LEGISLATIVE COUNCIL

Tuesday 11 April 2000

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

TRANSPLANTATION AND ANATOMY (CONSENT TO BLOOD DONATION) AMENDMENT BILL

His Excellency the Governor, by message, intimated his assent to the bill.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 6, 30, 35, 40, 57, 67, 69 and 72.

EXPIATION NOTICES

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

1. How many, and what percentage, of fines issued to public transport users on buses, trains and taxis in the 1997-98 financial year have not been paid?

2. What was the percentage of fines issued to students?

3. What measures has the government taken, or plans to introduce, to ensure greater compliance of payment of transport fines?

The Hon. DIANA LAIDLAW:

1 & 2.

	1997-98	1998-99
Total fines issued (buses, trams and trains)	10 109	21 938
Fines paid on receipt of expiation notice	1 309 (12.95%)	2 652 (12.09%)
Fines paid by instalments	383 (3.79%)	549 (2.5%)
Fines expiated by community service	94 (0.93%)	136 (0.62%)
Fines not initially paid	8 323 (82.33%)	18 601 (84.79%)
Fines withdrawn (1st, 2nd student and concession offences, incapacity)	6 500 (64.3%)	12 615 (57.5%)
Fines proceeded to enforcement through the courts (in general, most are eventually paid or expiated by community service)	1 823 (18%)	5 986 (27.3%)
Fines issued to juveniles	3 627 (35.9%)	7 086 (32.3%)

Excluding withdrawn fines which is 57.5 per cent of fines issued, almost all fines which are proceeded are eventually paid or expiated by community service. The few that go unpaid are lost through continued evasion after court.

In relation to taxis and penalties for not paying a fare, General Regulation 54(5) under the Passenger Transport Act 1994 states—

(5) A person who hires a taxi must, unless otherwise agreed, pay the legal fare to the driver on termination of the hiring—

(a) by cash; or

(b) if applicable, by a docket issued as part of the South Australian Transport Subsidy Scheme, or under a similar scheme recognised by the board for the purposes of this regulation; or

(c) by another means determined or approved by the board.

The maximum penalty for failing to pay a taxi fare is $750 and the expiation fee is $105.

Generally, disputes regarding payment of a taxi fare or soiling fee are dealt with by the police at the time of the incident. This usually results in payment or part-payment of the amount in dispute and the matter proceeds no further.

In some circumstances, the police instigate legal proceedings against a passenger who fails to pay a taxi fare or soiling fee. However, there are no statistics available to the Passenger Transport Board (PTB) in relation to these matters.

In instances where police are unable to attend at the scene to intervene or mediate regarding payment of a taxi fare or soiling fee, the operator or driver of the vehicle may refer the matter to the PTB. Attempts are then made by the PTB to recover the amount claimed.

	1997-98	1998-99
Taxi unpaid fares/soiling fees	28	19
Fees recovered	5 (17.8%)	4 (21%)

3. A significant number of expiation notices are withdrawn in relation to first and second offences committed by students and concession card holders. The practice of issuing cautions for first and second offences commenced in 1993.

It is appropriate that discretion is exercised by the PTB to withdraw expiation notices issued against people who are subsequently able to provide medical evidence that they have a physical or mental condition that impairs their ability to comply with the regulations.

Action to ensure greater compliance has included—

- greatly improved processing of offence reports and expiation notices and reports;
- doubling the number of offence reports processed and expiation notices issued;
- action to allow checking of identity details including—
  - a legislation change that deems that an expiation notice has been served if delivered to the registered address of an offender;
  - ensuring that Passenger Service Attendant's issue a caution prior to requesting details or identification from an offender;
  - a public awareness campaign about the $4 000 fine applicable for providing false details or identification;
  - refresher training for contractors on information and identification of offenders; and
  - investigation of new fare compliance software.

DOCTORS, RURAL

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

1. Following a recent media article regarding rural doctors—

(a) How many university places at Flinders University are currently being taken up by interstate medical students;

(b) How many university places at Adelaide University are currently being taken up by interstate medical students;

(c) How many university places at Flinders University are currently being taken up by overseas medical students; and

(d) How many university places at Adelaide University are currently being taken up by overseas medical students?

2. How many places are currently reserved for rural medical students at—

(a) Flinders University; and

(b) Adelaide University?

3. How many places are currently reserved for South Australian rural medical students at—

(a) Flinders University; and

(b) Adelaide University?

4. How many places are reserved in 1999 for rural medical students at—

(a) Flinders University; and

(b) Adelaide University?

5. How many places are reserved in 1999 for South Australian rural medical students at—

(a) Flinders University; and

(b) Adelaide University?

6. How much is currently being spent by the state government on attracting rural South Australian medical students to Adelaide Universities?

7. In light of the shortage of doctors in country South Australia—

(a) Does the government recognise the shortage of rural doctors in country South Australia; and

(b) If so, what is the state government doing to attract more rural medical students from country South Australia?

The Hon. DIANA LAIDLAW: The Minister for Education, Children's Services and Training and the Minister for Human Services have provided the following information:

At the outset, it should be noted that, in terms of federal government policy, entry to university must be open to applicants from all states and territories.

1. (a) There are 155 medical students currently enrolled at Flinders University who have given an interstate address as their home address.

(b) There are currently 107 MBBS students at Adelaide University with an interstate address.

(c) There are 74 international medical students enrolled at Flinders University (as at 31 March 1999).

(d) There are currently 143 MBBS students at Adelaide University with an overseas address.

2. (a) Currently there are not any places reserved at Flinders University.

However, for the first time in 2000, a sub quota of up to four places will be available annually for students who have lived in non-metropolitan areas of Australia for five or more years since leaving primary school, and who are able to demonstrate commitment to a career in rural practice. These students enter a rural stream (The Parallel Rural Community Curriculum) and will be located in the Riverland for their third year. A further four students will be selected annually at the end of their second year to join this stream.

