audit fees at this time.

I have not moved that amendment given that, as I say, this entire debate and, indeed, amendment to the bill would appear to be an utter waste of time given that it is going to be repealed. When we have the opportunity to have a briefing on the new bill and to consider the implications of that new bill I will reconsider then amending for full cost recovery not to take place in a case such as this. In my view (and this may be a bit of a long bow), it is a little like fruit fly inspection: we have to decide whether the greater good is to go to the person in the industry who is paying the fee or to the whole of the people of the state.So, I will be looking carefully at that when this government decides how many bills it will repeal and what it intends to replace them with.

The Hon. P. HOLLOWAY: It is true that a primary industries' food safety bill has just been introduced into the parliament. However, I am advised that (and I do have some knowledge of that bill because the work was done on it during my time as Minister for Agriculture, Food and Fisheries) the new bill will absorb a number of the food safety schemes that operate under acts, such as the Meat Hygiene Act and the Citrus Act; and, ultimately, the Dairy Act will be included. It will be a comprehensive bill to cover all areas of primary industries.

My advice is that it could take between six and 12 months to develop some of the details under that bill. We need now to pass these amendments that deal with this particular problem as that they exist in relation to the handling of meat, particularly in supermarkets. These amendments can be proclaimed fairly quickly. These changes will come into effect straight away, but it will take time to develop the schemes that will apply under the primary industries' food safety scheme legislation. Yes, it is true that this act will ultimately be replaced, but I think it is important that we address these important issues.

We are talking here about food safety, and it is important that we address these issues in the short term; and, hopefully, when it is proclaimed, the new primary industries' food safety scheme legislation will provide a comprehensive approach to addressing food safety right across the board in all areas of primary industries. However, it will take some significant time before that legislation will apply to all those new industries, even if it is passed by parliament fairly quickly.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. IAN GILFILLAN: I want to restate in committee the Democrats' opposition to clauses 6 and 7. We will be voting against both clauses because, we understand, they would be the instrument which moves the actual 'on the ground' regulation, which is from local council or Human Services officers to Primary Industries officers, and, as I indicated in my second reading contribution, we do not support that. It is on that basis that we will be voting against both clauses; but, unless there is an indication of support from the opposition, we will not be dividing.

The Hon. P. HOLLOWAY: I am not quite sure what point the Hon. Ian Gilfillan is making here, but clause 6 simply applies to the composition of the advisory council. The clause simply seeks to delete the obsolete name 'Meat and Allied Trades Federation (SA Division)' and substitute 'Australian Meat Industry Council', as well as seeking to delete '1985' and substituting '2001', which simply changes reference from the Food Act 1985 to the Food Act 2001. It is simply a technical correction to recognise the fact that the version of the Food Act we are now using is the Food Act 2001 rather than the Food Act 1985.

Really, I find it difficult to understand the honourable member's objection in relation to clause 6. I suppose that we do appoint the additional member to the advisory council to represent the interests of retail meat processors, although I fail to understand what objection the honourable member has in relation to that.

The Hon. IAN GILFILLAN: I do not think there is any point in taking up the time of the committee. I was advised by research staff who looked at this that both clauses 6 and 7 were to be opposed on the grounds that I outlined previously. I do not deny that there is a possibility that it was advice which may not have been directly specific to clause 6. However, as our vote is not going to be influential in the passage of the clause, I will comply with my riding instructions, which are to oppose clauses 6 and 7.

Clause passed.

Clause 7.

The CHAIRMAN: The Hon. Mr Gilfillan has made some contribution. Is it the honourable member's desire to make a further contribution?

The Hon. IAN GILFILLAN: No, thank you, Mr Chairman.

Clause passed.

Remaining clauses (8 and 9), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

LAW REFORM (IPP RECOMMENDATIONS) BILL

Consideration in committee of the House of Assembly's amendment.

The Hon. P. HOLLOWAY: I move:

That the House of Assembly's amendment be agreed to.

The effect of the amendment is that the highway immunity rule will remain indefinitely, rather than expire after two years. The government accepts that, nonetheless, it is worth looking at alternatives to the highway immunity rule, in particular the proposal now before the Victorian parliament for a system of road management plans. Accordingly, after discussion with the Deputy Leader of the Opposition in this place, the government undertakes that before the next election (which is due in March 2006) the government will establish a working party to examine the operation of the highway immunity rule, both in South Australia and elsewhere, and consider and evaluate possible alternatives to it.

