LEGISLATIVE COUNCIL

Tuesday 16 February 1999

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

ROADS, CRACK SEALING

79. **The Hon. T.G. CAMERON:**

1. How long has the new practice of using thin lines of bitumen to fix road cracks been in use in South Australia?
2. Who are the contractors that have been involved in the new road repair practice of using thin lines of bitumen to fix road cracks in South Australia?
3. How much as been paid to each contractor to use this method to extend the life of Adelaide roads?
4. (a) Is Transport SA aware of the dangerous conditions this practice has made for motorcyclists?

(b) If so, what is the Department doing to remedy the current situation?

5. Has Transport SA undertaken any studies into the problem?
6. Can the Minister supply any figures on the number of accidents and/or road fatalities that may have occurred as a result of this road repair practice?

The Hon. DIANA LAIDLAW:

1. I am only in a position to respond to the honourable member's questions in so far as roads under the care, control and management of Transport SA are concerned.

The method of using bitumen based products to seal road cracks is referred to as 'crack sealing', with the treatment being a normal component of road maintenance operations. Crack sealing is a standard cost effective treatment designed to extend the life of the road pavement, and to avoid pavement failures which can become safety hazards.

Crack sealing has been used extensively throughout Australia by Local Government and other road authorities. In South Australia, the treatment has been in use for at least 15 years. Transport SA has used crack sealing on a wide spread basis over the past 18 months.

2. Transport SA has engaged Boral Asphalt, Maintenance Services (one of Transport SA's business units) and Robert Portbury Constructions.

3. I am able to provide figures based on Transport SA's Metropolitan Region. The Region comprises the Adelaide Statistical Division plus the areas of the District Council of Mount Barker and those parts of the Adelaide Hills Council outside the Adelaide Statistical Division.

Over the past 18 months, Transport SA made the following payments to its contractors—

Boral Asphalt	$220 000
Maintenance Services	$763 000
Robert Portbury Constructions	$230 000

4. (a) Transport SA is aware that some road users, especially motor cyclists, have raised concerns over the treatment.

(b) Transport SA has worked with various organisations, ie motorcycle associations and cycling groups, and individuals, to identify and treat any areas that may have been a risk to road users.

Transport SA's contractors have retreated areas of extensive crack sealing by reheating the bitumen and applying grit to improve skid resistance.

5. Transport SA has undertaken skid resistance testing on some of the crack sealing areas not overlaid with a layer of grit. The skid resistance was only found to be of concern where the crack sealant was higher than the adjacent road surface and of a width which did not allow contact of a tyre with the road surface. Generally, with warmer weather, the material has flattened under traffic to the level of the road surface and has lost its original sheen and slickness.

6. Transport SA has received a total of three claims (one personal injury and two property damage) relating to the use of this treatment on its roads.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Australian Financial Institutions Commission— Report, 1997-98.

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

Reports, 1997-98—
- National Environment Protection Council.
- Onkaparinga Catchment Water Management Board.
- Public and Environmental Health Council.
- Wilderness Protection Act.

Corporation By-laws—
- Walkerville—
  - No. 1—Permits and Penalties.
  - No. 2—Bees.
  - No. 3—Heights of Fences near Intersections.
  - No. 4—Caravans and Tents.
  - No. 5—Inflammable Growth.
  - No. 6—Recreation Grounds and Reserves.
  - No. 7—Streets and Public Places.
  - No. 8—Garbage Removal.
  - No. 9—Street Traders.
  - No. 11—Animals, Birds and Poultry.

Development Act 1993—Crown Development Report by the Minister for Transport and Urban Planning—Proposal for Four Development Applications to Establish an Electricity Power Station at Pelican Point and Associated Infrastructure in the Adjoining Locality.

MEMBER FOR ROSS SMITH

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement about the Director of Public Prosecutions' exercise of discretion in the Clarke case.

Leave granted.

The Hon. K.T. GRIFFIN: It is unfortunate but not unexpected, and also understandable, that the decision of the Director of Public Prosecutions, Mr Paul Rofe, to enter a *nolle prosequi* in the case of Mr Ralph Clarke last Thursday morning has unleashed a wide range of emotions and placed a focus on the question why he made that decision. It was not unexpected that the trial would have a very high profile, not the least because the defendant was a prominent member of Parliament and because of the nature of the allegations made against him.

It has been all the more difficult for some members of the community to understand why the decision was taken by the DPP because, for professional and ethical reasons and in consideration of the sensitivities of those involved, he was unable to lay before the public the detailed reasons for his decision. That inability to comprehend was, I suggest, compounded by the amazing statement made by the Leader of the Opposition, Mr Rann, at the end of last Thursday's sittings in the House of Assembly under the absolute protection afforded by parliamentary privilege. I responded at some length in the Legislative Council shortly afterwards, and I will have more to say about that later.

When pressed by journalists to give specific reasons for his decision, Mr Rofe replied that, 'Ms Pringle [who was the chief prosecution witness] has been through quite enough.' It is ironic that those same groups which are now criticising him would have also attacked him if he had shown any insensitivity towards the alleged victim in this case.

My main objective when I spoke in this Chamber last week was to refute absolutely any suggestion by Mr Rann of political interference in the laying of the charges against Mr Clarke or the DPP's decision not to proceed further with the trial. I can do no more than yet again refute any such interference.

The DPP is an independent statutory officer established by the DPP Act 1991. He may not be given any direction by

the Attorney-General of the day unless it is in writing and published for all to see. No direction in relation to a specific case has ever been made by me or my predecessor, Mr Sumner, who was Attorney-General when the Bill was introduced.

When I made my ministerial statement on this topic on Thursday, I did say that the shadow Attorney-General, Mr Atkinson, had suggested I give a direction in relation to intoxication. Upon reflection, it was not, as far as intoxication was concerned, correct, but my recollection is that it was a specific case in respect of which he suggested a direction should be given.

It has been my practice never to get close to individual prosecutions by having access to briefs, statements, documents and papers. I have made it my practice to keep the DPP at arm's length from me in relation to individual cases, especially in cases where there is a perception that some politics may be involved. That applied particularly to the Clarke case. I can say no more about my position.

So far as the DPP is concerned, I have every confidence that he would in no way be motivated by politics in any decision to prosecute or not to prosecute, and any suggestion to the contrary is offensive and demonstrates a grave ignorance about the principles upon which our justice system operates and the duties his office imposes.

While last Thursday I read into *Hansard* the statement made by Mr Rofe to the media, it is important to repeat that statement with a view to putting this matter into perspective. His statement is as follows:

> I wish to make a few points in relation to my decision today to enter a *nolle prosequi* in the matter of Mr Ralph Clarke.
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> Today I made the following statement to the court:
>
> > The prosecution's role in criminal proceedings is to assist the court to arrive at the truth and to do justice between the community and the accused according to the law and the dictates of fairness. After certain evidence given by Ms Pringle, particularly yesterday afternoon, I find myself unable to discharge my primary duty as prosecuting counsel to put the case to the jury. I have concerns with some aspects of her evidence and cannot therefore ask the jury to return a verdict of guilt based on the evidence. Accordingly, I enter a *nolle prosequi*.

He continues:

> I reiterate that my decision was based purely on the evidence relating to this case. It should not be interpreted by the public to mean that prominent people have special advantages in the criminal justice system or that charges of domestic violence assault will not be laid and pursued if there is sufficient evidence to do so. It does not matter who you are in society, if there is sufficient evidence that you committed a crime you will be charged and prosecuted. I wish to reassure women who are victims of domestic violence assault that, providing there is sufficient evidence, charges will be laid and prosecuted.

The DPP has felt it necessary to provide me with a report on the subject, and I now propose to read that report into *Hansard*, after which I will seek leave to table it. His report is dated today, addressed to me as Attorney-General, re: the prosecution of Ralph Clarke MP. I quote from it as follows:

> In light of the statement made by the Leader of the Opposition, the Hon. M.D. Rann MP, in Parliament on 11 February 1999 regarding the prosecution of Mr Ralph Clarke MP, I find it necessary to report to you the following matters. The institution and continuation of the prosecution of Mr Ralph Clarke MP on three counts of common assault was a decision taken by myself on the basis of evidence available to me. There was no political pressure or indeed pressure of any kind exerted upon me in relation to the decision to prosecute. The decision to bring the prosecution to an end by the entry of a *nolle prosequi* was made by me again on the evidence available which included the sworn evidence of Ms Edith Pringle over two days. Again there was no pressure, political or otherwise, exerted upon me in relation to the decision to end the prosecution.
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> Both the decisions to begin and end the prosecution were made in accordance with the published prosecution policy of the office, in particular the requirement that there must be a reasonable prospect of conviction on the available admissible evidence for a prosecution to be instituted or continued. In making a judgment as to the prospects of conviction, regard must be had to the credibility of the witnesses. The credibility of Ms Pringle was critical to the prosecution case in the Clarke case. Evidence that she gave on a number of subsidiary matters had not been previously disclosed to the prosecution. In my judgment this evidence so damaged her credibility overall that I could not be satisfied there was still a reasonable prospect of conviction.
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> I considered very carefully whether the apparent damage to credibility could be explained by expert evidence as to the psychology of women who have suffered domestic violence. Such evidence is always considered as a factor in cases of sexual assault, child abuse or domestic violence. In this case I was unable to conclude that it could. In those circumstances there was no alternative but to bring the prosecution to an end.
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> It is not appropriate to detail the material not previously disclosed to the prosecution, nor to canvass the basis of my judgment concerning the credibility of Ms Pringle. Whatever the truth may be concerning her allegations which gave rise to the charges, it is not now in anyone's interest to subject it to further public scrutiny. Allegations of domestic violence will continue to be investigated and prosecuted. Such prosecutions will invariably be pursued with vigour where there is assessed to be a reasonable prospect of conviction.
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> I do not consider the evidence of Ms Pringle to be so demonstrably false such as to provide any prospect of conviction on a charge of perjury. There is no question of a prosecution for perjury. I would hope that Mr Rann is not suggesting that there should be prosecutions for perjury for example in all sexual assault cases where there is an acquittal and the only issue is credibility. Such reasoning demonstrates a fundamental misunderstanding of the criminal justice system.
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> I point out two further aspects of the case. First the trial judge made the following comments after the entry of the *nolle prosequi*:
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> > It is entirely your decision, Mr Rofe, but if I might say so, I think it is very well based. (Trial transcript page 226, lines 25-26)
>
> and:
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> > Mr Rofe has told you his reasons and, as the DPP, it is his right. It happens to be, as I said, not that it is anything to do with me, in my opinion, a very, very proper course to take in the circumstances. (Trial transcript page 226 line 38, page 227 lines 1-3).
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> Second, I would add that throughout the conduct of the prosecution in addition to the Witness Assistance Service of the DPP I utilised the services of a very experienced crisis care worker, with particular expertise in dealing with women in domestic violence situations. She was understanding of the decision not to continue and is still offering support to Ms Pringle with the assistance of this office. I believe that all aspects of this case were handled with appropriate sensitivity.
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> I regard the comments by the Honourable Leader of the Opposition as simply expressions of his personal opinion, lacking any foundation in the evidence given at trial or in the evidence available to me. His choice to express those opinions under cover of parliamentary privilege is regrettable in that in order to answer the adverse and unfounded reflections on this office contained in his statement it has been necessary to provide this report.
>
> I have no objection to you informing Parliament of the contents of this report.

The report is signed by Paul Rofe QC, Director of Public Prosecutions, and I seek leave to table it.

Leave granted.

The Hon. K.T. GRIFFIN: A number of observations should be made. The first is that a *nolle prosequi* was entered. That is the right of a prosecutor to determine at any time. It means that the DPP did not wish to proceed with the prosecution. It is not an acquittal. Of course, Mr Clarke also has not been convicted. One can see from the transcript of the DPP's press conference that he had to consider whether a reasonable prospect of conviction remained after the evidence of Ms Pringle and her cross-examination. One can conclude from that and the concerns about her credibility that he no longer was confident of a reasonable prospect of a conviction

so that he could put to the jury a confident request for a conviction. I doubt whether anyone reflecting on the choices would have it any other way.

It must be remembered that in our system it is for the prosecutor to prove the case against the accused beyond reasonable doubt. It is a high standard of proof. The fact that there may be an acquittal or that a *nolle prosequi* may be entered means only that on the evidence available the burden of proof could not be satisfied. The standard of proof is high because, for an accused person, his or her liberty is at issue.

It should also be recognised that in our system (and it is one of the important safeguards in our system) it is not the role of the prosecutor to get a conviction at any cost. If that were the case it would undermine our confidence in the justice system and most likely lead to the conviction of innocent persons. Notwithstanding the views of some, it is the prosecutor's duty to disclose all relevant information about the prosecutor's case to defence counsel, even if such disclosure may harm the prosecution case. If such information becomes available during a case, the prosecutor has a duty to disclose and not to sit on his or her hands and leave it to the jury with the real prospect of a miscarriage of justice. These principles are applied in every case, whether it involves allegations of domestic violence, larceny, housebreaking, assault and homicide, to mention only a few.

Some will argue that Mr Rofe's decision will deter those who are victims of domestic violence from pursuing charges, and radical proposals are being floated to change the law to ensure more convictions. I can respond with two statements. The first is that Mr Rofe is adamant that his decision in this case was 'based purely on the evidence relating to this case'. After reading out the statement (which I read earlier) at his press conference, Mr Rofe was asked:

> How can domestic violence victims feel reassured by this statement?

He responded:

> Because the factors that pertained in this case were so peculiar to this case and if any section of the media purports to publish it any other way, then I will be extremely disappointed.

The second point I make is that the law should not be changed on the basis of one difficult case or merely to get more convictions regardless of the justice of such proposals for an accused person. We cannot have one kind of justice for those accused of domestic violence and another for all other alleged offenders. The criminal law applies to all citizens equally. It has safeguards to ensure that, as much as it is humanly possibly to do so, innocent persons are not convicted with the severe consequences that follow, including imprisonment. Of course, the law, like human nature, is not perfect and innocent people, although few in number, are wrongly convicted, and I have no intention of doing anything which may increase that number.

In relation to the Clarke case, it would not be proper for me, as chief law officer of the Crown, to talk at length about the details of this case. In fact, I do not know them. I recognise that what makes it difficult for people to understand what has happened is that they do not have all the facts before them and because the publicity has focussed on only the more dramatic evidence. This has led to widely diverse conclusions, and I am sure that speculation will continue.