(b) None are reserved at Adelaide University.

3. (a) None are reserved at Flinders University. Applicants for the rural sub quota can be from any state/territory.

(b) None are reserved.

4. (a) None are reserved, as the admission sub quota is to take effect for the 2000 intake. See also response to 2(a) above.

(b) None are reserved.

5. (a) None are reserved.

(b) None are reserved.

6. The state government provides $150 000 per annum for the Rural Health Education Scholarship Program for both Adelaide and Flinders Universities.

In addition, for the 1999 academic year the government has provided $20 000 for ten 'one off' university scholarships for 1st year students who have lived in rural South Australia for no less than three years.

7. (a) The Minister for Human Services has advised it is acknowledged there has been some difficulty experienced in attracting medical practitioners to work in rural areas. That situation has been in evidence for a number of years and is not a phenomenon peculiar to South Australia, nor to Australia generally. It is a worldwide situation.

The state therefore supports a significant number of initiatives intended to support the recruitment and retention of rural medical practitioners.

(b) The Rural Health Education Scholarship Scheme (as mentioned in answer VI) supports rural origin undergraduates, through their last three years at university.

Funds are provided to assist both Medical Schools to send 4th and 6th year students to gain several weeks' experience of rural medical practice with rural general practitioners.

Support is provided to the Rural Clubs at all three Universities, the main purpose of which is to encourage and assist all health profession students to seriously consider working in rural areas.

With assistance from the Rural Health Training Unit and financial assistance from the Commonwealth and other agencies such as the South Australian Rural and Remote Medical Support Agency, and the Royal Australian College of General Practitioners (RACGP), the rural clubs recently undertook a trial of health career workshops for year 10 students in three country regions.

In addition to the commitment given by the state government the following schemes are of major assistance.

The Commonwealth has recently announced federal scholarships to support rural origin students to study medicine. This will be introduced in the year 2000.

John Flynn Scholarships are also funded by the Commonwealth. These scholarships are awarded each year to medical students. Currently there are 600 students in receipt of these scholarships, which see the students spending two weeks each year over a period of four years with the same rural community.

The South Australian Rural and Remote Medical Support Agency (SARRMSA) has established a task group to look into the recruitment of rural origin students into medicine. This working party consists of representatives from the medical schools as well as DHS and SARRMSA. The main purpose of this group is to investigate the barriers that exist for SA rural origin students entering into medicine.

SARRMSA has also recently conducted a workshop for rural origin students who are applying for entry into the undergraduate medical course at Adelaide University. The workshop was designed to maximise the chances of students being able to successfully pass the Undergraduate Medical Admissions Test (UMAT), now called the Undergraduate Medicine and Health Sciences Admissions Test 20 students attended.

The rural clubs now see SARRMSA as their prime support in accessing information with regard to rural medical workforce issues and medical input into their activities. Seminars are organised by SARRMSA along with weekend trips and over the next six months it is envisaged that approximately 50 medical students with an interest in country medicine will be placed on a weekend roster with the Royal Flying Doctor Service (RFDS) through SARRMSA's efforts.

It is important to note that these projects are all essential in the vertical integration of training for rural practice, which needs to occur from high school through to postgraduate training.

TAXIS, SAFETY MEASURES

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

1. Following the release of the recent Taxi Safety Taskforce Report which claims a one per cent levy on taxi fares introduced two years ago to fund safety measures has disappeared mainly into drivers' pockets, and that drivers and owners of taxis had a widespread ignorance about the levy, what steps is the government taking to ensure—

(a) taxi owners and drivers are educated about the purpose of the levy;

(b) audit mechanisms are put in place to monitor the amount of money raised; and

(c) the money raised by the levy is actually spent on safety measures?

2. Since the one per cent levy began, how much has been raised each year, and in total, by the levy?

3. Since the one per cent levy began, how much each year, and in total, has been spent on safety measures?

4. What does the Minister consider to be a *bona fide* safety measure?

The Hon. DIANA LAIDLAW:

1. (a) The South Australian Taxi Association (SATA)—the industry organisation representing drivers, owners and Centralised Booking Service operators, initially proposed the levy to fund safety measures in taxis—and it was introduced by the Passenger Transport Board (PTB) in February 1997. Coinciding with the introduction of the levy, a Video Surveillance Review Group was formed to trial and evaluate video surveillance systems in taxis.

Subsequently, a Taskforce of elected taxi driver and operator representatives was established to determine how the 1 per cent levy should be spent. As part of the election process, nominations were sought from the 3 200 drivers and the 1 480 owners who were eligible to vote. This exercise, together with the Taskforce election documents which were sent to the 4 680 eligible voters, highlighted the levy and safety issues generally. Ultimately, formal votes were cast by 1 766 drivers and 880 owners to elect their industry members to the Taskforce—a level of response that does not seem to suggest widespread ignorance of the levy, or a lack of education on the issues.

(b) At the request of the SA Taxi Association, the levy was put into the hands of the industry. The levy is designed to improve the

safety of taxis and to assist owners and drivers meet the increasing costs of safety components in taxis. The levy is not collected or recovered by the PTB, nor is it audited in an ongoing sense. It is for owners and drivers to decide what are the best means to improving safety taking into account the skills of drivers, the hours and primary regions of work, and other risk factors.

(c) The industry advises that a significant proportion of the 1 per cent levy has been spent on the introduction of Global Positioning Systems (GPS) in nearly all of Adelaide's taxis—an important driver safety initiative and an appropriate use of the levy. The Taskforce Report identifies other items of expenditure in taxis to date, as well as their costs. These include a very limited number of large ticket items such as surveillance cameras and protective screens.

2. The levy was introduced on 17 February 1997, on the basis of the taxi meter earnings given in the 'Adelaide Taxi Industry Baseline Study 1996'. The 1 per cent levy will raise about $850 per year for each taxi. There are 1 045 taxis operating in the Adelaide metropolitan area.