In particular, the working party will be directed to consider the operation of the new Victorian system to be established under the proposed road management act 2004, which is now a bill before the Victorian parliament. The working party will comprise representatives of both government and non-government sectors, with the latter in the majority. In particular, the Local Government Association will be invited to nominate a representative. I understand that the opposition is satisfied that this undertaking will provide an acceptable compromise.

It is always open to the parliament to reconsider the highway immunity rule at any time, irrespective of whether there is an expiry clause in the bill. The merit of removing the expiry rule is simply that the parliament can make any changes to that rule in its own time and with the benefit of Victoria's experience, as well as the experience of other Australian jurisdictions. It will also avoid the difficulty of the expiry occurring immediately after the next election. I ask the committee to support the House of Assembly's amendment being agreed to.

The Hon. R.D. LAWSON: I indicate that the Liberal Party accepts the undertaking given by the minister on behalf of the government, that is, a working party will be established to examine the operation of not only the highway immunity rule in this state but also alternative schemes operating elsewhere. The minister did say in his opening remarks a moment ago that the highway immunity rule will continue indefinitely. I sincerely hope that is not the case, and certainly it is not our intention in supporting this amendment to suggest that that immunity rule will continue indefinitely. It is my earnest hope that, when alternative schemes are evaluated, it will be found that there is a better scheme than the immunity rule, which we will now have under this legislation.

We accept that the time frame for the two-year sunset clause, which was included in the bill originally, was too short a time frame to enable evidence from Victoria to be gathered, for example, because their scheme will not come into operation until 2005; and, obviously, once it does come into operation it will take some time for road management plans to be developed and for the system to be fully evaluated. It will be some years perhaps before its full effect is known.

Of course, the Ipp committee did not recommend restoration of the highway immunity rule but, rather, suggested a more complex solution to this particular issue. In Western Australia, I believe the government and the parliament have gone down yet another route. I accept that it is quite possible that any working party established to undertake this task will not be able to report within the two years before the next election. However, what this government can do, and what it has done, is undertake to establish the working party so that it can be working into the next parliament. I expect that the report of any working party on this issue would be made available to the parliament so that the parliament can form a judgment about the appropriateness of our legislation at that time and, more importantly, the effectiveness of alternative schemes.

I should say that the Local Government Association made representations to us. It was strongly opposed to the two-year sunset clause. It believed that it would inconvenience it and its particular indemnity scheme to have such a short time frame. I think the Local Government Association envisages that it will not be until perhaps five years from now before an alternative scheme can be established. Of course, it needs long time frames under its indemnity arrangements to minimise the disruption that can be caused.

The Hon. T.G. Cameron: Why does it need longer time frames?

The Hon. R.D. LAWSON: Well, as the honourable member would know, all insurance arrangements are long term, rather than short term, because claims can be made—

The Hon. T.G. Cameron: Only when you want to make a claim.

The Hon. R.D. LAWSON: Well, an injury can occur, take some time for the injuries to stabilise and a claim to be formulated, then legal proceedings instituted and then an examination. Experience shows that these things all take time. When you look at the Victorian scheme that is being undertaken, that is, that all road authorities are obliged to have road management plans, in which they set out for every road within their area a maintenance and upkeep program or a planned improvement program, these things do take some time to develop. It is a new notion and we believe that the Local Government Association is being realistic when it says—and the government has expressed agreement with it—that it will take some time for that program to be fully developed by 1 January 2005.

The Hon. IAN GILFILLAN: The Democrats oppose this amendment. First of all, we have felt very uneasy that there should be a move to limit the liability of road authorities. It struck us as being an unusually generous approach, but no doubt local government and other road authorities feel that they have a case in the short term.

Whether there is or is not some difficulty in getting all the information needed to have an objective assessment of Victoria, that, in our view, is not the critical point. The sunset clause focuses the mind very efficiently and to a time frame and, as all members know, legislation is not locked in concrete. It can be amended if it has to be but, by leaving this in, it does mean that there is a pretty fair chance that we will have energy and attention focused on assessing this at a much faster and hopefully more efficient rate than if it can just drift along in its own time. This is a discipline that is needed in this legislation to get a further assessment of the situation before the sunset clause expires.