I do not intend to assassinate the character of Ms Pringle, the chief prosecution witness whose evidence ultimately created the difficulty for the DPP. I think it most unfortunate, as I have said already, that Mr Rann, as Leader of the Opposition, who aspires to lead a Government, should have used parliamentary privilege as he did last Thursday.

I do not intend to reflect upon Mr Clarke's position in any way. This was indeed a case about the relationship between a man and a woman, not about Mr Rann, Mr Atkinson or intrigue in the Australian Labor Party. In fact, in the DPP's opening statement in court, he clearly stated 'this case is not about politics'.

When Mr Rofe announced his decision in court, as he has indicated in the statement which I have read to the Council and also tabled, it is important to note that the trial judge made two observations to which the DPP has referred in his statement—and I repeat them for the sake of completeness:

> It is entirely your decision, Mr Rofe, but if I might say so, I think it is very well based.

And:

> It happens to be, as I said, not that it is anything to do with me, in my opinion, a very, very proper course to take in the circumstances.

In relation to Mr Rann's statement under parliamentary privilege, he has imputed base motives to some members. He has not hesitated to accuse at least one member of lying, an accusation which I do not believe for one moment. However, the statement is one which will have to be addressed in the House where it was made.

I turn now to issues of domestic violence. In this State, we have a variety of programs in place to support victims and to prevent domestic violence. We are in the forefront of prevention and this individual case will not alter our determination to deal with that crime. Victims can lay charges under the Domestic Violence Act, which this Government enacted in 1994 and which provides for the indictable offence of domestic violence assault as well as a procedure for obtaining restraining orders, a procedure which will be further refined when legislation that I introduced last year finally passes the Legislative Council and the House of Assembly.

The restraining orders provisions have been used extensively. Anti-stalking legislation, which this Government introduced, is another valuable aid in protecting victims of violent relationships. A Ministerial Forum for the Prevention of Domestic Violence meets regularly to bring together relevant Ministers and Government and non-Government agencies to coordinate efforts to prevent domestic violence.

Members of the police force receive special training to help them to understand and deal with the problem of domestic violence. The Victim Support Service, which is largely funded by the Government, provides counselling and support for victims in the criminal justice system. The Witness Assistance Service in the office of the Director of Public Prosecutions was set up to provide support to vulnerable victims throughout the court process—a service which as I indicated earlier has been used to its fullest in the current matter. The Department of Human Services offers a range of support services to domestic violence victims, including women's shelters and counselling and medical services.

The State Government also supports a number of non-Government agencies that provide services for domestic violence victims. These services are available whether or not a conviction is recorded. Prevention of domestic violence is also a focus for a number of the local crime prevention committees operating around the State, including the Salisbury Together Against Crime Committee which, only recently, produced a video launched in December called 'Is it worth it? Fathers and sons talk about violence'. There are

many other clear demonstrations of Government and non-Government agencies working constructively to prevent domestic violence and to provide support to victims.

I conclude by observing, as I did last Thursday, that, if there is evidence which shows a reasonable prospect of a conviction, it does not matter who you are, charges will be laid and pursued. On the other hand, the community can have confidence that, if there is shown to be insufficient evidence, it does not matter who you are, proceedings will not be pursued regardless.

QUESTION TIME

RAILWAYS, CLEANING

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about rail cleaners.

Leave granted.

The Hon. CAROLYN PICKLES: About one month ago, TransAdelaide determined that it would outsource its rail car and station cleaning services at the Adelaide and outer metropolitan stations. There are 20 full-time workers affected by this decision. This latest move follows TransAdelaide's decision six months ago where night shift cleaning was outsourced on the premise that it would provide greater job security for afternoon and day shift cleaners. The opposite has happened. I understand that these 20 cleaners will now be placed on a redeployed list for anything up to two years—of course, the Government will have to pay that cost—and that TransAdelaide has managed to eliminate 20 full-time positions which will be lost for all time.

I understand that the union is mounting a concerted campaign about this matter to alert the public. I was handed a copy of a leaflet entitled 'Save our rail cleaners' that was being handed out outside all railway stations today. I understand that rail cleaners have already achieved a cost saving of $40 000 in this financial year. My questions are:

1. Where are the savings for taxpayers, given that we will have to pay for the new outsourced services as well as including 20 workers on the redeployed list?

2. Will the Minister reveal any other plans to outsource TransAdelaide's functions which will result in job losses?

The Hon. DIANA LAIDLAW: I do not know where the honourable member obtained her advice about 20 members of the work force because—

The Hon. Carolyn Pickles: The union.

The Hon. DIANA LAIDLAW: Well, the union must have misunderstood the situation, because TransAdelaide employs only 8.97 full-time equivalent employees or 10 actual employees. So, I am not too sure whether the union has more on its books in terms of paying dues to the ALP or something like that, but TransAdelaide does not employ that number of cleaners.

At various depots over some period of time—not just recently—TransAdelaide has determined that its work will be undertaken by people other than those engaged by TransAdelaide. This is not a new practice: it is simply an extension of a practice that has been undertaken by Trans-Adelaide for some time. TransAdelaide, as one would hope with any organisation that is reliant on taxpayers' dollars for its operation and well-being, its reason for being, is looking at all areas of its operation to see that it is spending taxpayers dollars as beneficially as possible. It is also seeing that the function it must perform is undertaken as efficiently as possible.

I can assure members that TransAdelaide will not be giving up the cleaning of rail cars. It knows that the cleanliness of rail cars is particularly important to its business and the way in which it markets its business and attracts passengers. So, TransAdelaide has clearly made a decision—and this was made by the executive with advice to the unions—that, while it needs cleaning done to the highest possible standards, it is in its business interests to undertake this function in another way. As I say, it is not a new way because other depots within TransAdelaide other than rail car have engaged or hired cleaners to do the cleaning of buses, for instance, for some time, so it is an extension of current practice.

GOODS AND SERVICES TAX

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about the goods and services tax.

Leave granted.

The Hon. P. HOLLOWAY: Yesterday Professor Peter Dixon from Monash University told the Senate committee investigating the GST that, 'The long run economic welfare from the GST is zero.' A supporter of the GST, Mr Chris Murphy, of Econtech, also told the committee that he believed the benefit of the GST would be the equivalent of only .2 per cent of the total economy. This estimate is 40 per cent lower than the benefit Mr Murphy estimated before the last Federal election. My question to the Treasurer is: does he continue to support a goods and services tax, given that the respected economist Professor Peter Dixon has told the Senate inquiry that the new tax would be of no benefit to the economy, and given that the major supporter of the GST appearing before the Senate committee, Mr Chris Murphy, has estimated there would be only a trivial benefit from the new tax at best?

The Hon. R.I. LUCAS: Yes, Mr President.

MARINE PARKS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question about marine park declarations.

Leave granted.

The Hon. T.G. ROBERTS: Currently in the South-East, and I suspect in other parts of the State, fishing organisations and their representatives are meeting and raising fighting funds to gather a campaign against the Government's proposal for the declaration of marine parks. I have not seen a copy of any of the declarations nor any of the proposals that the Opposition bodies representing the fishing industry are talking about. I am certainly not aware of any white paper that has been put together by the Minister's office for discussion having been circulated.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: As the honourable member indicates, the industry may have access that members of the Opposition do not have. Be that as it may, the issue is off and running in the community. Community representatives have been asked for opinions, and it is very difficult to give opinions on something you know nothing about or on which you have not been briefed. I think that it would help the

Government if there was a bipartisan approach to this important area. I hope that the Government will include all Opposition members in briefings if there are proposals to be discussed.

The Conservation Council, being a conservation body with a stakeholding in the declaration of parks, has made some public statements. In the *Border Watch* of Thursday, 11 February 1999, the Executive Officer, Ms Michelle Grady, makes some very detailed statements in relation to why the Conservation Council would like to see declared marine parks. She also makes the point that a whole range of declarations can be made in terms of size, area, location, exclusion, semi-exclusion and access—all the issues that were not discussed in the scaremongering that went on in the first days of the debate, particularly in the South-East.

I think that the Conservation Council's case needs answering, and the questions that it is asking would be the questions that the Opposition would be asking as well. When will the Government call together all the stakeholders to discuss the issue of marine parks not only in the South-East but for all South Australia?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

SEAT BELTS

In reply to **Hon. T.G. CAMERON** (27 October 1998).

The Hon. DIANA LAIDLAW: Further to my reply of 18 November 1998, I have been advised by the Minister for Police, Correctional Services and Emergency Services that all police officers will be advised via the Police Gazette of the decision on the correct interpretation of the seat belt exemption law (Reg 7.9 (4c) RTA).

GUARDIANSHIP AND ADMINISTRATION (EXTENSION OF SUNSET CLAUSE AND VALIDATION OF ORDERS) AMENDMENT BILL

In reply to **Hon T.G. CAMERON** (8 December 1998) and answered by letter on 23 December 1998.

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

1. and 2. Considering the current state of mental health in South Australia and the increasing demand for guardianship decisions, why has the Government taken longer than necessary to finalise the review? What have been the delays in addressing any problems associated with this review?

The legislative review report was not presented until July 1998. It is now being examined, along with the operational review report, and Cabinet has agreed to the drafting of amendments to be introduced next year.

3. Why have half the administration orders been made by only one board member?

This situation arose out of a particular interpretation of the relevant parts of the Guardianship and Administration Act and its regulations by the Guardianship Board.

4. When will a decision be made as to the appointment of the Public Advocate?

It is expected that the new Public Advocate will be announced in January 1999.

5. Will the Minister outline the necessary changes that are needed to this legislation in order to protect the most vulnerable people in our society, that is, people who have mental illnesses and who are unable to make decisions on their own?

The review does not indicate that the legislation is failing the objectives. However, some changes are necessary to enhance its operation. When the final Bill has been drafted and approved by Cabinet, it will be introduced into Parliament.

Thank you for your contribution to the debate and for your interest in this important topic. I look forward to your support when the legislation comes before Parliament.

HIRE CARS

In reply to **Hon. T.G. CAMERON** (19 November 1998) and answered by letter on 18 December 1998.

The Hon. DIANA LAIDLAW:

1. No. Based on available information the Passenger Transport Board (PTB) considers that there is no justification for any further declared periods over the festive season.

The declared period is to apply from 4:00 pm on Friday, 18 December until 8:00 am on Saturday, 19 December and for the New Years Eve period from 6:00 pm on Thursday, 31 December 1998 until 10:00 am on Friday, 1 January 1999.

The approval was extended to include Small Passenger Vehicles (SPV's) due to past practice where declarations have applied to both standby taxis and SPV's.

2. The Festival of Arts has not been a declared period since the demise of the Metropolitan Taxi Cab Board in 1994. For the past two Festivals the PTB and the taxi industry have conducted a joint promotion through the 'Cabbies Guide to the Festival'—and arising from both festivals there has been no evidence to suggest that demand for taxis could not be met by the standard number of taxis. It is expected that the Sensational Adelaide 500 will be considered in conjunction with the taxi industry and event organisers based on expected demand.

At this time, there has been no request or application from event organisers Sensational Adelaide 500 or the Taxi Industry to the PTB for a declared period for this event.

POLLUTION, HEAVY METAL DISCHARGE

In reply to **Hon. T. CROTHERS** (27 October 1998) and answered by letter on 14 January 1999.

The Hon. DIANA LAIDLAW: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

1. All waters to the south and east of a line commencing at the high water mark on the eastern shore of Spencer Gulf at Ward Point, then in a generally west south-westerly direction to the commencement of the Port Pirie steamer channel, then following the steamer channel to its point of commencement adjacent the Port Pirie swinging basin (Port Pirie harbour), are closed to the taking of filter feeding molluscs such as razorfish, oysters, mussels and scallops.

2. The area, which is closed to the taking of shellfish, does not contain any aquaculture activities. There is no evidence of heavy metal contamination outside of the area subject to the closure. While there is no routine monitoring of the area, it has been the subject of two detailed investigations—one carried out by CSIRO in around 1980 and a second carried out by SARDI and the SA Health Commission in 1996.

. The CSIRO studies in 1980 demonstrated that there were only minor effects on the ecosystem and that these were restricted to the area immediately adjacent the mouth of First Creek—which receives the effluent water from the smelters.

4. Both of the CSIRO and SARDI/SAHC studies looked at the common species of fish found in the area. Both studies indicated that all major commercial and recreational fish species contained levels of metals, which were well below the minimum safe levels.

HEMP PRODUCTS

In reply to **Hon. M.J. ELLIOTT** (25 November 1998) and answered by letter on 14 January 1999.

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

The question refers to a range of hemp oil cosmetics that The Body Shop proposes to sell in South Australia, and the provisions of the Controlled Substances Act 1984 and its Regulations which prohibit the sale of any part of the cannabis plant, including the oil from the seed.

An amendment to the Standard for the Uniform Scheduling of Drugs and Poisons (SUSDP) came into effect on 19 December 1998 to exempt cannabis oil products with a tetrahydrocannabinol (THC) content of less than 50 mg/kg. The States and Territories adopt the SUSDP by reference. Some States also need to amend their legislation.

On 17 December 1998, His Excellency the Governor approved amendments to South Australia's Controlled Substances (Declared Prohibited Substances) Regulations 1985 consequential to the SUSDP decision.

Contrary to some of the publicity, the Minister for Human Services has been advised that South Australia was not the only State which needed to change its legislation to allow the sale of these products.

NATIVE VEGETATION

In reply to **Hon. M.J. ELLIOTT** (18 November 1998) and answered by letter on 29 December 1998.

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

Assessment of native vegetation clearance information for the period 1991-92 to 1997-98 shows that there has not been a dramatic increase in native vegetation clearance approvals during the period of the present Government. There has been a very substantial increase in the number of clearance applications received by the Native Vegetation Council, largely as a result of increased vineyard development and particularly for scattered trees. However, in percentage terms the rate of clearance approval for scattered trees was lower in 1996-97 and 1997-98 than for any previous years. Clearance approvals for scrubland have remained at a low level and have usually involved very degraded regrowth or situations where clearance is needed to facilitate pest control and where the native vegetation is to be rehabilitated following the pest control work.