3. The Taskforce Report costs a number of items common to cabs as well as other items less common. The cost of GPS, for example, is generally given as $1 200 per unit. This is generally recouped through the base fees charged for the service by the Centralised Booking Services—and the levy helps meet these fees.

Meanwhile, as I announced at the SA Taxi Association Conference in July 1999, all metropolitan taxis must have video surveillance cameras installed by 1 July 2001—a safety measure strongly advocated by the Taxi Safety Taskforce.

4. Clearly, in the context of the Taxi Safety Taskforce Report, a bona fide safety measure is any device or practice which minimises safety risks and criminal acts for taxi drivers or their passengers—or the taxi as a work environment, being subjected to criminal acts. Specifically, as I announced in July 1999 it will be mandatory for video surveillance cameras to be installed in all taxis by mid 2001—and the safety levy will continue for a further two years to allow operators to collect additional funding for the installation of the video equipment.

TOUR DOWN UNDER

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

1. How much did the South Australian Government spend in total on all aspects of the 1999 'Tour Down Under' bicycle event?

2. What were the estimated economic and employment benefits of the 1999 'Tour Down Under' bicycle event?

3. How much in total is the 'Tour Down Under' bicycle event likely to cost the state government in the year 2000?

4. What is the estimated economic and employment benefits of the 'Tour Down Under' bicycle event in the year 2000?

The Hon. R.I. LUCAS: The Minister for Tourism has provided the following information:

1. The cost to the South Australian government to procure and stage the 1999 Tour Down Under cycle race was comprised of direct costs of $1 825 396, plus an apportionment of the Australian Major Events salaries debit line for the 1997-98 and 1998-99 financial years. This was partially offset by cash and 'in-kind' sponsorship.

2. The Tour Down Under attracted an estimated $11.5 million dollars in local, national and international media coverage, the most significant of which was the television transmission of two one-hour highlight packages by the Eurosport Network. The Eurosport Network has a viewing audience of about 220 million people on the Continent and in the United Kingdom. In addition, significant coverage was also attained in numerous international newspapers and cycling magazines further to the numerous articles and media coverage in local and interstate media.

Anecdotal information suggests that significant economic benefit flowed from the many visitors who travelled to Adelaide for the Tour Down Under. This was particularly evident in regional areas, where many of the tours, through which the race either passed or finished, reported record levels of trade. However, the government's focus with this inaugural event was to run a professional world quality event, gaining maximum national and international media exposure for it and our state.

The total cost of the Jacob's Creek Tour Down Under 2000 was $2.137 million. The South Australian government, through the South Australian Tourism Commission, contributed $1.4 million of this amount, the balance of the funding was sourced through corporate sponsorship and financial contributions made by local government authorities hosting stage starts and finishes.

It is estimated that the Jacob's Creek Tour Down Under 2000 has generated local, national and international media coverage exceeding $15 million in value (a media audit of the event will be finalised by the end of March 2000), all of which translates into direct economic benefit for the state. The event received nearly nine hours national television coverage; two and a half of which were live. During the week commencing 31 January 2000, the Eurosport Network broadcast three one-hour highlight programs of the event, in prime viewing time (1700 to 1800 local Paris time). These programs were repeated the same evening at 2300 local Paris time. As indicated above, the Eurosport Network has a 'reach' of about 220 million people throughout Europe.

Given many more journalists were accredited to the event in its second year (twelve international, twenty national and thirty-five local), print media exposure has been and will continue to be substantial.

The Jacob's Creek Tour Down Under also attracted significant interstate visitation, especially from Victoria and New South Wales. A detailed economic benefit survey will be undertaken for the 2001 event. However assessment of the 2000 event suggests that the total economic benefit to South Australia, generated by the Jacob's Creek Tour Down Under, would approach $20 million.

PORT STANVAC OIL REFINERY

57. **The Hon. T.G. CAMERON:** With relation to the Port Stanvac Oil Refinery—

1. (a) When was the last independent risk survey conducted by and for the Underwriters or the Government Environmental Protection Authority made on the plant and the infrastructure; and

(b) Who carried out the risk survey?

2. How many insurers are underwriting the risks?

3. (a) Who are the insurers underwriting the risks; and

(b) What proportion, as a percentage, of the risks is underwritten by each insurer, both Australian and foreign?

4. What are the policy exclusions?

5. Do the policy conditions provide for 100 per cent plus escalation for reinstatement of loss, or will the government be expected to pay for any shortfall?

6. Are the interests of the state for the people of South Australian insured, in view of the previous plant failures, machinery breakdown and spillage resulting in consequential losses and/or loss of profits?

7. (a) Is the State co-insured to the extent that the interests of the State require; and

(b) If not, why not?

8. Why is the Government negotiating with the City of Onkaparinga to reduce the annual rates by $750 000 for the Refinery when this, and any other similar costs of reinstatement, are clearly a commercial insurance risk matter?

9. After the reinstatement of environmental and other damage, will the annual rates continue to be reduced?

10. What maintenance and replacement program is in place at the refinery?

11. What contingency plans exist in the event of total loss, as the refinery is important to South Australia only to the extent that it provides the fuel requirement of the State and is efficient at an acceptable cost?

12. Who will be the minister now assuming responsibility for the refinery?

13. Will that minister immediately start on a contingency plan for loss in view of the refinery's age?

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

1. (a)&(b) The Minister for Environment and Heritage has been advised that no independent risk survey of the plant and the infrastructure has been carried out for and on behalf of the Environment Protection Authority. It is not the EPA's responsibility or role to inquire as to whether such a survey has been undertaken at the behest of the Refinery or its Underwriters. This information should be sought from the operators of the Refinery.

The Minister for Industry and Trade has provided the following information.

2.-7. The Minister for Industry and Trade has advised that these questions are not directly relevant to the Department of Industry and Trade.