The Hon. NICK XENOPHON: I too, along with the Hon. Ian Gilfillan, oppose this amendment. I do not consider the compromise position reached with the opposition to be a good one in the circumstances. There is a world of difference between having a working party look at issues and having a cut-off date for this legislation in terms of having a sunset clause. There is a degree of finality there that would ensure that the parliament would have to revisit this again, so that we could see once and for all what the impact of this particular measure would be.

My concern is that this particular taking away of common law rights will mean that local government can take its eye off the ball in terms of ensuring our highways and our footpaths are safe. I think it is a very unfortunate development and, along with the Hon. Ian Gilfillan, I will be opposing this measure. Again, this is another part of a package of measures that is taking away people's fundamental common law rights.

The Hon. T.G. CAMERON: It was not my intention to speak on this issue, but I will briefly. Here we are in South Australia with one of the highest road tolls per capita in Australia. Our record as far as road deaths and serious fatalities has hardly improved over the past decade.

The Hon. A.J. Redford: Watch it or you will get a speeding ticket.

The Hon. T.G. CAMERON: You will always get a speeding ticket on Port Road at 69 km/h. Anyway, I will not be distracted—he is just trying to bait me. This is a sad day not only for South Australian motorists but also their passengers and, in fact, anybody who uses our roads. The discipline here was that we had a sunset clause which meant that after a couple of years people would be protected. The words of the Hon. Nick Xenophon ring in my ear. He will not mind me telling this story. He probably does not remember it, but I remember what he said to me. I can remember whingeing to him about how much lawyers were charging and how much money they were making out of insurance claims, and that the only winners—

The Hon. A.J. Redford: Who was whingeing?

The Hon. T.G. CAMERON: I was whingeing about that to Nick Xenophon. It was not the other way around, I can assure you. The Hon. Nick Xenophon made a good point. He said, 'Terry, without harsh penalties to force people to do the right thing, there will always be a small element out there who will not do the right thing. The losers from that small element are even smaller people. They are little South Australians.' I do not know whether he remembers saying that to me, but it always stuck with me. They are going to be the losers in this cosy little arrangement that we have here between the parties of government, that is, the Liberal and the Labor parties.

You see this from time to time, the Liberal Party cuddling up to the Labor Party on bills which usually involve revenue of some kind. Why the Liberal Party would want to side with the government on this issue to provide legal protection to the Local Government Association, and other people who do remedial work on our roads, is beyond me.

The Hon. Robert Lawson's response to my reply was somewhat lame to say the least: that is, the poor Local Government Association needs another five years to sort out all the details. What a load of absolute rubbish. But, I must compliment the Hon. Robert Lawson. He said it with the usual sincerity that he can muster on these issues and it always sounds good, but, honestly, there was just nothing convincing in what he said, and nor was he convincing in the way he said it.

I do not know whether the decision to remove the sunset clause is part of a package deal of amendments the opposition has reached with the government, but it is a disgrace and, sooner or later, someone who will be a victim of what you have done here today will be back either in this place or another place, wondering just how both of the major parties conspired to let them down.

The Hon. P. HOLLOWAY: I think that at this stage it is probably wise if I put on the record something about what we are actually debating here. We are debating an issue that relates to the liability of road authorities. This provision that we are supporting provides that a road authority is not liable in tort for a failure to repair or renew a road. We are simply restoring the provision as it was understood to exist for time immemorial.

There was a case that went before the High Court, Brodie v Singleton Shire Council in 2001. That case related to an incident that occurred back in 1992. That particular case reversed the position as it had been understood prior to that time. The government in its Ipp recommendations bill was simply restoring the law as to where it was always understood to exist prior to that High Court case. In any case, that would have applied anyway, even with the amendment that went through this place. It would apply for two years, because it was a sunset clause, so we are simply debating the existence of a sunset clause on it. I think that, when one considers it in that light, some of the descriptions of this bill are somewhat over the top, to say the least.

The Hon. R.D. LAWSON: I endorse the minister's remarks. Although we are describing this as the highway immunity rule, highway authorities are not entirely immune from suit. They can still, in certain circumstances, be sued, as they could at common law. I quite understand those who are opposed to the whole Ipp reform package and who are opposed to any changes to our law of negligence. People who support the arguments of the Australian Plaintiff Lawyers Association would want to see the sunset clause included, because that would be a way of defeating the whole bill.