Accordingly, the Minister for Environment and Heritage sees no justification for an independent audit to check the performance of the Native Vegetation Council.

The Minister for Environment and Heritage believes that there is confidence in the community about the performance of the Native Vegetation Council. It is considered that the Native Vegetation Council is achieving an appropriate balance in its decisions, in accordance with the requirements of the Native Vegetation Act 1991. It is particularly noteworthy that almost all clearance approved by the Council is accompanied by conditions requiring revegetation of other areas or protection of existing bushland, so that the overall result is an environmental gain for South Australia.

GLENELG TRAMCARS

In reply to **Hon. SANDRA KANCK** (9 July 1998).

The Hon. DIANA LAIDLAW:

The issuing of Certificates of Inspection has been the subject of ongoing discussion between the Passenger Transport Board (PTB), the Rail Safety Unit and TransAdelaide.

Rail safety legislation, proclaimed on 30 April 1998, requires rail operators and maintainers to be accredited and conform to rail safety standards being developed as Australian Standards.

Meanwhile, TransAdelaide the operator of the tram system, has been granted interim accreditation under the Rail Safety Act for 12 months—this interim arrangement expires 30 April 1999.

Recently, the PTB has approved a new inspection regime which TransAdelaide will now implement for its tram and railcar fleet as an interim measure until gaining accreditation under rail safety legislation.

The issue of rail accreditation requirements (including inspection standards) has been addressed by the PTB on an interim transitional basis, in close association with the Rail Safety Unit of Transport SA. During this period, it is recognised that TransAdelaide has the specialist expertise and infrastructure in place to ensure its railcars and trams are appropriately maintained to meet acceptable safety standards.

TransAdelaide has developed a certificate of inspection to be signed and dated after each annual inspection, by persons authorised by the Manager, Rail Safety. TransAdelaide will also affix an inspection label to each vehicle as identification of inspection.

As an external audit procedure, TransAdelaide will, at the written direction of an authorised officer who is authorised by the Board for the purposes of inspections under Section 54 of the Passenger Transport Act, present for inspection a vehicle or vehicles that are within the ambient of the Act, at such a place and time as is specified in the direction.

PSYCHOLOGICAL PRACTICES ACT

In reply to **Hon. SANDRA KANCK** (27 October) and answered by letter on 29 December 1998.

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

1. Yes—a further extension to 12 November 1998 was granted. The report to which the honourable member refers was preceded by an earlier paper, widely distributed on 24 August 1998, which canvassed all the implications of competition policy for the Act. The call for submissions to the earlier paper was also prominently advertised in the Saturday edition of the *Advertiser* on 22 August 1998.

2. In all the reviews of legislation regulating the health professions, either the Registrar or the Presiding Officer of the respective boards has been included on the review teams. This has been done to ensure that the panel had expert knowledge of the way the Act has been implemented to date.

This is not an inquiry into alleged shortcomings of the boards, so the question of conflict of interest does not arise.

BREASTSCREEN SA

In reply to **Hon. SANDRA KANCK** (3 November) and answered by letter on 29 December 1998.

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

1. The purposes of the two reviews are different. The reason for the review conducted by The Private Development Unit was to determine likely costs and benefits of contracting out the provision of the breast screening services in South Australia. Comparisons were made with the private sector who were delivering breast screening services in some other States. It was concluded from this review that services should remain within the Government sector.

The current review has been motivated by a number of factors. It is one of a number of reviews now being conducted due to the creation of the new Statewide Division under whose umbrella BreastScreen SA sits. The establishment of the Statewide Division has provided an opportune time to consider the provision of breast screening services in SA, including service design and its capabilities to meet future demand. Other factors included the requirement to review departmental committee/advisory structures.

The review committee will not be undertaking a fundamental review of services but rather addressing specific issues. The focus is on improving and fine tuning a very good service.

2. The only cost of the review is in the time of the staff (Department of Human Services) and stakeholders involved in providing information, interviewing, responding to correspondence and the general administrative work involved in such a review.

- Review committee — 12 hours to date
- Support staff (DHS) — 70 hours to date
- Stakeholders — half hour interviews x 16
- Staff BreastScreen SA — data collection, interviews, general administrative tasks
- Consumers — 1 hour forum x 6 consumers

The Private Development Review was conducted in-house by officers of the department and there were no additional costs incurred. Approximately 180 hours staff time went into this review.

Terms of reference for the current review are—

- To enquire into and report on the provision of radiological breast screening and assessment in South Australia, with regard to the possible expansion of services.
- To investigate and make recommendations on the most appropriate model of assessment of irregularities detected through breast screening. This will include consideration of the provision of clinical services in relation to assessment and detailed examination of the liaison between assessors and treatment units. Emphasis will be placed on the importance of quality and continuity of care from detection to assessment and treatment.
- To examine and make recommendations on the role of dedicated breast screening services in education and teaching. Attention will be given to the future training of breast cancer surgeons in the screening process and consideration of the links between BreastScreen SA and major breast cancer units, with specific consideration of links with teaching hospitals.
- To consider the role of related Advisory Committees and make recommendations on their future structure.
- Recommendations on the medical appointment process at BreastScreen SA will be made by the Human Resources Section, Department of Human Services.

3. A senior radiologist is a member of the review committee. All specialty groups have the opportunity to contribute to the review.

4. It is recognised that BreastScreen SA provides an outstanding service to the women of South Australia and it is not the intent of the review to make radical changes to the current program but to identify areas for future enhancement.

MOTOR VEHICLES, REGISTRATION PLATES

In reply to **Hon. R.R. ROBERTS** (27 November 1998) and answered by letter on 22 January 1999.

The Hon. DIANA LAIDLAW:

1. In circumstances where an owner seeks to replace lost or stolen registration number plates, the fee payable depends on whether the owner wishes to obtain number plates bearing the number previously assigned to the vehicle, or an entirely different number. If the number plates are issued with the same number, the administration fee (cost recovery) is $20.

If an owner wishes to obtain a new number, that requires changes to be made to the Register of motor vehicles, which was the situation in this particular case, an additional administration fee of $20 is payable. This is to off-set the costs of making these changes. In view of the circumstances surrounding this case, the Registrar of Motor Vehicles decided to waive the administration fee for the changes to the Register.

However, there is no provision for replacement number plates to be provided to 'victims of crime' without recovery of the cost of the plates.

The Attorney-General has provided the following information regarding legal redress:

2. The constituent does, of course, have common law rights to recover any loss experienced as a result of the crime from the person (if known) who stole the number plates. Alternatively, if that person is found and prosecuted, the sentencing court could order Compensation pursuant to its powers under s. 53 of the *Criminal Law (Sentencing) Act 1988*.

SPORT AND RECREATION FUND

In reply to **Hon. NICK XENOPHON** (27 October) and answered by letter on 29 December 1998.

The Hon. DIANA LAIDLAW: The Minister for Recreation, Sport and Racing has provided the following information:

1. Section 73A (6) of the Gaming Machines (Miscellaneous) Amendment Act 1996 states that '*financial assistance will not be given under this section to an organisation that is the holder of a gaming machine licence.*'

The Active Club Program provides financial assistance to community based sporting and recreation organisations to develop and expand the services which they provide, thereby increasing the community's access to quality sport and recreation activities and facilities.

Financial assistance under the Statewide Development Scheme is provided to State sporting and recreation associations and other lead agencies who provide the overall leadership, direction and competition support for sport and recreation in this State.

Grants under both these programs are allocated to incorporated organisations.

2. It is not possible to provide details of organisations using or sharing clubrooms or premises with a gaming machine licence holder as this information is not supplied through the application process.

3. Through the application process for both the Statewide Development Scheme and the Active Club Program, applicant organisations are required to sign a declaration that they are not the holders of a gaming machine licence as per the requirement under the Act.

The requirements under the Act refer to those organisations that are the holders of gaming machine licences and not organisations that are receiving a benefit from gaming machines.

HOSPITALS

In reply to **Hon. CARMEL ZOLLO** (8 December 1998) and answered by letter on 14 January 1999.

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

The hospitals, being private organisations, are free to make whatever managerial arrangements they may wish to make.

The arrangements are not subject to Government approval, other than through the Health Commission licensing process for hospitals under the SA Health Commission Act. There is no reason to believe that such an arrangement would have any effect on the supply of surgeons to public hospitals.

FOOD ACT

In reply to **Hon. CARMEL ZOLLO** (17 November 1998).

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

1. In 1998 there were 128 Local Government Environmental Health Officers.

In the Environmental Health Branch of the Department of Human Services there are ten such officers. In addition, there are three staff primarily engaged on developing new food safety legislation who are authorised officers. Staff in the Communicable Disease Control Branch of the Department of Human Services also undertake surveillance of food-borne disease and investigate food-borne disease outbreaks. (Staff employed by Primary Industries Resources South Australia (especially meat and dairy inspection) are not included in these figures).

The Food Section (South Australian Health Commission) had ten staff in 1997; ten in 1996; eight in 1995; and eight in 1994.

For previous years the numbers of local Government environmental health officers are not available and would be difficult to determine, especially given recent council amalgamations. Environmental health officers are multi-skilled and have duties other than food inspection.

2. The audit identified that local Government does not routinely supply the Department of Human Services with numbers of authorised officers as this is not a specific requirement of the Food Act. Nonetheless, local Government supplied this information in 1998 and the information will continue to be sought in future.

3. The internet site has now been established and its address is ttp://www.dhs.sa.gov.au/pehs.

4. The level of resources applied by local Government is presently being reviewed. The question of whether those resources are adequate for the task for a particular council is not simple and takes account of the number of premises to be inspected and the risks that each premises poses. For example, a council with a large number of food premises producing perishable foods requires more resources than a council that has fewer premises producing predominantly stable, low risk foods.

A nationally uniform system is needed for risk classification of food premises as well as nationally uniform inspection frequencies and methods that account for the assessed risk. This is precisely what the Australia New Zealand Food Authority food hygiene standards, which are proposed for introduction in 1999, are designed to provide. They will allow for a meaningful assessment of the adequacy of resources being applied by the local Government sector. This will be carried out in implementing the national food law reforms in South Australia during 1999.

RECYCLING

In reply to **Hon. CARMEL ZOLLO** (8 December 1998).

The Hon. DIANA LAIDLAW: The Minister for Industry and Trade has provided the following information:

1. Construction of the Visy plant has not commenced, as a number of issues have yet to be satisfactorily resolved although progress has been made.

2. The State Government has discussed incentives in a preliminary sense with Visy but no agreement has been reached.

3. Visy is still committed to building the plant in South Australia, and intensive work is being undertaken by both Visy and the various South Australian Government instrumentalities involved to ensure that this occurs.

GOVERNMENT NURSERIES

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question about Government plant nurseries.

Leave granted.

The Hon. M.J. ELLIOTT: The State Government has announced that it intends to close its two remaining native plant nurseries. In asking this question I declare a personal interest in that I am a regular user of the Belair plant nursery in the Belair National Park, which specialises in selling only native plants. Its popularity is due to the fact that it provides an important service: not only does it sell a very wide range of native plants which are available nowhere else—and I can assure the Minister that I have visited many nurseries that

claim to be specialists but they sell nothing like the range that is sold through the Belair outlet—but it is capable of identifying the seed source of plants, which is important if you are seeking to plant only endemic varieties. It is not enough to get a species. I live in the Adelaide hills and I do not want a seed source that comes out of the Flinders Ranges, which happens in a lot of nurseries.

There is concern within the community that while there are a number of private operators who sell native plants and local species none provide the variety of plants available from those nurseries. It is most likely that in a commercial environment some species would not be commercially viable to be sold. Therefore, people are concerned that if the nurseries were sold to commercial interests there would be a significant reduction in services, particularly in terms of the range of species carried and also in relation to identification of seed source.

Although these enterprises have been a money earner for Government, many people interested in native plant species would argue that they provide a valuable public service which is of important benefit to the environment. I am also aware of the importance to farmers of the nursery at Murray Bridge. My questions to the Minister are:

1. How does the Government anticipate that private operators of its plant nurseries will maintain the wide diversity of species now available, as no other private nursery does so at present?

2. Would the diversity of plants offered be enforced with any sale contract?

3. If the Belair Nursery were to be sold off, how would the Government justify what would then be a purely private operation being based within a national park?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister and bring back a reply.

YEAR 2000 COMPLIANCE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Year 2000 Compliance, a question about small business and the year 2000 date problem.

Leave granted.

The Hon. CARMEL ZOLLO: Late last year the Australian Bureau of Statistics released its findings of a survey of over 7 000 Australian businesses. The survey showed that four out of 10 small businesses were not planning to address the millennium bug problem and that nationally 90 per cent of businesses were aware of the year 2000 date problem but 43 per cent did not intend to deal with the issue. Whilst the figures for South Australia are slightly better than the national figures, they still show that 37 per cent of companies do not plan to take action. Further, a recent Victorian Government report has raised the concern that public agencies could face law suits from the private sector if they fail to correct the year 2000 date problem.

Last week the *Australian Financial Review* reported that the Federal Government is proposing to introduce a yet to be released good samaritan Bill designed to improve the exchange of information between organisations. The *Advertiser* also indicated in a recent report that the Government was looking at introducing similar legislation at State level. It has also been reported that there is a reluctance in industry to share vital information when addressing year 2000 problems and solutions for fear of directors exposing themselves and their companies to litigation over the issue. Given the recent Victorian Government report:

1. What advice—legal or otherwise—has the Government received on its liability should it fail to correct the year 2000 date problem in any of its agencies or outsource contractors?

2. When will the Government introduce legislation as indicated by the Minister for Year 2000 Compliance which will encourage information sharing on the year 2000 issue and to increase year 2000 compliance across the public and private sector?

3. Will the Minister provide details of the specific assistance programs available to small business to meet year 2000 compliance and detail the cost of these programs?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Minister and bring back a reply.

OUTBACK TELEVISION COVERAGE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Recreation, Sport and Racing, a question about television coverage.

Leave granted.

The Hon. CAROLINE SCHAEFER: It is well known that South Australians are a passionate community of football fans—in particular, AFL football—and no more so than in remote and regional areas. Therefore, it was very disappointing to me and to a large number of people who have contacted me to read an article in the *Advertiser* (Saturday 13 February) entitled 'AFL Broadcast Misses Mark in Outback'. Apparently Imparja Television has lost the right to broadcast AFL football to a Channel 7 based company in Townsville.