8. The government is currently reviewing the Mobil Indenture Acts and is likely to propose a number of amendments to them, including changes to the formulae for determining Local government

rates paid by Mobil Refining Australia to the City of Onkaparinga. In the 1998-99 financial year, Mobil paid the City of Onkaparinga a total of $1 024 369 in accordance with the formulae in the Indentures. Mobil has expressed its concerns to government about the level of rates payable. In particular, the company has suggested that the level of rates paid is substantially higher than rates paid by other industries in the area and is placing the Adelaide Refinery at a competitive disadvantage with interstate refineries. For example, Mobil estimates that if it was rated using the standard formula used for other City of Onkaparinga properties, rates of around $67 500 would be payable.

The government has been negotiating with the City of Onkaparinga on the rates payable by Mobil and is yet to make a final decision on any rates reduction.

9. The aforementioned review of the Mobil Indenture Acts, including the level of local government rates payable by Mobil, is independent of the issue of any reinstatement of environment and other damage.

10. The maintenance and replacement program at the Port Stanvac Refinery is the province of Mobil. However, the Minister for Industry and Trade has been informed that Mobil has a significant preventative and condition based routine maintenance program that is supported by the resources and best practices from the wider Mobil Corporation. To perform significant inspection and maintenance work, the whole Refinery plant is regularly shut down. In addition, significant capital is allocated to the replacement and upgrade of major items of plant to ensure reliable and safe operation. This endeavour is epitomised by the major plant turnaround in September 1999 and the recent upgrade of the Refinery wharf.

11. There are procedures in place to handle short term shutdowns of the fuels refinery, in case of breakdown or damage such as resulted from the fire at the site in August 1998. These procedures involve draw down of existing stocks and importing finished products via the product wharf at Port Stanvac. There are also facilities at Port Adelaide that could be used if for some reason the product wharf at Port Stanvac was not available.

In the short term, if local demand for transport fuels cannot be met by drawing down stocks or from imports, then Part 5 of the Petroleum Products Regulation Act contains provision for the Governor to proclaim a period of restriction or rationing. This ensures that fuel supplies are maintained for essential service providers and remaining stocks are distributed equitably.

If the refinery was to be shut down long term, the main alternative would be marine imports as the quantities required, 3.8 mega litres per day for petrol and 2.6 mega litres per day for diesel, may not be transported into the state by road.

12. The Minister responsible for the refinery depends on what aspect of the refinery operations is being questioned. The Petroleum Products Regulation Act referred to in the previous question comes under the Treasurer, however, Part 5, relating to periods of restriction or rationing, is delegated to the Minister for Primary Industries, Natural Resources and Regional Development. The Office of Energy Policy is the line agency responsible for implementing these procedures.

Responsibility for the administration of the Mobil Indenture Acts, including the collection of cargo service or wharfage charges, lies with the Minister for Transport and Urban Planning. However, the Minister for Industry and Trade has the lead role for undertaking the current review of the indenture legislation because the focus of the review is on improving the competitiveness of the Adelaide Refinery.

13. Contingency plans are already in place for short term outages as mentioned earlier. Also, as the Minister for Industry and Trade indicated in the answer to the previous question, the current review of the Indenture Acts is very much focussed on improving the national and international competitiveness of Adelaide Refinery, thus improving its long term viability and economic contribution to the state.

SPEEDING OFFENCES

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

1. How many motorists were caught speeding in South Australia between 1 July 1999 and 30 September 1999 by—

(a) speed cameras;

(b) laser guns; and

(c) other means;

for the following speed zones—

60-70 km/h;

70-80 km/h;

80-90 km/h;

90-100 km/h;

100-110 km/h;

110 km/h and over?

2. Over the same period, how much revenue was raised from speeding fines in South Australia for each of these percentiles by—

(a) speed cameras;

(b) laser guns; and

(c) other means?

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the police of the following information:

1. Speeding offences issued and expiated between 1 July 1999 and 30 September 1999

Motorists caught speeding by:

Speed Cameras	60 144
Laser Guns	No separate data available
Other means	16 422

For the following Speed Categories
(Speed camera offences only, and relate to a variety of speed limits and speed zones):

60 – 69 km/h	372
70 – 79 km/h	50 059
80 – 89 km/h	4 240
90 – 99 km/h	1 419
100 –109 km/h	394
110 km/h and over	236
Unknown	13

2. Revenue raised from:

Speed Cameras	$5 402 209
Laser Guns	No data available to match question
Other means	$2 321 852

Casualty and death crash data
Between 1 July 1999 and 30 September 1999

Fatalities	28
Casualty crashes	(estimate) 1 970

MOSQUITO CONTROL PROGRAM

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

1. When will negotiations between the Department of Primary Industries, the Torrens Island and Environs Mosquito Control Committee and the Department of Human Services regarding who will contribute towards the 1999-2000 summer mosquito control program on the Barker Inlet, St. Kilda and surrounding areas be completed?

2. When is the spraying to control mosquito numbers likely to begin?

3. Will it begin before this summer's mosquito breeding season has started?

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

1. Negotiations are on-going.

2. The control program began on 6 September 1999.

3. Yes.

LEGAL AID

72. **The Hon. P. HOLLOWAY:**

1. Can the Attorney-General set out the guidelines by which legal aid is approved for 'disadvantaged persons' under section 11*(d)*(i) of the Legal Services Commission Act 1977?

2. Can the Attorney-General confirm that legal aid funding is no longer available for civil actions?

3. Can the Attorney-General advise when and why this change occurred?

The Hon. K.T. GRIFFIN: I have been advised by the Director, Legal Services Commission, of the following information:

1. The Legal Services Commission Act gives the Commission broad responsibility for providing legal assistance throughout South Australia.

Section 11(d)(i) specifically recognises the need for legal assistance to be readily available and easily accessible to disadvantaged persons.