The Hon. Nick Xenophon let fall from his lips the words, 'further windfall'—that being the rhetoric of the Australian Plaintiff Lawyers Association—saying that all of these measures provide a 'further windfall for insurance companies.' He actually stopped himself, because he realises that there is no windfall for any insurance company in this particular case. The only organisation that might derive some comfort from this is the organisation which is the mutual fund insuring all of our local councils and all ratepayers in this state. We have not cozied up with the government for the purpose of depriving people of legitimate rights. We have simply restored common law rights and ensured at the same time that they will be fully examined in the future.

The Hon. A.L. EVANS: Family First opposes the amendment.

The committee divided on the motion:

AYES (10)

Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Sneath, R. K.	Zollo, C.

NOES (7)

Cameron, T. G.	Evans, A. L.
Gilfillan, I. (teller)	Kanck, S. M.
Reynolds, K.	Stefani, J. F.
Xenophon, N.	

Majority of 3 for the ayes.

Motion thus carried.

AUSTRALIAN CRIME COMMISSION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 1298.)

The Hon. R.D. LAWSON: I rise to indicate that Liberal Party members will be supporting the second reading and the passage of this bill. The purpose of this bill is to provide a statutory framework for the new Australian Crime Commission, which will replace the National Crime Authority (NCA). In fact, the Australian Crime Commission has already replaced the National Crime Authority. That authority was established in 1984 under commonwealth legislation and was supported by corresponding legislation in each state jurisdiction. Our act was called the National Crime Authority (State Provisions) Act of 1984 and it will be repealed by this act.

The National Crime Authority, whilst it had some success in the ongoing war against organised crime, encountered a number of difficulties. It did not receive the wholehearted support of all state police forces. There were lines of demarcation which provided some difficulty in its operational activities. There was resistance from some people, especially at a lower level within state forces, which believed that the National Crime Authority was replicating work that state forces were doing and doing quite well. There were suggestions that the National Crime Authority was not cooperative in addition to its duplicating the work of other law enforcement agencies. It would be fair to say that the National Crime Authority was not as successful in bringing to justice organised crime bosses as its original authors had hoped and predicted. We on this side of the house are not, however, critical of the National Crime Authority. It did a lot of good work, notwithstanding the rather cumbersome bureaucratic structures that were placed around it.

In April 2002, the Prime Minister convened a summit on terrorism and multi-jurisdictional crime and at that meeting all state premiers and chief ministers, together with the Prime Minister, agreed to replace the National Crime Authority with the new Australian Crime Commission. That measure was strongly supported by the Howard government, and we certainly support it.

In the legislative framework, the new authority is sought to be focused on intelligence gathering—that is, to investigate and to hand over intelligence to other police forces. It has certainly been found that, in intelligence gathering, a central organisation that is well resourced with appropriately qualified people is a very powerful force against crime, whether it be interstate crime or transnational crime.

One of the changes wrought to the old scheme under which the National Crime Authority acted relates to the approval for coercive action, when witnesses can be required by the authority to answer questions or to produce documents. This form of action must now be authorised by a board of directors, which will comprise the police commissioners of the federal police and state and territory forces. Previously, there was a ministerial council, which was a cumbersome arrangement and which often resulted in quite lengthy delays.

The commonwealth parliament passed legislation to establish the Australian Crime Commission, and it commenced to operate on 1 January last year. New South Wales passed legislation in similar terms to that presently before this council last year, as did Victoria and Queensland. My research shows that Tasmania and the Northern Territory have not yet introduced such legislation, although it is believed that such introduction is imminent. In Western Australia, the legislation has been introduced and referred to the standing committee on uniform legislation in that state.

I pause here to interpose that it may be appropriate in this state for us to have a similar committee to that established in Western Australia. The Western Australian parliament took a dim view of national legislation which is approved by ministerial councils, passed in the federal or some other state parliament and then brought to its parliament. In effect, the parliament is asked to rubber-stamp legislation, and opportunity for amendment and discussion is limited in those circumstances. Western Australia has introduced a mechanism whereby a parliamentary committee examines closely all such legislation to ensure that the jurisdiction of the state is not compromised and that the principle of parliamentary scrutiny of legislation is maintained. In our view, the occasion will not be far away when it will be appropriate for us in this state to examine similar mechanisms.