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: The honourable member interjects that this is what competition is all about, but there is no competition if you cannot get the other channels. The article points out that there are large areas of South Australia and virtually all of the Northern Territory where the only television they get is Imparja. Many people will be able to be serviced by the new channel but they will require new satellite towers or satellite dishes at a net personal cost of $250. The Federal Government is offering a $750 rebate from the total cost of $1 000 to personal owners of satellite dishes, but that leaves some 28 towns with community satellite towers to install new dishes. Will the Minister seek the support of our Government to ask the Federal Government to do all it can to ensure that AFL football coverage is granted to people in remote South Australia and the Northern Territory?

The Hon. DIANA LAIDLAW: I will take up the issue not only as the honourable member has asked but also on behalf of our road gangs in Transport SA who work across the State and who have an equal interest, when they are working out their 18 days in a row, to see the Crows and Port Power when they are playing.

YEAR 2000 COMPLIANCE

The Hon. T. CROTHERS: I seek leave to make a precised statement before asking the Treasurer and Leader of the Government in this Council a question about the millennium bug.

Leave granted.

An honourable member interjecting:

The Hon. T. CROTHERS: Talking of bugs, look who is speaking. The sole topic raised in an information sheet I received on Tuesday 9 February and put out by the Office of Consumer and Business Affairs in South Australia was the millennium bug. For the second time this year it caused me to think. Having been the recipient—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, for the first time this year it caused me to think.

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

The Hon. T. CROTHERS: There is so much of me that it is very difficult not to. For the second time this year it caused me to think. Having been the recipient of some Government largesse recently in respect of a laptop computer for which I am very grateful, I began to ponder the impossibly imponderable. Given that backdrop—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: I have a lapdog in you.

An honourable member interjecting:

The Hon. T. CROTHERS: What about shutting your yap top? I direct the following questions to the Treasurer:

1. Has the Government purchased the laptops outright?
2. If not purchased, are they leased?
3. In any case what guarantee has the Government from the vendor in respect of the millennium bug?
4. Just in case I have got it all wrong—

An honourable member: No chance whatsoever!

The Hon. T. CROTHERS: I can remember once, 10 years ago, I was wrong.

4. Just in case I have got it all wrong, are our recently received laptops already millennium bug proofed?

There are many other questions I could ask but, in the interests of brevity and in order to give the Democrats ample time to ask their questions, I will leave it there for the time being.

The Hon. R.I. LUCAS: It is a lovely picture, the Hon. T.C. sitting there with a laptop on his lap. I am just not sure how he would see it. He would obviously use a mirror. I will refer the honourable member's most serious and important questions to the appropriate Minister or Ministers and bring back a reply as expeditiously as possible.

FIREFIGHTERS, PORT PIRIE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about the MFS in Port Pirie.

Leave granted.

The Hon. R.R. ROBERTS: On 11 February the Hon. Angus Redford asked a series of questions after expressing concerns about on-call firefighters protesting outside MPs' offices and having lifesaving equipment, including radios and other communications equipment, as well as pumps and uniforms, with them. He also attacked the Port Pirie MFS and criticised the cost of supplementing the force from time to time and indeed reported that 'some people' had suggested to him that work levels at Port Pirie are no greater than for Coromandel Valley CFS volunteers. He then proceeded to ask a series of pointed questions about the Port Pirie MFS and the Coromandel Valley CFS. I believe that the CFS at Coromandel Valley is the CFS next to the dairy farm belonging to the Minister for Police, Correctional Services and Emergency Services, so it does not actually look after that. My questions are:

1. Did the Hon. Angus Redford consult with the local member and Deputy Premier (Hon. Rob Kerin) before making this attack on the Port Pirie MFS?
2. Was the Hon. Rob Kerin one of the 'some people' to whom the Hon. Angus Redford referred and who questioned the worth of the work of the Port Pirie MFS, protecting the world's largest smelter, the oil storage facilities, the international shipping and the CBH facilities, as well as the lives and property of the citizens in his electorate?
3. Has the Hon. Mr Redford consulted the Hon. Rob Kerin? If he did, has the Hon. Rob Kerin told the Mayor and his electorate that he believes that the infrastructure and people of Port Pirie are not worth the cost of one professional, highly trained firefighting crew?
4. Does the Hon. Rob Kerin agree that firefighters should go on strike and leave all their equipment locked in unmanned fire stations if they want to exercise their right to protest for wage justice, or was this action the clever plan only of the junior Minister for Police, Correctional Services and Emergency Services (Hon. Mr Brokenshire) and the Hon. Angus Redford, or can the Hon. Angus Redford claim this as all his own work?

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: It is a bit hard to understand what the question is all about. I think it is more personal politics—

An honourable member: Local politics.

The Hon. K.T. GRIFFIN: —and local politics, perhaps—and it carries some innuendo that ought to be addressed. But for the fact that it carried that, I would probably not worry about responding to the honourable member. However, on the basis that he has made some at least implied criticisms and assertions, I will have the—

Members interjecting:

The Hon. K.T. GRIFFIN: No, the honourable member implied criticisms of others in trying to bring some partisan politics into it. The Hon. Angus Redford may wish to make some observations at an appropriate time. I will make sure that the questions are referred to my colleague in another place and endeavour to bring back an appropriate response.

WASTE MANAGEMENT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning a question about the Government's waste management strategy.

Leave granted.

The Hon. SANDRA KANCK: In January the Government announced the waste management strategies that it has developed, including the go-ahead for three near metropolitan or country dumps to replace Wingfield. I recently met with members of the Dump Coalition, which represents residents affected by all three proposals, and they believe that there are a number of flaws in that strategy. The assessment report for the Inkerman dump states that no barley is grown in the area. The Barley Growers Association will not accept barley that has any hint of contamination, and that is understandable, given the use of barley in the production of beer. Local residents opposing the dump have informed me that barley has indeed been grown there, and they invoke the possibility of South Australians drinking toxic beer as a consequence of

a dump being located so close to a barley growing site. In relation to the Medlow Road dump, there are a number of—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: In relation to the Medlow Road dump, a number of homes are inside the buffer zone and, given the conditions that will be placed on development should that dump actually go ahead, those residents are concerned that they will not be allowed to make any improvements to their homes. The proponents of the Dublin dump were supposed to have a 500 metre buffer zone within the boundary of their land, but it appears that there is now to be a 500 metre buffer zone outside the boundaries.

A new plan amendment report issued for the area on 4 December last year states that intensive agriculture and coastal zones must not be in the zone surrounding a dump, while the reality is that farms and a coastal zone are in very close proximity to that proposed dump site. My questions are:

1. If ministerial approval has been given to an assessment report, and that report is subsequently found to contain inaccuracies, is the approval revoked?

2. Will residents who have had the misfortune to find their homes in the buffer zone surrounding a nominated dump site be allowed to make improvements to their homes or continue to grow crops?

3. Is the Minister aware that the Wakefield Plains council has offered a site at Everard which has an existing landfill and which is much further from the coast and therefore less likely to create a problem with leachate? If so, what is her response to the offer?

4. Has the Minister had any discussion with the Federal Transport Minister with regard to the capacity of National Highway 1 to handle the increased traffic, both in terms of the congestion on and damage to the road?

5. What will be the extra greenhouse gas contribution to the atmosphere as a consequence of the transport of waste to country regions?

The Hon. DIANA LAIDLAW: I have already replied to constituents who have raised this barley growing issue with me. Certainly the matter of the barley variety was not raised during the call for public submissions, so it was not addressed in that form in the assessment report. I can easily provide the honourable member with the answer to the constituents who have written to me on that issue.

In regard to the buffer zone, the honourable member would know and I think would be prepared to acknowledge that the PAR does provide this 500 metre buffer zone. With respect to Medlow Road, one of the agreements reached with the proponents was that they would offer to any property owner with a house inside that buffer zone the purchase of the house at 20 per cent above the Valuer-General's price.

The honourable member did not refer to, and perhaps was not aware of, the fact that each house owner within the buffer zone has purchased their property since 1992 when Labor gave the first approval for Medlow Road to be a landfill site. I do not wish to reflect on the landowners there but just relate the fact that in 1992 under the Labor Administration the planning assessment process gave approval for a landfill and the people within that 500 metre buffer zone today have all purchased their property since that approval. The proponents will nevertheless offer to purchase those properties at 20 per cent above the Valuer-General's price. If people do not wish to take up that offer, it is entirely up to them. If they wish to improve their properties that, too, is entirely up to them—they own the properties—but they would do so at their own risk.

As for the capacity of the dual carriageway, I can readily assure the honourable member that there is plenty of capacity on that road. I do not envisage that it will be filled by trucks taking baled material to the landfills to the north of the State because, with the resource recovery requirements forming part of the approvals for landfill, you will find that an enormous amount of material that is currently dumped at Wingfield will be recycled in future. I do not think there is any need to scare people north about road safety or people living near the sites at Dublin or Inkerman that they will be overwhelmed by rubbish in the future. I will get more information in relation to any proposal about Everard, but I understand that it is not deemed to be a commercial proposition because of the distance from Adelaide.

The Hon. T.G. ROBERTS: Will the Minister inform the Council whether it is the Government's intention to mine the Wingfield Dump and relocate some of the non-renewables in the Dublin or Inkerman dumps?

The Hon. DIANA LAIDLAW: The Government does not own the Wingfield Dump, so it is not our intention to mine the site once it is closed—or even before it is closed, and legislation to that effect will be introduced in this place this week. Certainly, the mining of Wingfield landfill has been suggested to me. It would have to be part of a decision made between the owner, Adelaide City Council, and the EPA. I believe that there have been some successful operations of that nature in the United States in the past and that it may well be applied here when Adelaide City Council develops a resource recovery and rubbish removal policy—and we all look forward to such a policy.

HOLDFAST SHORES BREAKWATERS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the breakwaters at Holdfast Shores.

Leave granted.

The Hon. M.J. ELLIOTT: The breakwaters at Holdfast Shores are not working according to the predictions that were made prior to the environmental impact assessment. The understanding was that dredging at the Patawalonga would have occurred for two months of the year. Indeed, my understanding is that the dredge has been there almost permanently, trying to remove—

The Hon. A.J. Redford: It's creating jobs.

The Hon. M.J. ELLIOTT: Well, it's a dredge-led recovery!

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: And you can put another one down at West Beach, too—as well as the one that is working at North Haven. Those dredges would, of course, be working at Government expense. One of the major reasons for the Holdfast Shores was to fix the sandbar problem at the mouth. We appear now to have a far more serious problem than that with which we started. I understand that there is now some suggestion that the breakwaters are to be extended. Despite the fact that apparently some intensive and extensive scientific work was carried out which guaranteed that the first ones would work, there is now a proposal for a further extension. My questions are:

1. Will the Minister inform this Council what the dredging costs have been since the construction commenced at Glenelg?

2. If there is to be an extension to the breakwaters, who will bear the cost, and what is the estimated cost?

3. How extensive and intensive will the scientific analyses be of any proposed changes to the current breakwaters?

The Hon. DIANA LAIDLAW: I will seek information about the dredging costs. In terms of the breakwater proposals, it was one of a number of suggestions by a marine consultant. I understand that this issue was considered at a meeting last December. There are further questions to be asked. It has not been pursued.

ROAD DEATHS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions about the country road toll.

Leave granted.

The Hon. T.G. CAMERON: So far this year, 27 people have been killed on South Australian roads compared to 21 for the similar period last year—a terrible start to the new year. However, the real tragedy is the doubling of the number of people killed on our country roads. So far this year, 20 people have been killed on our country roads compared to 10 for the same period last year. That is a 100 per cent increase.

For some time now, I have been calling on the Minister for Transport to increase spending on roadside rest areas in the country. As far back as March 1997, I stated that funding for roadside rest areas was ridiculously low. Considering the number of people being killed due to the lack of concentration and fatigue when driving, the figure is scandalous. As recently as 1996, just $15 000 a year was being spent by the Government on all roadside rest areas for the whole State. In its October edition of *SA Motor*, the RAA had this to say about roadside rest areas:

> The Government must lift its game in this area. The standard of roadside rest areas in some States is far higher than in South Australia and signposting is used much more frequently to warn road users of the dangers of fatigue.

I understand that Transport SA is in the process of undertaking a review of country roadside rest areas, a move that is long overdue, and we have been waiting for the results for some time. My questions to the Minister are:

1. Has the Transport SA review been completed as yet and, if so, what are its broad findings and recommendations?

2. If the review has not been completed, when will it be, and will the Minister ensure that copies are available for inspection?

3. Considering the massive increase in the number of people being killed on country roads this year, will the Government now move as quickly as possible to increase funding for roadside rest areas and signage, particularly on those stretches of country roads and highways where black spots are known to exist?

The Hon. DIANA LAIDLAW: Certainly, the issue of rest areas has been addressed in the National Road Safety Strategic Plan that has been approved by all Ministers, and arising from that the policy, strategy and infrastructure report to which the honourable member referred is being prepared by Transport SA. I have referred to my notes about roadside rest areas, and they do not advise that that report has been completed. However, I know that the work is well advanced, because we are already talking about this issue in terms of budget allocations for the next financial years.

We believe very strongly that, to combat driver fatigue, a rest area needs to provide a clean, quiet and relaxing atmosphere, in addition to basic facilities that road users may expect when taking a break from travelling. These facilities include shade, litter disposal, toilets, drinkable water and possibly picnic facilities. So, we are looking at a hierarchy of rest areas similar to those which have been constructed by the Northern Territory, South Australian and Commonwealth Governments on the Stuart Highway and which are particularly good and superior rest areas. We are looking at those on our major roads, and then smaller versions at more regular intervals. So, it involves a hierarchy in terms of scale of facilities at various areas.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: The notes that I have here do not advise that. If the honourable member had listened, he would have heard me say that it must be well advanced, because we are already discussing the budget implications for the coming financial year.

COOBOWIE BAY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question about the environmental impact of aquaculture in the Coobowie Bay area of Gulf St Vincent.

Leave granted.