The same Section of the Act, namely 11(a), provides that the Commission must seek to ensure that legal assistance is provided in the most efficient and economical manner. In order to carry out this

mandate the Commission is required, pursuant to section 10(2)(a) to determine appropriate criteria upon which legal assistance is to be granted. In particular section 10(2)(b) states that legal assistance should not be granted when the applicant could afford to pay in full for that legal assistance without undue hardship. Appropriate means, merits and guidelines tests have been developed to ensure that section 10 of the Act is complied with.

A person will not qualify for legal representation unless all three means, merits and guidelines tests are satisfied.

Although legal assistance may not always be granted for the purpose of instructing a legal practitioner to commence or defend a case before a Court of law or potentially before a Court of law, legal assistance will still be provided by the Commission via a free advice service which is available to every person throughout the state either through a face-to-face appointment or through telephone advice. These free advice appointments are provided at its Adelaide head office and its five regional offices or via a toll free telephone advice line.

2. Legal aid funding is available for some civil actions although a grant of legal aid for representation is now rare. Legal assistance will not be granted where

- There is some other source of funding such as where the applicant can expect to recover damages, compensation, costs or any sum of money from the case such that the case is self-funding or the lawyer should act in expectation of payment in due course. In this context, the applicant is expected to apply to the Law Society's Litigation Assistance Fund or Disbursements Only Lending Scheme.
- The case will involve the sale of a valuable asset from the proceeds of which the case could be funded.
- Where there is any other fund from which the costs can otherwise be met as in the case of litigation over a deceased estate, or statutory provision for funding as in cases of representation of protected persons in certain appeals before the Administrative Appeals Court.
- Where the applicant engages in commercial activities or maintains a life-style such as that the Commission considers that they can or should raise funds privately.
- Where there is another agency or service which may assist with litigation such as Welfare Rights Centre, Department of Family and Youth Services, Working Women's Centre, Equal Opportunity Commission or Human Rights and Equal Opportunities Commission, Environmental Defenders Office, Police Complaints Authority, Legal Practitioners Conduct Board, Ombudsman, Telecommunications Industry Ombudsman, Banking Ombudsman, Insurance Inquiries and Complaints Ltd, Office of Business and Consumer Affairs, Community legal centres, the Commission's Child Support Unit or Public Trustee.
- Where it would be reasonable to expect the applicant to represent himself or herself.

The ability of the Commission to make grants of legal aid in Commonwealth civil matters relies on guidelines 1 – 6 of the Civil Law Guidelines in force at the time of the Commonwealth/State Funding Agreement.

3. The Legal Services Commission Guidelines relating to the funding of civil matters has been designed to ensure that the limited funds available for legal aid are directed to areas of the greatest need. It has always been recognised that aid is not granted in cases where it is not really necessary because there is some other possible source of funding or the case could be handled by some other agency or service or it would be reasonable to expect the applicant to represent himself or herself. A Commission meeting held on 27 July 1997 resolved that legal aid would continue for only those civil matters where assistance was unlikely to be obtained from the Litigation Assistance Fund or the Disbursements Only Lending Fund or from any other source and where it was a matter which fell within the expertise of the Commission's inhouse civil section. The application was also to satisfy the current means, merits and guidelines in force. This resolution was passed to ensure that the Commission remained within budget.

4. The changes to funding in Commonwealth law types originally came into operation on 1 July 1997 as a result of the new Commonwealth/State Funding Agreement.

The changes to the state funding of civil matters came about in July 1997 because of the need for the Commission to remain within budget.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 1998-99—
Environment Protection Authority.
Native Vegetation Council.
Racing Industry Development Authority.
South Australian Thoroughbred Racing Authority.
The Dog and Cat Management Board of South Australia.
Rules—Rules of Court—
District Court—District Court Act 1991—Amendment No. 26—Forms.
Magistrates Court—Magistrates Court Act 1991—Amendment No. 17—Appeals and Applications.

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

Institute of Medical and Veterinary Science—Report, 1998-99.
Local Government Act 1934—Section 20(8)—Report.
Regulations under the following Act—
Motor Vehicles Act 1959—Schedule 6.

LIBRARY FUNDING

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement in respect of the funding of public libraries.

Leave granted.

The Hon. DIANA LAIDLAW: Yesterday I sent letters to each local council in the state advising the allocations for their libraries, approved by the Libraries Board for 2000-2001. These allocations indicate that all but three of the state's 136 libraries will receive increases in subsidies for their operating costs and materials purchases. Provision is also made for each library to receive a full year of access to the internet. This is the first time financial provision has been made for the full year, a benefit that will be welcomed particularly in regional areas, where many libraries have only recently received internet access.

The figures highlight that, in overall terms, the approved budget provides for total spending of $14.3 million. This sum represents:

1. An increase of $230 000 over the current year.

2. Maintenance in real terms of subsidies for operating costs and the purchase of materials.

3. For the first time free public access to the internet in every public library in the state for a full year.

There has been some debate about the sources of funds. I confirm that the $14.3 million will come from a mix of government appropriation to the Libraries Board and use by the board of funds provided previously by the state government for the express purpose of funding public libraries. Up until now this accumulation of state government funds has sat dormant, growing each year as the sector has spent less that it was provided. I make no apology for putting in place an arrangement for next year—a transitional year between 5 year agreements—which results in this reserve of government funds being applied to the purposes for which they were made available in the first place.

The alternative, which is effectively what the Local Government Association is campaigning for, is to allow the unused funds to snowball. In other words, the LGA wants more funding to be provided from government and, at the same time, wants to be able to leave untouched and sitting

idle a very large and growing sum of state government or taxpayers' funds in the accounts of the Libraries Board. This is not an acceptable way to use public funds.