In the scheme of things in relation to transnational crime, terrorism and so on, the state of South Australia is obviously not a major player within the Australian federation. However, notwithstanding that, as members of this parliament we have an obligation to ensure that the legislation is appropriate for our state. I have studied the extensive debate in the federal parliament. A parliamentary committee recommended a number of changes to the original legislation. That all-party committee made that recommendation unanimously, and the government accepted almost all the suggested amendments. I believe that those amendments certainly improved the regime in relation to coercive powers and the bureaucratic structures, including the reporting mechanisms.

This act will give the Australian Crime Commission functions in relation to the investigation of offences against South Australian criminal law and also to the conduct of intelligence operations into certain serious state offences. These are offences loosely defined as those for which the penalty is imprisonment for three years or more. The act empowers the board of directors—that is, the board comprising police commissioners—to authorise what are described as 'special' operations or investigations. If the law authorises such operations and investigations, an examiner, who would ordinarily be an experienced criminal counsel, can be appointed to exercise coercive powers, those powers being to ask questions, to require answers and to require the production of documents. Failure to truthfully answer questions or produce documents is punishable by up to five years imprisonment, or a fine of $20 000. However, it should be emphasised that evidence gained in this manner cannot be used in criminal proceedings, except in relation to offences for failing to answer. Whilst these provisions might appear draconian, they are similar to those which appeared under the old National Crime Authority Act.

The minister's second reading explanation and the explanation of clauses contains a very detailed description of the provisions in the bill, and I do not propose to rehearse them here. It is fair to say that lawyers argued extensively about the effectiveness of the National Crime Authority and the erosion of the right to silence, etc., but this bill merely replicates those provisions. The fact that all states have agreed to enact similar legislation and that most have already done so is further reason why we in this place ought to support it. We support the second reading of the bill and its passage.

The Hon. IAN GILFILLAN: I indicate Democrat support for the bill. I am drawn to reflect on some of my experiences over the past 20 years of the establishment of crime combating organisations, partly because earlier in my political career I was very eager for an independent commission against crime and corruption to be established in South Australia. It is interesting that at that stage New South Wales

had an independent commission against corruption, but Mr Bob Bottom, who may be known to some members, took a great interest in (and probably still does) the cancer of organised crime. He believed that, in a state the size of South Australia, such a commission should deal with more than just corruption: it could be an entity that dealt with organised crime as well. That argument certainly persuaded me.

It was resisted very strenuously because of the rather naive belief that we were such a squeaky clean state that we did not need that sort of structure. To be fair, in comparison with other states, we probably have retained a record of being cleaner. However, that sort of sanctimonious self-satisfaction and self-righteousness is not entirely justified, because quite senior police officers were found to have been corrupt. However, that is not a matter that is directly before us today. At the same time that we were debating the advisability of establishing an independent commission in South Australia, the National Crime Authority loomed on the scene, and we had our own little fiefdom of the NCA in South Australia.

It was a strange body. I attended some of its public hearings, and they were conducted almost in a sort of Gilbert and Sullivan atmosphere. That left me confused about what was the right path to follow for both South Australia and Australia in achieving harmonious, uniform crime investigation and crime fighting structures in the country at large—mind you, my focus obviously was more for South Australia. At that stage the term 'terrorism' had not emerged as part of our vernacular, but it certainly is now. I am concerned that, with respect to not only the word 'terrorism' but also the hysteria that that word can raise in the public mind and the emphasis in the media and by politicians, there is a very serious risk of overriding what should be enduring freedoms and rights of individuals in Australia—and I just make an oblique reference to the terrorism legislation that is being introduced in the federal parliament. The only aspect of that legislation that has any appeal for me is the extension of hours from 12 to 24 that an authority can hold a suspect for questioning. That seems to me to be not particularly onerous.

The reason why I use these preliminary remarks to indicate our support for the Australian Crime Commission is that, unfortunately, the answer to getting proper crime control, crime investigation and crime combating structures is more than just a title, and it is more than just having synchronised legislation in the various states and jurisdictions. So, with our support it will need to prove itself. It will need to prove itself as being an improvement on previous generations of structures that have purported to be nationwide crime fighters, such as the Australian Federal Police and the jealousy that erupted with the NCA as to what was proper police jurisdiction as compared to the authority's jurisdiction, and the interface was far from harmonious. I wish the Australian Crime Commission well. It obviously has a very important job to fulfil, and this legislation will lock South Australia into its structure.