The Hon. CARMEL ZOLLO: Over the past few months I have been contacted by several constituents concerning perceived environmental changes in Gulf St Vincent, and in particular Coobowie Bay. In particular, concerns have been expressed that the oyster beds in the Coobowie Bay area may have contributed to environmental changes, including the recent growth of toxic algae which continues to be of concern. Other residents have noted that a greater than normal amount of seaweed is being washed onto the beach than was the case before the establishment of the oyster leases. There is concern that the sandy beach is disappearing and that the oyster beds have interrupted the free flow of water in the bay. I am informed that it is a common occurrence to see seaweed stuck on the oyster beds when the tide is out and the baskets are exposed. Apparently, the weed is polluting Coobowie beach and there are fears that this will worsen as the leases are extended.

Another constituent has also raised concerns that the introduced oyster species could become feral in the area. If new industries such as aquaculture are to be the success I am sure we all wish them to be not only must they be environmentally sustainable but also supported by the general community, and therefore it is important that all the concerns raised receive an airing and are followed up. Will the Minister for Environment and Heritage provide a report on the issues of concern raised by my constituents, and, in particular, address what processes are in place by the EPA independently to monitor any environmental impact of the aquaculture leases within Gulf St Vincent?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

WATER OUTSOURCING

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Hon. Dr Michael Armitage on United Water technologies made this day in another place.

Leave granted.

NGARKAT NATIONAL PARK

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement made this day by the Hon. Dorothy Kotz, Minister for Environment and Heritage, on the subject of the Ngarkat bushfire.

Leave granted.

FOOD LABELLING

The Hon. P. HOLLOWAY: My questions are to the Treasurer and concern the emergency services levy.

1. Will the emergency services levy, which was passed by Parliament last year, fully cover the costs of the Motorola and Telstra radio communications contract, the cost of which, we were recently told, increased to over $200 million?

2. How much will be raised by the emergency services levy?

3. Will the $100 million tax increases, which the Treasurer has foreshadowed in the past week, apply over and above the emergency services levy and its Motorola-Telstra contract component?

The Hon. R.I. LUCAS: I will take those questions on notice and bring back a reply.

GENETIC MODIFICATION

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Treasurer and the Leader of the Government in this House on the subject of genetic modification—and I am not referring to the Hon. Legh Davis!

Leave granted.

The Hon. T. CROTHERS: Recent research on the genetic modification of potatoes has come to my attention.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: Shut up, spud Davis! The researcher in question worked for a science research company which was receiving very considerable funding from the private sector. His publicly released research paper demonstrated that when rats were fed genetically modified potatoes their immune system was greatly reduced. The company for whom he worked lambasted his research paper and immediately sacked him. Immediately this happened, 20 of Britain's most pre-eminent, pure research scientists issued a joint statement supporting his findings. Likewise, there is the case of SANTOS, which I have raised here before, an internationally well-known company, and its genetically modified seed stocks which have been genetically changed so as to prevent any plant emanating from them reproducing itself.

This act by SANTOS has got the farming community very angry indeed with SANTOS, whose excuse is that this is to prevent any immunity, which these crops develop over a period of time, to pesticides, herbicides and weedicides, and whatever have you, on the succeeding generations of crops. Farmers believe that this is a very lame excuse from SANTOS. With the foregoing in mind, I now direct the following questions to the Leader:

1. Why did his Government, along with the other States, agree with the Federal Government not to introduce labelling laws which would show which products were genetically modified?

2. Will the State Minister responsible for genetic modification, in light of the recent British research to which I referred, place on the agenda of the Council of Ministers the question of international and Australian wide laws regarding genetic modification and again raise the question of genetic modification being placed on foodstuffs labelling?

3. Does the apparent capacity of research grants from the private sector disturb the Minister in the way in which these funds can influence research companies to ignore scientifically produced research and in respect of that finding being detrimental to the private company's interest in question and, if he is, what, if anything, does he intend to do about that obscene private company interest which is most assuredly not in the best interests of the general public?

The Hon. R.I. LUCAS: I will refer the honourable member's question to the Minister and bring back a reply.

NATIONAL HIGHWAY ONE

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about National Highway One and audio tactile marking.

Leave granted.

The Hon. R.R. ROBERTS: I asked some questions of the Minister on 25 February 1997 in respect of audio tactile marking, or what is commonly known as ladder line marking. The Minister accepted my questions with some grace—in fact congratulated me, which is quite unusual, on raising the matter. I received some answers on 23 May 1997 which outlined the areas where audio tactile marking was in place. This subject has been discussed on a number of occasions by the Spencer Gulf Cities Association, and I note from its agenda that the matter is set down for the next meeting in about a fortnight. Unfortunately, members would be too aware of the number of deaths on National Highway One between Port Pirie and Georges Corner. I asked some questions in respect of audio tactile marking also in respect of passing lanes. Members would also be aware that I have taken an interest in the road between Lochiel, Port Pirie and Port Augusta ever since the experiment started with road trains, which is some three years ago, or it may even be longer.

I note also that I have not been able to observe any increase in the audio tactile marking. I also had discussions with the mayor of Port Pirie about a fortnight ago and I am advised that there is only one passing lane between Georges Corner (which is just outside Port Pirie) and Port Augusta. This is not a country road; this is one of the arteries of the nation, National Highway One. My questions are:

1. How many more people have to die before anything is done on National Highway One in respect of passing lanes?

2. How much audio tactile marking has been installed since I received the answers on 23 May 1997 to the questions I asked on 25 February 1997?

The Hon. DIANA LAIDLAW: I recall advice given to me by the Hon. Frank Blevins (former Minister for Transport) when I became Minister of Transport; namely, to be aware of deputations from councils, to be aware of corres-

pondence and constituents and to be aware of members of Parliament who would alert the Minister of Transport every day of the week that, for any request for road funding that they refused, they would then have on their conscience a road death or would be responsible for a road death. The Hon. Frank Blevins alerted me to that background and it has been my experience that that is the approach of most people who ask for road funding. It does not mean that I am any less sympathetic to the issues and applications that are put to me, but I just put the honourable member's questions in that context, because I have been particularly disturbed in the past year about the number of deaths on this road. They give weight to a presentation that Transport SA has already made to the Federal Government for funding for 10 more passing lanes between Port Pirie and Port Augusta. I hope that funding application will be successful in the next budget round. The Federal Government was excellent—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes, I acknowledge that it was a Federal Labor Government—in respect of our application for, I think, the first three passing lanes between Lochiel and Port Wakefield, and, as I have said, application has been made for a further 10 passing lanes between Port Pirie and Port Augusta. If we can get at least three of those in the next budget I will be pleased, but 10 are proposed.

In terms of audio tactile marking, I will have to obtain more detailed information for the honourable member, but I can alert him that that issue is being addressed by the department and will be addressed by me in response to the report of the Environment, Resources and Development Committee, which was tabled in this place in December. I gave a preliminary response in December, and I will respond in more detail a fortnight from today.

DRUGS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister for Aboriginal Affairs a question about drug abuse in young Aboriginal communities.

Leave granted.

The Hon. T.G. ROBERTS: Recent reports in the electronic and print media show an increasing trend in the use and abuse of, in particular, heroin amongst young Aboriginal people living in metropolitan and outer regional areas. It has also been indicated that a crime wave has accompanied the increase used and abuse of these drugs as they are quite expensive in those communities. It has also been reported that this is not restricted only to young Aboriginal people in metropolitan regional areas but that the numbers of young Aboriginal people involved are of concern.

I have also been informed that the statements that have been made recently in the media can be supported by anecdotal evidence, but there is no information appearing in any treatment records or statistics that would need to be collected to draw a picture of an emerging problem. My questions are:

1. In anticipation of the fact that the anecdotal evidence and information that is being reported daily in the media is correct, what other special measures are being undertaken by the Government to identify whether this problem is as serious as it has been reported?

2. What special measures are being undertaken to treat and eliminate these problems?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

ROADS, ARTERIAL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about travel times on main arterial roads.

Leave granted.

The Hon. T.G. CAMERON: According to research carried out by the RAA's Traffic and Safety Unit, as detailed in the February edition of *SA Motor*, the average speed of cars on southern arterial roads has decreased.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Someone in this Council has to read *SA Motor*. Congestion on roads from the southern suburbs is the most obvious problem. Survey data recorded average times and speeds of vehicles during morning and afternoon peak traffic periods. Roads with an average speed of 50 km/h or more are considered to be free-flowing; those with an average speed of 40 to 49 km/h are considered to have a relatively unimpeded flow; those with 30 to 39 km/h are regarded as minimum performance through urban arterial roads; and those with an average speed of less than 30 km/h are considered to be unacceptable.

Data collected by the RAA shows that arterial roads that serve Adelaide's southern suburbs are already at or below minimum standards. For example, average morning speeds on Marion Road have fallen from 35 km/h in 1996 to just 29 km/h in 1998; on South Road, they have fallen from 31 km/h in 1996 to 30 km/h in 1998; and on Goodwood Road from 30 km/h in 1996 to just 28 km/h in 1998.

The first stage of the Southern Expressway has helped a little to improve the problem: it has cut travelling times, but by only a few minutes. Research shows that low level travel speeds increase fuel consumption and that up to one-third of energy used for transport in cities can be wasted with vehicles stationary in traffic jams. The situation is not only frustrating for motorists but also extremely costly in terms of time, fuel and the effect on the environment. Ultimately, Adelaide will need a new north-south motorway, but it needs to be part of a carefully considered and integrated transport strategy.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: My questions to the Minister are—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: I ask the questions in this Council, Minister: you provide the answers. Come and see me about that later, if you like. My questions to the Minister are:

1. Given that two of the three main arterial roads leading to the southern suburbs have an unacceptable performance level whilst the third only just manages a minimum level, what steps, if any, is the Government taking to address this problem?

2. What long-term solutions are being planned to lift the unacceptable low speeds on our major southern arterial roads?

3. I have asked this question before: when can we expect to see the integrated transport plan for Adelaide, which was promised five years ago by the Government but which has not as yet been delivered?

The Hon. DIANA LAIDLAW: Even if I do not receive an answer, I would at least like to ask the honourable member this question: who says we need a north-south freeway? Was the honourable member still quoting the RAA magazine or is this the first policy that we have heard from SA First? I think I had better put that question on notice—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —if under Standing Orders I can put a question on notice to the honourable member. I suspect that we have just heard the first policy position from the SA First Party and that the honourable member did not take his Standing Orders from the RAA. Perhaps he might care to give a little more thought to this first policy position that he has taken, because as I highlight to the honourable member the cost of purchasing the land necessary for the construction of a four lane north-south freeway, which he has just advocated, would be about $300 million. That is the cost of purchase of the land alone before we have even turned the first sod.

All that land was sold by the former Labor Government, and I think that was approved by the Hon. Don Hopgood. If that is the honourable member's policy position, it sounds as though it will be very expensive even to repurchase the land. If this is his first policy position in transport, it may be his only one if he wants to spend this much money on this initiative: north-south freeway—$300 million just for the purchase of the land. Perhaps the honourable member would like to correct the explanation to his question and say that this is the RAA's policy and not his.

Transport SA also undertakes traffic surveys, and it does not agree with the findings of the RAA. Those figures have been provided to me, and I will now provide them to the honourable member. Unlike the RAA, Transport SA takes an average over eight survey runs. So, it is absolutely confident of the accuracy of its results.

Transport SA has advised me as follows: surveys conducted in March/April of 1996, 1997 and 1998 along South Road between Panalatinga and Sturt Roads have found the journey via South Road took 10.7 minutes in 1996, 11.6 minutes in 1997, and 9.1 minutes in 1998, which was the first year that the Southern Expressway was opened, and the survey time via the expressway was 6.7 minutes. The results are the average taken over eight survey runs in the morning peak period, as I have indicated. Prior to the opening of the expressway, the average travel time between Reynella and Darlington was 11.6 minutes, so the saving is 4.9 minutes. In 1998 the travel time for motorists using the Southern Expressway was 6.7 minutes, and 9.1 minutes for South Road.

Transport SA's survey showed that motorists using the expressway saved four to five minutes travel time, and those using South Road were taking two minutes less than they did before the expressway was built. The RAA's claim that the expressway is not saving motorists time is misleading. The RAA's study has compared South Road now with the expressway and found only a few minutes difference. This is because there are now two roads where there was once one, so the traffic load has been split between the two, and both roads are now faster, hence the difference between them of only a few minutes. Because the expressway has taken 25 000 vehicles off South Road each day, the travel times on South Road have also reduced. Bridge works for Stage 2 of the Southern Expressway are due to commence in March this year, with completion expected in December 2000.

I have also been told—and this is particularly important, in terms of the RAA magazine article and the honourable member's question—that the expressway has also improved the safety of South Road. Between 1995 and 1997, there was an average of 510 accidents per year. For the first nine months of 1998, for South Road and the expressway combined—therefore we have an extra length of road—there were 280 accidents, almost half the number when South Road operated alone as the entry and exit to Adelaide. So, motorists are saving time—between four and five minutes—and also the accident rate is halved, and that should be celebrated as a major benefit.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: With respect to the transport plan, the honourable member would know because I have said it before that the initial proposal has now been expanded to incorporate public transport issues, and a 10 year public transport infrastructure plan is being looked at currently which will be incorporated in the larger transport plan. We are not just looking at roads alone without looking at an integrated transport investment plan for the metropolitan area.

MEMBER FOR ROSS SMITH

The Hon. A.J. REDFORD: I seek leave to make a personal explanation.

Leave granted.

The Hon. A.J. REDFORD: Some recent comments in the media have necessitated this statement. I want to put on the record a clear and unambiguous account of my contact with Ralph Clarke and Edith Pringle. It is alleged that I made contact with Edith Pringle so that the domestic situation that existed could be exploited politically. This could not be further from the truth.

Domestic violence is a problem in any community. There are no Party political dimensions to it. As a legal practitioner of many years, I find domestic violence to be a cancer and a malady that has nothing but victims. Everyone is a victim: the abused, the abusers, the innocent children, the extended family and the friends who are exposed to it. As a legal practitioner, I encountered domestic violence on many occasions.

The most notorious case in which I was involved was *R v. Kontinnen*. In that case, I defended Ms Kontinnen who had been charged with murdering her de facto partner. The facts involved the shooting by my client of Mr Hill while he was asleep. Ms Kontinnen was acquitted on the basis of self defence. Her conduct in defending herself was explained on the basis that she was suffering from a syndrome described as battered women's syndrome. The successful use of this syndrome in this case created Australian legal history. Ms Kontinnen and others gave a long history of violent, sexual and emotional abuse.