The LGA has also been suggesting that funding has been cut. I have already referred to the $230 000 increase to public libraries in the year 2000-01. The effect of the letters I have sent to each council is to confirm the fact of the increase for each specific council as well as in overall terms. These letters advise an increase in total subsidy for 133 public and community libraries. Three libraries are receiving reduced subsidy not because of the government but because the areas they serve have had reductions in population and the calculation of the subsidy has always been population based. I seek leave to table a schedule of the public libraries grants for 2000-01: it is of a statistical nature.

Leave granted.

The Hon. DIANA LAIDLAW: In its campaign to keep the current reserves as idle funds, the LGA has sought to whip up public opinion by suggesting the government's policies will require cutbacks in library services. This cynical campaign has created needless and unfounded anxiety in the community. I would like to reassure library users that there is no basis for any claims about cutbacks in services. Furthermore, if any users experience cutbacks, I invite them to write to me directly and I will have Arts SA take up the issue with any local council so that we can clearly identify the source of the service reduction.

Now that the funding for next year has been concluded and the increases are locked in, I wish to comment briefly on the next five year agreement. The government recognises the high value that the community places on the public library network in South Australia—and we are keen to ensure that the five year agreement commencing on 1 July next year equips public libraries to play a pivotal role in the community through the provision of library and information services. The financial issue that state and local government have to resolve is how to meet the $800 000 per annum cost pressure that has been added to the underlying cost of operating the public library system.

These costs come in the form of fees for IT (information technology) and internet access created by switching to web-based software and by providing public access to the internet. I do not dispute the validity of these policies—indeed, I strongly support making the internet available, particularly to regional libraries. What troubles me is that the sector, with the support of the LGA, has consciously incurred this cost burden without identifying any sources of funding for it. The government, in cooperation with the Libraries Board, has constructed a budget for next year which deals with the internet cost issues and allows internet access to be provided without compromising subsidies for traditional services.

This arrangement will provide a 12 month breathing space while together the government and the LGA work out a more sustainable basis for going forward in the next five year agreement. What is needed is for both sides to work together to ensure that our public library asset continues to meet community expectations for traditional library services as well as the challenges and opportunities presented by the new world of on-line information services provided through the internet. Priority needs to be given to the development of a financial strategy that provides for the sustainable delivery of traditional and on-line services.

To assist that process I have advised local councils that the starting point for negotiating the new five year agreement will be the funding level provided throughout the 1995-2000 agreement. It is also envisaged that there will be no further need to use accumulated reserves in the next five year agreement. I now trust that the LGA will be prepared to work constructively with the state government on developing a positive and sustainable outcome for the good of all users of public and community libraries within the state.

Leave granted.

WOOMERA

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement from the Premier in the other place on Woomera.

HANSARD

The PRESIDENT: I draw the attention of members to the fact that the uncorrected daily *Hansard*, the same version as appears in the printed daily, is now also available on the morning after a sitting day in electronic form on the parliamentary intranet. This new service supplements the continued availability on the internet, at about 4 o'clock on the afternoon following a sitting day, of the corrected daily *Hansard* and the electronic version of the weekly *Hansard* on the Tuesday following a sitting week.

QUESTION TIME

SCHOOL FEES

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Treasurer a question about GST on school fees.

Leave granted.

The Hon. CAROLYN PICKLES: Parents of children attending publicly-funded government schools pay about $20 million in so-called voluntary school fees and, in some schools, fees now account for more than 60 per cent of income to meet operating expenses. In 1996 the Hon. Robert Lucas, the former Minister for Education, issued an instruction that because government schools could not legally charge tuition fees all school fees were to be charged as materials and services charges. It now appears that this decision to circumvent the Education Act has returned to hoist fee-paying parents on the government's petard.

While the GST does not apply to tuition fees, it does apply to charges for materials and services. A book issued by the Taxation Office says that goods and services charged, sold, hired or leased to students by a school attract a GST. Just last week, some three months out from this new tax, the Minister for Education was unable to say what GST public schools will pay on fees already collected but did acknowledge that materials and services were taxable. My questions are:

1. Can the Treasurer tell the Council whether public schools will have to pay GST on fees collected this year as materials and services charges?

2. Will parents who have already paid their fees receive a second account for the six months of the GST?

The Hon. R.I. LUCAS (Treasurer): I am happy to consult with my colleague the Minister for Education on this issue and to bring back a reply. In addition, however, when one talks about being hoist with their own petard, one can suggest that the position of the Australian Labor Party, which is opposing any collection of fees, has been in part the cause of this dilemma. The Labor Party, quite irresponsibly, continues to throw out a regulation which allows the collec-

tion of fees. If the Labor Party were prepared to adopt a responsible position in relation to the issue of fees and charges within South Australian schools, there could be a bipartisan position which would allow schools in South Australia to be treated differently from the way they are currently being treated under the commonwealth government's GST taxation regime.

It is the quite irresponsible approach and attitude of the Australian Labor Party, supported by the Australian Education Union and the Australian Democrats, that has meant that this difficult set of circumstances has eventuated in our schools in South Australia. I am sure the minister, given that disadvantage of having the Australian Education Union, the Labor Party and the Democrats ganged up against him, is doing the best he can to assist students, teachers, parents and schools. Certainly, I will willingly and happily consult with him and bring back a reply to the honourable member's question.

STATE BUDGET

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

Leave granted.

The Hon. P. HOLLOWAY: In yesterday's *Advertiser*, following an interview with the Premier, it was reported that a tax windfall is likely to mean a loosening of the purse strings in next month's state budget. The article states:

> Until recently, the government had been looking at a deficit of between $46 million and $100 million. Government sources said the economic growth could result in an extra $50 million being collected by the June 30 close of this financial year.

In the article the Premier was also quoted as saying:

> But there has been a significant increase—

and he was referring to state taxation revenues—

> which is needed to reduce this year's deficit because we didn't proceed with a power bill increase as a result of the ETSA sale.

My questions are:

1. Will the Treasurer confirm that the government now expects a significant increase in taxation revenues in this and the next budget?