I indicate support for the bill, but I offer a couple of other comments. The bill primarily exists to allow the Australian Crime Commission to operate and investigate here in South Australia and, of course, to replace all instances of its former name (the National Crime Authority) with a new name, the Australian Crime Commission. It is necessary for the states to propose more or less matching legislation to support a federal body that investigates crimes that span jurisdictions and, as such, we support the bill. I also note, however, the use of the term 'cybercrime' on page 4 of the bill as part of the definition of 'serious and organised crime'. This definition of 'serious and organised crime', like its companions, is modified by the proviso that it must be punishable by imprisonment for a period of three years or more. But I cannot find any definition of 'cybercrime' in this or any other South Australian act or regulation. In fact, in turning to commonwealth acts, I found the Cybercrime Act 2001 but, surprisingly, the term appears only in the title of the act and is not defined elsewhere.

When a term is not specified in legislation it is the usual practice to look elsewhere for that definition and in this case, naturally, we turned to the internet. Unfortunately, there is a plethora of definitions of 'cybercrime' that would leave any judge scratching his or her head in dismay. Some examples include criminal activity committed on the internet; crime related to computers, technology and the internet; and crime committed using a computer and the internet to steal a person's identity or sell contraband or stalk victims or disrupt operations with malevolent programs. Even this small sample reveals enough confusion to need clarification. For example, rather simplistically, does assault become a cybercrime because a computer was the blunt instrument used in an assault, in a criminal sense? As I indicated before, we support the bill but we recommend that the government, either here in the state or—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Gilfillan has done very well to compete against the other conversations to date, but I think the level of noise is getting too high. The Hon. Mr Gilfillan has the call.

The Hon. IAN GILFILLAN: Fortunately, my voice will stand out for this last paragraph. We support the bill, but we recommend that either the state or federal government take steps to rectify what we see as an oversight with a lack of a clear, lucid definition of 'cybercrime'.

The Hon. A.L. EVANS: Family First supports the bill. It is always important for our state to maximise its resources when fighting against crime, and there is no doubt that this bill achieves that result. I recognise that South Australia needs to create a specialist national law enforcement agency to combat organised crime. Much organised crime is carried out while crossing state borders, and it is essential for all the Australian states to combat this crime in unison in the hope of catching those who participate in organised crime. This bill does that, in that it gives the federal government more power for crimes that have crossed state boundaries. The establishment of the new board and its CEO will also assist communication among those fighting against crime and is definitely needed in today's society, given terrorism and increased white collar crime. Also, as crime becomes more complex and intricate in detail, the need for a uniform approach to investigating that crime is crucial to the impact that our law enforcement agencies can make in combating that crime. This is a good bill and a step forward for South Australian law enforcement agencies, and I support it.

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I thank all members for their contribution to this debate and for their indications of support for the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. IAN GILFILLAN: The minister may recall that I raised the question of the definition of 'cybercrime'. I

am not necessarily expecting a specific answer, but I give him the opportunity to do so if he feels that he would like to.

The Hon. P. HOLLOWAY: My advice is that the definition of 'serious and organised crime' used here, which contains the word 'cybercrime', is identical to that used in the federal act—as, indeed, it has to be.

The Hon. IAN GILFILLAN: I do not intend to ask that any more time be spent on this, but maybe the definition in the federal act, if it is available, could be spelt out so that it became part of the committee deliberations. If the minister does not have it, obviously, I will not insist on it.

The Hon. P. HOLLOWAY: My advice is that it is not defined in the federal act. So, it is not defined at all. The point is that it is essentially a commonwealth issue. They obviously feel confident that they do not need that definition and that the courts will behave appropriately. I suppose that is the only conclusion that one can draw.

The Hon. IAN GILFILLAN: My final point is—in fact, this is what I said in my second reading contribution—that it is not defined in the commonwealth act. Could the committee ask the minister responsible, and I assume that it would be the Attorney-General, to refer this matter to his peer group of other attorneys-general, and possibly the federal attorney-general, to wrestle with a definition of cyber crime? It seems to me to be poor legislation to have a word used of which there is no definition.

The Hon. P. HOLLOWAY: I am happy to pass that question on to the Attorney-General.

Clause passed.

Remaining clauses (2 to 51) and schedule passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

ADJOURNMENT

At 5.13 p.m. the council adjourned until Wednesday 31 March at 2.15 p.m.