What struck me during the course of that trial is that everyone including friends, family, police, two hospitals and medical practitioners knew that she was being subjected to horrendous violence, and yet no-one intervened to protect her. In a sense, she was failed by society to the extent that to protect herself she felt she had no alternative but to shoot her partner dead whilst he was asleep. Her decision was vindicated after a trial when her peers, a jury, acquitted her.

This case has had as much to do with my decision to embark upon a political career as any. Domestic violence affects all walks of life and I well remember the murder of

then Senator Olsen's staff member, Margaret Case, which occurred during the course of the Kontinnen trial. During the period after the 1997 State election, Ralph Clarke sought out my friendship—

The Hon. CARMEL ZOLLO: I rise on a point of order, Mr President. Would you please decide on relevance as to what the Hon. Angus Redford—

The Hon. Diana Laidlaw interjecting:

The Hon. CARMEL ZOLLO: Well, there's no relevance to what he's saying.

The PRESIDENT: Order! If the honourable member wants to take a point of order, she should refer to the relevant Standing Order.

The Hon. CARMEL ZOLLO: Standing Order 173.

The PRESIDENT: What is the honourable member's point about Standing Order 173?

The Hon. CARMEL ZOLLO: It is not relevant to his personal explanation.

The PRESIDENT: Standing Order 173 provides:

> By the indulgence of the Council [which has been received] a member may explain matters of a personal nature although there be no question before the Council; but such matters may not be debated.

I do not believe that there is a relevant point of order.

The Hon. A.J. REDFORD: During the period after the 1997 State election, Ralph Clarke sought out my friendship. Most members on my side of politics knew Ralph. He was quite often a friendly and ebullient face in the parliamentary bar and in the corridors of the House. Ralph in fact sought me out on several occasions. We had numerous discussions and sometimes shared a drink in my office after Parliament rose. This happened socially at our local hotel and involved his partner, Edith, and my wife.

On one occasion, Ralph and Edith came to our home after we coincidentally met them at a jazz afternoon. They stayed for a meal and were taxied home. On another occasion we shared transport to a function to celebrate a Cambodian event. My wife in fact did not attend that event. We also shared common friends from my days of playing cricket and football for Unley and University against Kilburn football and cricket clubs.

Shortly after this Ralph invited my wife and me to his house for a Christmas party. I believed that the party was for constituents and in particular mutual friends from the Kilburn football and cricket clubs. It surprised me somewhat because the party turned out to be for Labor stalwarts of the past and for Ralph's political friends of today. I could name quite a few serving members of this Parliament who were in attendance. I am sure these people, some of whom I understand from media reports are still close to Ralph, will remember that occasion. Certainly my wife and I were the only non-Labor people present.

These events well predated the laying of any charges against the member for Ross Smith. Contact between the honourable member and me was well established prior to the report of domestic violence, the arrest of Ralph Clarke on 12 May 1998 and the subsequent contact between me, my wife and Edith, which has come out so publicly in recent media coverage. Standing back and looking at these events now, it is clear in my mind that a clear friendship existed so far as any friendship can exist across the political divide.

After the events of May 1998, Edith had few people to turn to. Edith, a Labor staff member and activist, initially made contact with Labor people. This contact arose from events upon which, because they are presently being investigated by police, I feel I am unable to comment. Edith contacted my wife and me because she felt we were friends she could turn to. Let me make the point very clear: at no stage did either my wife or I choose or ask to become involved in these matters. My wife and I were dragged into the matter. We provided some assistance and some advice, but that was all. Some might suggest that it was our test of character.

Had I wished to use these matters for political advantage, that could easily have followed, and it would have been much more devastating for those involved. I am repulsed by domestic violence and have raised these matters before. As I said earlier, one of the reasons I am in this place is that I want to help society be rid of this evil.

In the *Weekend Australian* Matthew Abraham, pursuing a set of lines, stated:

> Mr Redford rejected suggestions it was stretching credibility to claim he had received the records anonymously when he had also arranged for Ms Pringle's initial medical treatment, which was carried out by his wife's doctor.

Abraham has a habit of sporting lines to suit the Rann Opposition. It might suit the Opposition Leader to get up his conspiracy theories from time to time but not at my expense and not in these circumstances.

I reject these assertions and look forward to the matters being tested in court. In the interim, the Adelaide media and the *Australian* may care to ask some questions which may have been asked of me had I acted differently the morning that Edith turned up at my home seeking assistance. The questions that might have been asked of me or even Mr Rann are:

1. What steps were taken to ensure the wellbeing of Ms Pringle and the two-year-old child?
2. Did you know or think that it was appropriate for her and her child to sleep on the floor of an electorate office for two nights?

Irrespective of what you may think of Ms Pringle and her behaviour, these and many other questions demand an answer—and I would have had to answer them if I had turned her away. It is simply a question of character.

In some ways people might say that I should have rejected that approach. It is my view that the South Australian community will not stand by and swallow that line, that none of it happened and that it did not occur. I do not believe that the community will stand by and simply accept that this was merely a figment of the Liberal Party's imagination or that it occurred as a consequence of some Liberal conspiracy. Whilst I am here and whilst I am a legal practitioner I will continue to fight the good fight against the evil of domestic violence.

FESTIVAL CENTRE

The Hon. R.R. ROBERTS: I seek leave to make a statement on the Festival Centre.

The Hon. K.T. Griffin: A personal statement or a personal explanation?

The PRESIDENT: A personal explanation, I understood it to be.

The Hon. R.R. ROBERTS: No. I said that I want to make a statement in line with the standard set by the Hon.—

The PRESIDENT: Order! I called the honourable member and he is at liberty to address me so that I know what he wants.

The Hon. R.R. ROBERTS: I seek leave to make a personal statement about allegations levelled at me by the

Hon. Diana Laidlaw and the Hon. Legh Davis on 11 February 1999.

The Hon. Diana Laidlaw: It can't be a statement.

The PRESIDENT: Order! Is leave granted?

Members interjecting:

The PRESIDENT: Order! If the Hon. Ron Roberts is seeking leave under Standing Order 173 which is for making a statement of a personal nature he may do that, if leave is granted.

Leave granted.

The Hon. R.R. ROBERTS: In answer to a question on 11 February last week the Hon. Diana Laidlaw made several accusations and asked a number of questions of me which, under Standing Orders, I was unable to respond to. The only opportunity I have to do that is by making a personal statement. Some of the questions she asked were with respect to questions that I had raised about the Festival Centre. She asked, 'Does he believe it is so unsafe?' Will he attend [Don Dunstan's celebration]? . . . will he wear a gas mask, or will he just stand outside with a placard. . . ?'

I did not intended to do that although I note that that is exactly what the Minister did in 1991 when she stood outside the Tourism Bureau handing out pamphlets. She also said, 'I suspect that Don Dunstan would be disgusted at the honourable member's behaviour and, as Don Dunstan would, I detest his grubby grab for a headline.' The Hon. Legh Davis asked, 'What do you think Don Dunstan would say about that, Ron?'

Let me first address the 'grubby headline' accusation. First, the record shows that I had a suspicion of trouble at the Festival Centre back in July. I asked a question to allow the Minister to answer, and I issued no press release. Following further advice I again asked a question of the Minister on 25 November, and again there was no press releases to seek any headline.

I received the PPK report a fortnight ago, and it informed me that there was an unsafe situation at the Festival Centre. I then consulted with Jack Watkins, from the Asbestos Management Committee, who advised me that he was negotiating with the Festival Centre to get money to fix up the airconditioning system as a matter of urgency and did not want to cause a fuss. As the negotiations were going along, I complied.

I was advised last Wednesday that, even though no formal application was made, an amount of $300 000 was allocated by the Asbestos Management Committee on Monday of last week to clear the crocidolite from the airconditioning ducts, and on Wednesday there was still no application. I raised this matter at that time with the Leader of the Opposition who said that if I raised it there should be no tackiness about it as regards Don Dunstan, but that I have a community responsibility to do so. I then asked the question on Wednesday and I still issued—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: —no press releases.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: I issued no press release whatsoever. I had to raise this matter last week because if I had left my concerns until this week I would have been accused of waiting until after Don Dunstan's memorial. I will be compiling some material for the Public Works Committee, and I am prepared to attend any inquiry into this matter to establish whether the Minister has fulfilled her fiduciary obligations, her ministerial obligations to the Festival Centre and to her Cabinet colleagues, and her duty of care to the staff and public.

As to the accusation by the Minister and the Hon. Legh Davis concerning Don Dunstan and what he would think, I point out that if Don Dunstan knew that carcinogenic components were present in airconditioning ducts where 2 000 of his friends and admirers were to gather would anyone think that he would say nothing? The proposition is too ludicrous to respond to any further.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The honourable member on his feet is to be heard in silence.

The Hon. R.R. ROBERTS: As to the question of whether I would be at the service/celebration, I am happy to say that I watched the service in my home and celebrated the service in my heart. I attended the ordination of the new Bishop of Port Pirie as I had accepted to do some weeks before. It would be fair to say that I have hailed the deceased icon, Don Dunstan, and that I have celebrated the work of the living God in my own way.

The Hon. DIANA LAIDLAW: I seek leave to make a very short ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I advised last week—and it is important in light of the personal explanation to advise again—that the $300 000 falls far short of the money which is required and which I sought Cabinet approval for in relation to the asbestos removal project. I am very pleased to advise that yesterday Cabinet approved a sum of $1.8 million for this project to be undertaken at the Festival Centre which includes the Festival Theatre, the Playhouse, the Space and the respective foyers. The work will begin at the end of March as stage 1. These funds will come from a reallocation of funds for capital works on the Festival Theatre. So, we have that approval for the funds to proceed with the work. We will now take to the public—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: It is interesting—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! Interjections are out of order. Is the honourable Minister finished?

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I think the interjection from the Hon. Legh Davis was reasonable considering that—

The Hon. P. HOLLOWAY: I rise on a point of order. Because the Minister has recognised the unparliamentary interjection made by the Hon. Legh Davis, it will now go on the record, and for her to compound the error by actually agreeing with it is a double abuse of Standing Orders. In those circumstances, the Hon. Legh Davis should withdraw his interjection and the Minister should also dissociate herself from it. It was clearly unparliamentary.

The PRESIDENT: As honourable members know, all interjections are out of order. It would be difficult to set a precedent every time there is an interjection to have it withdrawn.

Members interjecting:

The PRESIDENT: Order! The Chair is trying to speak to members, difficult as it is at times. I agree with the sentiment of the point of order that there should not be

interjections when special leave has been given for a ministerial statement, as it was given—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!—for a personal explanation before. It is obviously out of order for the Minister to respond to interjections. I call on the Minister for Transport and Urban Planning.

The Hon. DIANA LAIDLAW: Mr President, I respect your ruling. I point out that $1.8 million has been sought. The Hon. Ron Roberts has a fixation about $300 000. The project costs more than that. The $300 000 relates to the State Festival Centre Theatre alone and not to the rest of the complex. We will be applying for that sum and, in fact, more than $300 000 in terms of reimbursement from the asbestos advisory or investment or infrastructure committee that is within the responsibility of the Minister for Government Enterprises but, notwithstanding our success in seeking those funds, I can guarantee that $1.8 million has been approved through Cabinet and the project will now go to the Public Works Committee for approval so that this work can start next month. In the meantime, I repeat what I said in answer to questions last week from the honourable member: he asked for a guarantee if it is safe and I guarantee, as I did last week, that it is safe and there is no need for the honourable member to get anxious on his own behalf, on behalf of the community or on behalf of the staff in general.

STATUTES AMENDMENT (COMMUTATION FOR SUPERANNUATION SURCHARGE) BILL

The Hon. K.T. Griffin for the **Hon. R.I. LUCAS (Treasurer)** obtained leave and introduced a Bill for an Act to amend the Judges' Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990 and the Superannuation Act 1988. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to amend the Judges' Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, and the Superannuation Act 1988, to deal with an issue which arises as a consequence of the imposition by the Commonwealth of the superannuation surcharge. Members are all aware of the general details associated with the superannuation surcharge, which is an additional tax levied on superannuation contributions paid or payable by an employer in respect of persons in receipt of 'high incomes'. The surcharge is in addition to normal taxes applied to superannuation benefits. In a private sector superannuation scheme any surcharge debt accrued in a financial year is paid by the fund with a consequential reduction in retirement benefit payable to the member. The member is not required to pay the debt out of his or her personal after tax salary and wages.

The amendments being sought under this Bill relate to schemes classified as 'constitutionally protected', like the schemes established by the State Government. Under such a scheme a member subject to a surcharge has an option to pay the debt as it accrues, or defer payment of the surcharge liability. Whilst there are taxation advantages in deferring the debt until retirement, the debt accrued at retirement can be quite substantial, leading to the problems which are to be addressed by this Bill. At retirement, an accumulated surcharge debt must be paid within three months of the member being advised by the Australian Taxation Office. One of the problems facing persons with a surcharge debt at retirement is that it may be up to 18 months after retirement before the member is aware of the extent of their total surcharge debt. Another problem facing persons receiving their benefit in the form of an income stream or pension is that they may not have funds readily available to pay the surcharge debt.

The general aim of the Bill is to ensure that persons with an accumulated surcharge debt with the Australian Taxation Office have at retirement a method of obtaining a lump sum to expunge the debt with the Australian Taxation Office. The amendments contained in the Bill will permit pension to be commuted to a lump sum, under special terms and conditions established for persons with a surcharge debt. As the lump sum is to be used solely for the purposes of paying a Commonwealth tax, the conversion factors to be used will be determined on an 'unbiased' or full actuarial basis.

Specifically the Bill seeks to amend the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990, and the Superannuation Act 1988, to provide that, where a member is required to pay a deferred surcharge debt following retirement, a further commutation option will be made available to the member. The option is in addition to and separate from the normal commutation option already provided under these Acts. A similar provision is also proposed for the Judges' Pensions Act 1971 but, in this case, because members of this scheme do not have a normal commutation option, the provision for commutation will only relate to situations where the member has a surcharge debt which needs to be paid.