2. Does the Treasurer believe that a balanced budget outcome is now likely for the 1999-2000 budget?

3. When will the implementation costs of the GST—which last week, by way of a ballpark figure, he described as $50 million—impact on the state budget: in this year's or next year's state budget?

The Hon. R.I. LUCAS (Treasurer): The honourable member will need to wait until the last week of May to get all the details of the state budget. I do not intend to reveal, questioned or otherwise, the confidential discussions that go on within the cabinet about our budget. I am surprised that the shadow minister for finance would even have the temerity to ask such a question in terms of my revealing cabinet confidences and discussions that might go on. What I can say in relation to the public record is that there has been some improvement in terms of the overall strength of the state economy. I am sure the shadow minister for finance would be the first to congratulate the Premier for the sterling job he has undertaken—

The Hon. L.H. Davis: And the Treasurer.

The Hon. R.I. LUCAS: No, just the Premier. Treasurers do not seek glory in these sorts of things: we are mere servants of our parties. I am sure the shadow minister for finance would be the first to congratulate the Premier for the strength of his leadership and the government's leadership and its role. We would be the first to acknowledge that state governments cannot in and of themselves turn around economies. There has been credit to our federal colleagues for the turnaround in the national economy, and that has also greatly assisted the turnaround in the state economy.

The opposition is always the first to attack the Premier whenever things are not doing as well in terms of economic conditions, and I have no hope at all that Mr Rann or Mr Foley, given the whingeing and whining attitude that they adopt perennially, would ever congratulate the Premier on anything. However, I remain hopeful that the shadow minister for finance (Hon. Paul Holloway) might break ranks again with the shadow treasurer and strike out on a different path and be prepared to congratulate the Premier.

So, as a result of that strengthening economy, there is some strengthening in the state revenue base. Stamp duties, payroll taxes and gambling taxes—and I know there are varying views in this chamber about gambling taxes—are an important part of the strengthening of the state revenue base that allows governments to continue to fund important services like hospitals, schools and police services. So, those stamp duties, payroll taxes and gambling taxes are principally the sorts of taxation bases that have been strengthened because of the strength of the overall economy. There has been some improvement.

On the other hand, as with every year, there are aspects of the revenue base which have been under pressure and which have shown a decline against the forward estimates, and there are also increases in costs. The member referred to the implementation of the GST as an area where there will be a one-off implementation cost which, as I said previously, is estimated to be in the ballpark of up to $50 million. I think I have said previously in answer to the fourth question of the honourable member that that implementation cost is spread over the 1999-2000 and 2000-2001 financial years.

Whilst I am sure that the *Advertiser* story partly reflected the situation—that is, that there has been a strengthening of the revenue base—I hasten to say that there are and continue to be cost pressures on the government's budget. As I have said previously to the *Advertiser* and publicly, I am sure my ministerial colleagues will be the first to acknowledge that there is no pot of gold at the end of the rainbow into which we can all put our hands to spend liberally on everything. However, there will be some greater flexibility in this budget and there will be some greater flexibility in next year's budget as the remaining five electricity businesses are sold or leased between now and August this year.

ABORIGINAL LANDS TRUST PARLIAMENTARY COMMITTEE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the Aboriginal Lands Trust parliamentary committee.

Leave granted.

The Hon. T.G. ROBERTS: I will not be mean spirited. I will pay a compliment to the Premier and to the parliament of South Australia for being the first—

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: He was not able to pay a compliment because he did not feel that a compliment was there to be provided. I feel—

Members interjecting:

The PRESIDENT: Order! The honourable member will get on with his explanation.

The Hon. T.G. ROBERTS: I feel that in relation to the problem facing Aboriginal people, and the fact that the parliament moved a congratulatory motion that was a landmark—we got in front of the other state parliaments and certainly made the commonwealth feel a little ashamed of its position—we were able to say sorry to the Aboriginal people for past deeds. The minister got into the spirit of 'National Sorry Day' and was also very quick to get into a good, positive position in relation to the disadvantages and turmoil created by the stolen generation without quibbling over the definition of the word 'generation'.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Yes. I have already sent a congratulatory letter to the minister. Unfortunately, now I have to throw a brickbat. The Aboriginal Lands Trust parliamentary committee has statutory obligations and requirements, and it has not met for some considerable time. It certainly has not met in this government's present term in office. I understand that it did not meet for at least two years preceding the last election. In anybody's terms, that is a long time for a standing committee not to have met.

Questions have been raised with the minister in another place in relation to why it has not met, but as far as I can find out it still has not reported or met any of its statutory obligations. Some of the responsibilities of the parliamentary committee are to take an interest in the operation of the act, matters that affect the interests of the Aboriginal persons who ordinarily reside on the lands and the manner in which the lands are being managed, used and controlled; and to consider any other matter referred by the minister. Then follows a series of explanatory ways as to how the committee is set up. My questions are:

1. Is the Attorney-General aware that the Aboriginal Lands Trust parliamentary committee has not met since the last election and had not met for some time previous to that?

2. Is the Attorney-General concerned that the committee has not met for some considerable time, has not met its statutory requirements under the act or has not played any constructive role in assisting and improving the lives of Aboriginal people in this state?

The Hon. K.T. GRIFFIN (Attorney-General): There are a significant number of initiatives being taken by the government to improve the lot of indigenous Australians, and there are particular initiatives currently on foot in relation to—

The Hon. T.G. Roberts: The committee has played no role in that.

The Hon. K.T. GRIFFIN: I am not aware of the detail to which the honourable member referred about the committee, and I will undertake to have some inquiries made and follow up the issues that he has raised. The fact is that, so far as the government is concerned, we have undertaken a number of initiatives in relation to indigenous Australians, not the least of which is the current quite extensive negotiating process under the commonwealth Native Title Act with a view ultimately to achieving an indigenous land use agreement between the government, the Aboriginal Legal Rights Movement as the representative body in this state (which necessarily means also native title claimants), the Farmers Federation (representing pastoralists) and the Chamber of Mines (representing mining interests). That is a very extensive and progressive step that we have taken.