The Public Service Association, the Australian Education Union (SA), the Police Association, the Chief Justice and the superannuation boards have been fully consulted in relation to these amendments. All these bodies fully support the provisions contained in the Bill. I commend the Bill to honourable members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2.

These clauses are formal.

Clause 3: Insertion of S.17A.

This clause amends the Judges' Pensions Act 1971 by inserting new section 17A. Subsections (1) and (3) respectively enable a former judge or the spouse of a former judge to commute his or her pension for the purpose of paying a surcharge debt. As the spouse is not liable for the surcharge debt subsection (5) requires the Treasurer to be satisfied that the amount paid on commutation to the spouse will be applied in payment of the debt to be paid to a person who has paid the debt.

Clause 4: Insertion of S.21AA.

This clause amends the Parliamentary Superannuation Act 1974 in the same way as the Judges' Pensions Act 1971 except that an additional subsection (7) is required. This subsection accommodates the member who is entitled to commute the whole or his or her pension for general purposes but wishes to leave sufficient for commutation under the new provision when he or she is finally informed by the Australian Taxation Office of the surcharge debt. This may happen after the period for general commutation under the Act has passed.

Clauses 5 and 6.

These clauses make similar amendments to the Police Superannuation Act 1990 and the Superannuation Act 1988.

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

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 26 November. Page 339.)

The Hon. R.D. LAWSON (Minister for Disability Services): I support this measure, which is designed to provide the Crown with the opportunity to appeal against an acquittal by a judge on a trial by judge alone. It is interesting to reflect upon the history of trials by judge alone in this State. The Third Report of the Criminal Law and Penal Methods Reform Committee of South Australia, published in 1975 on the subject of court procedure and evidence, recommended trial by judge alone at the option of the accused. The authors of the report, whom I ought acknowledge, were: the Chair, Dame Roma Mitchell or Justice Mitchell as she then was, Professor Colin Howard, an eminent professor of law at the University of Melbourne and now a barrister and Crown Counsel in Victoria, Mr David Biles, an eminent criminologist and the consultant, Mr Brent Fisse, later Professor Fisse, an eminent Australian criminal lawyer, and they were supported ably by the secretary and research officer, Mr G.L. Muecke, then of the Attorney-General's office and now a member of the South Australian Bar.

That committee produced a number of reports and significant recommendations for which the legal profession and I think the community in South Australia should be ever grateful. The report noted that since November 1972 a person accused of a minor indictable offence could elect to be tried either by a special magistrate or by a jury. A number of persons charged with a minor indictable offence elected to be tried before a judge and jury rather than be tried by a magistrate alone. This was initially popular. Soon after the amendment legislation came into operation in 1972, quite a number of persons each month elected to be tried by juries for minor indictable offences but the number gradually decreased over the years. The committee examined the reasons for trial by judge alone and they were not overwhelming. It is a fact that the Government of the day did not move to adopt those recommendations until 1984. It should be noted that they were not supported by the Liberal Party of the time. I was not a member of the Council at that time, but the debates on the subject were certainly quite enlightening.

The effect was to amend the Juries Act by providing that under section 6, which still continues, a 'criminal inquest' to use the rather quaint expression of the Juries Act—that being a trial of an indictable offence—in either the Supreme or the District Court will, subject to the Act, be tried by a jury of 12 persons. Following the 1984 amendments, section 7 provides that, if in a criminal inquest before the court the accused elects in accordance with the rules of court to be tried by a judge alone and the presiding judge is satisfied that the accused before making the election has sought and received advice in relation to the election from a legal practitioner, they may elect to have a trial by judge alone.

One of the advantages of trial by judge alone for the administration of justice is that a judge is required to state his reasons for either conviction or acquittal. That matter is not a matter for legislation; however, it is a general principle that those charged with judicial responsibility should state their reasons. In *R v Winner* in 1995 and in the same year the decision of the Court of Criminal Appeal in *Colella v R* it was clearly enunciated that there is an obligation on the judge to state reasons. That is important, because it opens the criminal process to scrutiny. Bearing in mind the fact that the judge is required to state reasons for either acquittal or conviction, it seems to me to be appropriate that the party affected by that decision in which the reasons have been enunciated ought to have the opportunity to appeal, so that errors that are manifest on the face of the record can be corrected. In the absence of a provision for an appeal against an acquittal, one may have the situation where the reasons for the acquittal given by the judge are manifestly in error, either in law or in fact. In those circumstances it does the criminal justice system no good at all to have, as it were, on the face of the record, an erroneous decision. There ought be an opportunity to test the decision.

The Bill before the Council proposes that appeals can be prosecuted against an acquittal only if leave is granted by the Court of Criminal Appeal. That requirement for leave is an adequate and appropriate protection. It is unlikely that the prosecution will on every occasion obtain leave. The court has established principles upon which the discretion to grant or refuse leave is exercised. Those principles will ensure that there must be a fairly clear case of error and also that the case is of sufficient significance in the general scheme of things to warrant an appeal. I support this measure.

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

STATUTES AMENDMENT (SENTENCING—MISCELLANEOUS) BILL

Adjourned debate on second reading.
(Continued from 11 February. Page 643.)

The Hon. R.D. LAWSON (Minister for Disability Services): I support the second reading of this measure, which is designed to give to the courts greater flexibility in the sentencing options available to them. It is very important that tribunals have a wide range of sentencing options. The objective of all sentencing must be to make the punishment fit the crime and the criminal, and the circumstances of particular crimes and criminals varies immensely. It is, however, important to insist upon rigour in the sentencing regime and that it is not open slather. The legislature has an important role to set the standards and parameters within which sentences can be made. In my view the measures proposed in this Bill meet the requirement of providing maximum flexibility whilst at the same time ensuring a system which protects the public interest, because the community and the wider public have an interest in what happens in sentencing decisions.

The first matter covered by the Bill is to put beyond doubt the fact that an appeal lies in relation to an order under section 39 of the Criminal Law Sentencing Act which empowers a court to make an order discharging the conviction of a person without penalty upon the person entering into a bond. As the Attorney mentioned in his second reading explanation, Justice Perry suggested that there is some doubt about the correct interpretation of that, and it is entirely appropriate that the Director of Public Prosecutions should have a right to appeal against a decision if an inappropriate order is made under that section. I believe that this amendment highlights the importance of considering the rights not only of the accused person but of the community generally and also the victims of crime.

The second amendment proposed gives a right of appeal against the inappropriate use of so-called Griffiths remands, which occur where the court, instead of sentencing an offender, releases him or her on bail and adjourns the sentencing to assess the offender's prospects of successful rehabilitation during the period of the adjournment. The third proposed amendment, which I support, will allow one global sentence to be imposed where the court, on finding a person guilty of an offence, calls up all outstanding complaints against that individual.

The fourth amendment seeks to overcome the fact that, at the moment, a court cannot partially suspend a sentence of imprisonment. Certainly, the court in South Australia cannot do that in respect of a South Australian offence, although the Commonwealth Crimes Act does enable partial suspension of a sentence of imprisonment. So, this fourth amendment (which amends section 38) will, subject to some safeguards, give the court the power to suspend those orders.

Fifthly, an amendment is proposed to overcome the fact that courts cannot presently sentence adult offenders to home detention. At the moment, home detention is only an option for adult prisoners in custody who are administratively released on home detention. The Bill will enable the court to make it a condition of a bond that a prisoner reside in a specified place and remain in that place for a specified period of no more than 12 months.

Other amendments are made to deal with conditions on bonds and, once again, they meet the requirement of flexibility and community protection. I believe it is inevitable that amendments to the sentencing regime be made in this rather piecemeal fashion, because the limits of the system are constantly being tested and it is necessary to keep up with the times and make amendments of the type suggested. I commend the Attorney for bringing forward these amendments and I support the second reading.

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

SUPREME COURT (RULES OF COURT) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 11 February. Page 647.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support of this Bill. It is essentially of a technical nature, because the Bill simply confirms the Supreme Court's power to require pre-trial disclosure and exchange of expert reports, and it is designed to prevent any technical challenge to the court's power in this area. I do not believe that I need to respond at length to anything raised by members.

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

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 11 February. Page 650.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support of this Bill, which is designed to rationalise and simplify the process of taking evidence from child witnesses. In the course of debate, the Hon. Mr Gilfillan raised several issues. First, he asked about the breadth of the power that the courts will now have to suppress from publication reports of proceedings where this would cause undue hardship to a child. This is an intentionally wide provision. Its purpose is to allow the court to consider the particular situation before it at the time and to make a judgment as to whether there is such a risk of hardship to a child that a suppression order should be made. This judgment is best made on a case by case basis with regard to the situation of the particular child rather than in legislation.

There may at first be an increase in applications for suppression orders, some of which may be without merit, but that is difficult to predict. The Government is confident that the courts will be able to discern which applications have real merit and that suppression orders will not be made where the only result would be to shield an adult accused. The Government considers that the power should be one which better affords protection to children, even if there is an incidental benefit to an accused person, rather than confining the power at the risk that some children will more likely suffer hardship. The Government has received no representations from the media or elsewhere opposing this provision.

Secondly, the honourable member raised the wider issue of the protection of victims of child abuse. I should point out that this Bill is not designed as the Government's response to the very serious difficulties which present themselves in doing justice to all parties in the area of child abuse.

The present Bill deals with evidentiary provisions only and applies to children coming before the courts as witnesses in any type of case. It is not limited to child abuse cases, nor does it purport to fully address the legal and societal problems in the area of child abuse. The Government is addressing those problems separately by means of an inter-departmental task force comprising representatives of child protection services, police, family and youth services, prosecutions and other contributors. That task force is considering the whole question of how to do justice to child victims of sexual, physical or psychological abuse.

I agree with the Hon. Mr Gilfillan that this is a major issue and one deserving of detailed and careful attention from the Government. However, the interests of children will not be advanced by hasty or tacked on solutions. It may well be the case, indeed I consider it very likely, that a carefully considered suite of measures, both legal and administrative, will need to be considered as a whole in the future. Several jurisdictions in Australia and overseas have passed, or are presently in the process of considering, substantial legislation adopting a variety of initiatives designed to enhance access to justice for child abuse victims. Some of these involve very considerable departures from the traditional prosecution process, including novel incursions on the rights of the accused person. This Government wishes to consider that legislation and its application and practice with some care before determining what measures may be of value to South Australia.

The present Bill is not an appropriate vehicle for a comprehensive legislative scheme to address this problem. My statement that 'the protection which the law currently provides for children and other vulnerable witnesses will remain unchanged' is a description of the effect of this Bill. It should not be taken to mean that such protections will never be reviewed or improved. In relation to the honourable member's concerns about the present operation of section 13, it may be helpful to refer to the decision of the full Supreme Court in the case of *Question of Law Reserved No. 2* 1997 in

which the court interpreted section 13 of the Evidence Act and gave guidance as to the use of vulnerable witness measures in criminal prosecutions. The court noted that the judicial officer hearing the case will be in the best position to assess whether the nature of the case and the circumstances of the witnesses are such that measures should be used to facilitate the giving of evidence.

Chief Justice Doyle held that the court should decide an application for the use of such measures by acting upon a plausible and reasonable request. He commented that a request from the child victim of a sexual offence who is intimidated by the courtroom situation, and usually any other plausible request, would normally be granted. The Government sees no need to legislate to change that position at the present time. It is true that some States are creating a legislative presumption for the use of special measures. However, the present law in South Australia combines the benefits of a general predisposition to grant requests in the case of a child victim who fears the accused with the benefits of allowing the court to take careful account of the particular situation before it. It is important that the court being charged with the responsibility of doing justice between the parties considers the individual circumstances of the case.

Following the Supreme Court's decision, the request will, in practice, very often be granted. However, the issue of how vulnerable witnesses can best be protected and encouraged to give their evidence is not the one presently before this Chamber. The present Bill deals only—and I stress only—with the limited evidentiary issues. Its primary aim is to abolish age discrimination and religious testing and enable all witnesses to give evidence where they have sufficient understanding to do so. I do intimate a minor Government amendment for the purpose of making still clearer the distinction between the state of understanding needed to give sworn evidence and that where unsworn evidence is to be given. I thank all members for their support of this Bill.

Bill read a second time.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 December. Page 479.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Attorney stated in his second reading explanation that the Bill before us is designed to update the Listening Devices Act 1972 to take account of new technology such as video cameras and tracking devices. The Act regulates the use of listening devices by anyone, but most of its sections are about exemptions for the police and the National Crime Authority. It is an offence to possess without the Minister's consent certain types of listening device, and a person convicted of such an offence may have a court order for forfeiture of the device at the trial. The Bill also authorises the police to search for and seize an unlawful device and the record of the information derived from it. The maximum penalty for breaching the Act is two years imprisonment or a fine of $10 000.

Under the existing Act, police cannot install video cameras where they are not wanted. The Bill allows the police to seek judicial authority to do this. A Supreme Court judge will now be able to authorise the covert installation, maintenance and retrieval of surveillance devices for up to 90 days. I understand that this is necessary because the High Court in *Coco* decided an authority to use a listening device did not extend to the premises for installation or maintenance. The Bill allows a judge to authorise the installation of more than one device on the one warrant. The warrant authorises police when a serious criminal offence is suspected on reasonable grounds of having been committed (or about to be committed) to gain entry by subterfuge, to extract electricity, to take non-forcible passage through nearby premises and to use reasonable force.

I welcome the proposal that South Australia Police will now be required to keep records of its use of these devices and the resulting tapes or transcripts, their movement within the department and their destruction. The Bill proposes that the tapes and transcripts are to be destroyed if they are not likely to be used in an investigation or proceeding. The Police Commissioner must keep records of the use made of this Act in a register, and compliance will be monitored by the Police Complaints Authority. The Opposition has a question that it would like to have answered to its satisfaction before we deal with the Bill in the Committee stage. My question to the Attorney is: if, for example, a private investigator were to illegally obtain a video or information from a listening device and the police subsequently seized this video or tape, could the police then use it in court on the basis that they (the police) had not improperly obtained it?

For the first time, the Bill permits the making of regulations under the Act. I support the second reading and, subject to my question being answered to the Opposition's satisfaction, at this stage we do not propose any amendment.

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

STATUTES AMENDMENT (LOCAL GOVERNMENT AND FIRE PREVENTION) BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 651.)

The Hon. CARMEL ZOLLO: The Opposition supports this Bill, which transfers regulatory provisions concerning functions shared by State and local government to the specific legislation which deals with that function. The Bill arises from the current comprehensive review of the Local Government Act and will rationalise provisions of the Local Government Act relating to fire protection by transferring those relevant powers to the South Australian Metropolitan Fire Service Act and the Country Fires Act, as well as tidying up several other provisions. It certainly makes sense for those provisions to be located in the principal Acts which deal with the administration and regulation of fire prevention and protection.

Concern has been expressed to me by other Caucus members that the provisions relating to inflammable undergrowth and storage of inflammable materials may not be able to adequately deal with the problem of overhanging trees in urban areas. They can result in the dual problem of debris blocking gutters and roof space, and also falling branches damaging rooftops and injuring humans. Loss of human life from falling branches onto homes and cars is not a rare event. I understand that debris such as gumnuts might smoulder away for some time without the occupants realising until it is too late. One member has previously highlighted the frustration of dealing with several authorities in getting the

inflammable growth cut or pruned. I have been advised that the MFS believes that gutter and roof debris is a big fire danger in urban areas, with deaths often caused by smoke inhalation.

The overall issue of trees, their location and any hazards they may cause is one that the Opposition may revisit in further revisions of the Local Government Act, and I take the opportunity of asking the Minister to indicate during the Committee stage of the Bill whether that is the case. Undergrowth, particularly in many outlying suburbs, if left unsupervised at the whim of absent landowners, can cause a great deal of distress to neighbours. I remember being involved in many cases ranging from concern about inflammability of tall grasses to worry about snakes making their home in a block that is left untended. Ensuring that the legislation also covers the storage of inflammable materials and clarifying the service of notices are desirable provisions.

As always in a country like Australia, our unpredictable weather plays a major part in these concerns. This year is a good example, with our particularly hot summer and lack of rain. The Opposition agrees that, as councils have the most experience in both country and metropolitan areas in administering such laws, they are best suited to continue in that role, but with power arising from Acts which deal specifically with fire prevention. As an attempt to protect consumers, I am certain that the provision of an appeal to the District Court is further welcomed. The Opposition supports the second reading.

The Hon. T. CROTHERS secured the adjournment of the debate.

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

A quorum having been formed:

EVIDENCE (CONFIDENTIAL COMMUNICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 December. Page 451.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Opposition's response to this Bill has been a little drawn out due to its desire to undertake extensive and thorough consultation with the Law Society, the Women's Legal Service and other interested bodies. We would all agree, I am sure, that the legislation before us is extremely sensitive and delicate. I am also pleased that the Attorney-General has seen fit to address this current deficiency in the law.

It was only in July last year that the Opposition decided to take the matter into its own hands by introducing a private member's Bill, namely, the Evidence (Sexual Offences) Amendment Bill, which tried to balance an alleged rape victim's reasonable expectation to privacy with an accused's rights to a fair trial.

A rape trial is difficult enough for the alleged victim, without having to contend with the possibility that counselling notes, diaries and medical records may be subject to examination by lawyers. Whilst there have been many welcome legal reforms in this area, there is a long way to go.

The current Bill examines the same issues identified by the Opposition's private member's Bill in July 1998. The Opposition sought and welcomes the comments from the Law Society and the Women's Legal Service, and it appreciates the arguments on both sides.

Given that measures in recent years have restricted the ability of defence counsel to undermine a complainant's credibility, we now have new defence strategies which seek to access counsellor or therapist communications. Again, the defence aim is to obtain information which may undermine the credibility of the alleged victim. The Bill does not apply to communications during a physical examination.

The Bill proposes that the complainant cannot waive public interest immunity. However, I have filed an opposing amendment which gives the alleged victim the option of waiving public interest immunity, and I will go into that issue in more detail in Committee.

The first stage of the procedure in the defence obtaining records is the subpoena. However, the defence must demonstrate that it has a legitimate forensic purpose or that communications would materially assist the accused in their case. The applicant cannot inspect the records in order to obtain a subpoena.

The documents are then produced to the judge, who will examine them. The court will then determine the relevance of the records, balancing the public interest in preserving confidentiality against a potential miscarriage of justice. If the records are admitted into evidence, the judge may order that the documents be prevented from further dissemination or publication.

As I said earlier, the Law Society opposes the Bill. In its lengthy submission it states:

> No-one would argue against the proposition that if a complainant has provided a materially different account of an alleged offence to a counsellor than that given to either the police or in evidence, the defence should be aware of that inconsistency and have the opportunity to test the credibility of the complainant by using that material. Again, without access to the counselling notes the defence will not be aware of the existence or otherwise of material inconsistencies.

On the other hand, the Women's Legal Service in its submission states:

> We note that the trial process is already a traumatic experience for sexual assault complainants, without the additional distress and breach of privacy that results from the accused accessing confidential records. It is not in the public interest that persons who suffer sexual assault or abuse are further deterred from reporting offences by the risk that the perpetrator will gain access to their most private and confidential counselling communications.

The Opposition has also sought to achieve a balance where justice is served and complainants are not deterred from seeking counselling.

It has long been a concern of mine that we have a very low rate of success in prosecutions in the whole area of rape. This Bill goes a long way to ensuring that victims will not be deterred from proceeding to make a complaint and then going to trial because their counselling notes would be the subject of scrutiny. The Opposition supports the second reading.

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

TRANS-TASMAN MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

The purpose of the Trans-Tasman Mutual Recognition Bill is to facilitate South Australia's participation in a scheme for the mutual recognition of regulatory standards for goods and registered occupations adopted in Australia and New Zealand. The principal aim of mutual recognition is to remove impediments to trans-Tasman trade in goods and the mobility of labour caused by regulatory differences among Australian jurisdictions and New Zealand.

The Bill implements the Trans-Tasman mutual recognition Arrangement, which was signed by Australian heads of government at the Council of Australian Governments on 14 June 1996. The Prime Minister of New Zealand subsequently signed the Arrangement on 9 July 1996.

The proposed scheme is based on the framework of the existing Australian mutual recognition agreement, signed by Australian heads of government in May 1992. That scheme has recently been reviewed and while the detailed recommendations of the view are still being considered by governments, it is generally considered that the practical benefits have included:

- greater choice for consumers;
- reduced compliance costs for manufacturers;
- economies of scale in production, leading to lower product costs;
- greater cooperation between regulatory authorities and the accelerated development of national standards where appropriate;
- greater discipline on individual jurisdictions contemplating the introduction of new standards and regulations; and
- increased movement of service providers and freedom for service providers to practise in jurisdictions in which they are not registered.

The trans-Tasman mutual recognition arrangement was finalised after the release of a discussion paper in April 1995 by the Council of Australian Governments and the government of New Zealand. Input was sought from industry, standards setting bodies and the profession. Approximately 142 written submissions were received. The comments received during the consultation process have been taken into account in deciding upon the final lists of exemptions and exclusions from the scheme.

Principles

The trans-Tasman mutual recognition arrangement is based on two main principles in relation to goods and registered occupations. The first is that a person registered to practise an occupation in Australia can seek automatic registration to practise an equivalent occupation in New Zealand and vice versa. A person will only need to give notice, including evidence of home registration, to the relevant jurisdiction to be entitled immediately to commence practice in an equivalent occupation in that jurisdiction.

However, I stress that a person will only be entitled to practise an equivalent occupation. Equivalence means that the activities carried out by practitioners registered in each jurisdiction must be substantially the same. This will be the case in most instances. However, if significant differences do exist between occupations, a registration authority may impose conditions on a person's registration in order to achieve equivalence.

In essence, the scheme creates a situation similar to the regime in Australia for drivers' licences, whereby individuals do not have to re-sit a driving test when they move from one State to another. It will apply to all registered occupations in Australia and New Zealand with the exception of medical practitioners.

The second principle is that goods that can be legally sold in a participating Australian jurisdiction can be sold in New Zealand and vice versa, as long as the goods meet the regulatory requirements for sale in the jurisdiction in which they were manufactured or first imported. This means that goods, which can be sold lawfully in one jurisdiction, may be sold freely in another, even though the goods may not comply with all the details of regulatory standards in the second jurisdiction.

Under mutual recognition, producers in Australia will have to ensure that their products comply with the laws only in the place of production. If they do so, they will then be free to distribute and sell their products in New Zealand without being subjected to further testing or assessment of their product.

Implementation mechanism

This Bill forms part of a larger legislative scheme that involves enactment of legislation by the States and Territories, the Commonwealth and New Zealand. The Commonwealth, New South Wales, Victorian and New Zealand components of the legislation came into effect on 1 May 1998. Other Australian jurisdictions have either recently passed their legislation or currently have Bills before their respective Parliaments.

The mechanism for implementing the Australian component of the scheme is similar to that used to implement the Australian mutual recognition scheme. To come into effect, the scheme required at least one state to enact legislation referring the enactment of a Mutual Recognition Act to the Commonwealth parliament.

The New South Wales legislation refers to the Commonwealth Parliament, using the mechanism provided by Section 51 (xxxvii) of the Commonwealth Constitution, the power to enact an Act in the terms, or substantially in the terms, set out in the schedule to that Act.

The additional powers of the Commonwealth will be limited. The States and Territories are not granting extensive new powers to the Commonwealth to regulate goods and occupations. Rather, the Commonwealth is being empowered, to the extent to which such powers are not otherwise included in its legislative powers, to pass a single piece of legislation that will prevail over inconsistent State and Territory legislation. Amendments to the Commonwealth Act will require the unanimous agreement of participating Australian jurisdictions.

The Commonwealth Act will provide a comprehensive scheme for mutual recognition that will operate independently of other State laws and, therefore, will not require modification of those laws to enable its implementation. This is achieved through section 109 of the Commonwealth Constitution, which provides that a Commonwealth Act prevails over a State Act to the extent of any inconsistency. The legislation will apply to all States that refer power to enact the Commonwealth Act or request enactment of it, or adopt the Commonwealth Act afterwards under section 51 (xxxvii) of the Commonwealth Constitution.

Operation of the scheme

The focus of mutual recognition is on the regulation of goods at the point of sale and on entry by registered persons into equivalent occupations in another participating jurisdiction. Mutual recognition will not affect the ability of jurisdictions to regulate the operation of businesses or the conduct of persons registered in an occupation. It is also important to note that laws that regulate the manner in which goods are sold, such as laws restricting the sale of certain goods to minors, or the manner in which sellers conduct their businesses are explicitly exempted from mutual recognition.

In addition, the arrangement does not affect laws relating to the transport, handling and storage of goods as long as those laws are the same for both imports and locally produced goods. Nor does it affect the inspection of goods, provided inspection is not a prerequisite to sale. An example is customs inspections.

Moreover, the scheme will not affect laws relating to quarantine, endangered species, firearms and other prohibited or offensive weapons, fireworks, indecent material, ozone protection, agricultural and veterinary chemicals, and gaming machines. Nor will the scheme affect Australia's or New Zealand's international obligations, intellectual property laws, customs laws, taxation laws or tariffs.

The scheme incorporates a temporary exemption mechanism, giving participating jurisdictions the right to ban unilaterally, for a total of twelve months, the sale of goods in their jurisdiction in the interests of protecting the health and safety of persons or preventing, minimising or regulating environmental pollution. Before the temporary exemption expires, the ministerial council responsible for the affected goods is required to determine whether a particular standard should apply to the goods and, if so, the appropriate standard. A ministerial council determination can include whether to prohibit the sale of the goods in question and requires endorsement of heads of government.

The scheme will also set in train cooperation programs in a number of industry sectors. These will relate to therapeutic goods; hazardous substances, industrial chemicals and dangerous goods; road vehicles; electromagnetic compatibility and radio communications equipment; and gas appliance standards. Regulatory authorities in these areas will consider whether existing regulatory differences would be best addressed by either applying the mutual recognition principle to the affected goods, permanently exempting the goods from the operation of the scheme, or introducing harmonised standards for such goods.

For occupations, the legislation is expressed to apply to individuals and occupations carried on by them. Registered practitioners wishing to practise in another jurisdiction will be able to notify the local registration authority of their intention to seek registration in an equivalent occupation there and provide the required evidence. The local registration authority then has one month to process the

application and to make a decision on whether or not to grant registration. Pending registration, the practitioner is entitled, once the notice is made and all necessary information provided, to commence practice immediately in that occupation, subject to the payment of fees and compliance with various indemnity or insurance requirements in relation to that occupation.

To avoid costly and lengthy appeals processes in the courts, the Commonwealth Administrative Appeals Tribunal will hear appeals against decisions of Australian registration authorities, and a newly created New Zealand tribunal will hear appeals against decisions of New Zealand registration authorities. The tribunals are required to cooperate to the maximum extent possible so as to ensure consistency in their determinations.

Conclusion

The trans-Tasman mutual recognition scheme builds on the mutually beneficial economic and trade framework that has developed under the Australia-New Zealand closer economic relations trade agreement and is a logical extension of that agreement. It is also expected that the scheme will contribute to the development of the Asia-Pacific region by providing a possible model of cooperation with other economies in respect of product standards, including those in the South Pacific and APEC.

The scheme reflects the high degree of confidence that exists between Australia and New Zealand in respect of each other's regulations, regulatory systems and decision-making processes. It is expected to remove regulatory barriers to the movement of goods and service providers across the Tasman and to enhance the international competitiveness of Australian and New Zealand enterprises by encouraging innovation and reducing compliance costs.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the Act to come into operation on proclamation.

Clause 3: Interpretation

The 'Commonwealth Act' is defined. (The text of the Commonwealth Act is set out in the Appendix to the Bill).

Clause 4: Adoption of Commonwealth Act

This clause adopts the Commonwealth Act and any amendments made by regulation under that Act, for a period of 5 years. The schedules of the Commonwealth Act that set out certain exclusions and exemptions can be amended by regulation provided that (with some exceptions) all participating jurisdictions concur.

Clause 5: Regulations for temporary exemptions

This clause enables the Governor (of this State) to make regulations for the purposes of temporary 12 month exemptions, as contemplated by section 46 of the Commonwealth Act.

Clause 6: Expiry of Act

This clause provides that the Act will expire at the end of the 5 year period of adoption.

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

ADJOURNMENT

At 4.52 p.m. the Council adjourned until Wednesday 17 February at 2.15 p.m.