There is some frustration with the confirmation and validation legislation in the parliament at the moment because, even though the issues had been around for the past 2½ years when the federal parliament considered the issues, and they have been around for 18 months at the state level in state legislation, we still cannot pin down people to identify what they say is wrong with the particular tenures that are on the schedule. It is particularly frustrating, and I do not intend to spend part of question time dealing at length with that. Whilst there are some pluses occurring, there are also some frustrations.

In terms of other Aboriginal issues, whether in the areas of law and order, crime and safety, crime prevention, domestic violence prevention, education or health, quite a significant number of initiatives are being taken by the government to assist Aboriginal people to improve their lot, because we as a government recognise that it is an issue not just for government but for the Aboriginal community as well as the wider community. So far as the details in the honourable member's questions are concerned, I will make some inquiries and bring back a reply.

STATE ECONOMY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question about the South Australian economy.

Leave granted.

The Hon. L.H. DAVIS: I recently had the opportunity of examining the very comprehensive economic briefing report published in March 2000 by the South Australian Centre for Economic Studies. In it the South Australian economy is considered in some detail. On pages 44 and 45 the report states:

> In January [2000] the number of new dwellings approved exceeded the 1 000 mark (seasonally adjusted) for the first time since the mid-1990s. In short, the level of housing construction in South Australia is the highest it has been in over half a decade. . .

In terms of engineering construction, on page 54 the report notes the increasing importance of private sector activity in engineering construction work in South Australia, and it mentions specifically the expansion at Roxby Downs, high levels of road construction, various water projects, the Pelican Point power station, MurrayLink, and the demonstration pig iron plant. On page 56 it notes under the heading 'Gross State Product and Income':

> The Australian Bureau of Statistics recently released its State Accounts data for 1998-99. The State Accounts give a useful update on medium term trends in economic activity and paint a positive picture of production growth in South Australia over recent years. The figures suggest that South Australia's gross state product has recently risen more strongly than most commentators were expecting three or four years ago.

It then notes:

> Over the five years to 1998-99 South Australia's real gross state product rose by an average of 3.25 per cent per annum.

The report takes particular note of South Australian overseas exports, and it comments on page 65:

> South Australian merchandise exports have shown a strongly growing trend over the last two years, in contrast to national exports which flattened off in 1998-99. As a result, South Australia's share in Australia's exports reached an historically high 6.8 per cent in 1999.

Furthermore, it states:

> Over the year to January 2000, South Australia's overseas merchandise exports had a value of $5.9 billion, 14 per cent higher

than in the preceding 12 month period. Nationally there was a 2 per cent fall in exports over the same period.

The report then notes:

The details of the data suggest that South Australia's strong export growth is at least partly structural, and not just driven by short-lived factors. The main sources of growth in 1999 were increased exports of road vehicles (up 70 per cent), wine (up 26 per cent), metals (up 22 per cent) and fish and crustaceans (up 39 per cent).

It then notes:

The strength of South Australian exports in 1999 was broadly spread across—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: This is just such good news I thought you would all be delighted. The report notes:

The strength of South Australian exports in 1999—

Members interjecting:

The Hon. L.H. DAVIS: Well, it's better news than occurred on Saturday for the Labor Party, let me tell you that.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Mr President, I will not be diverted. The report notes:

The strength of South Australian exports in 1999 was broadly spread across its major geographic markets. In the 12 months to January 2000, exports to the United States rose 35 per cent, exports to ASEAN rose 32 per cent, exports to Japan rose 24 per cent and exports to the European Union rose 16 per cent.

It also speaks encouragingly about overseas tourism growth. My question to the Treasurer is: has he seen this latest *Economic Briefing Report* from the South Australian Centre for Economic Studies, and do the forecasts and findings of the South Australian Centre for Economic Studies' latest publication match those findings and forecasts by the South Australian Treasury for the health of the South Australian economy?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question, which was most comprehensive. Therefore, I will not need to repeat much of the detail which my colleague has eloquently put on the public record. I want to pick up quickly two points. First, as the honourable member indicated earlier in his explanation, many of the commentators in the South Australian economy in, I suppose, the past two or three years have tended to underestimate the relevant strength in terms of gross state product or state final demand (which is the overall measure of the strength of the economy) and employment growth.

The more pleasing aspect for those of us concerned with more real world outcomes which can be readily understood by most people—that is, employment outcomes as opposed to GSP or SFD measures—is that employment outcomes have shown encouraging signs of improvement in the past 12 months. I continue to have some concerns about ABS measures of employment and unemployment. For the life of me, I cannot believe that the ABS figures can be accurate when in the space of three months they show unemployment at 7.9 per cent, jumping to 8.7 per cent and then dropping again to 8 per cent. I highlighted the problem with ABS measurements 12 to 18 months ago, and I continue to express my concern. I do not believe that you can see a big one percentage movement in unemployment with it then settling back to what the rate was six weeks earlier in a valid way as the ABS figures purport.

Secondly, the honourable member referred in some detail to the export performance of South Australia, which is of credit to South Australian businesses and companies. However, there is one aspect of the report which my colleague did not quote. The report makes the comment that behind these increases in South Australia 'lies significant strategic investment and market development decisions over a period of years which are now having an impact.' What that report is hinting at is that there has been considerable strategic investment and market development entered into by South Australian government departments and agencies which is supported by the Premier (in his previous role as minister for industry and now as Premier because he is very interested in these issues) and also by South Australian businesses and companies working with those departments and agencies.

Ultimately, these decisions must be taken by businesses and companies through their boards and management. This report acknowledges that over a period of years agencies working with companies have managed to make some significant strategic investment and market development decisions. I list quickly: Food for the Future programs, wine industry and export programs, the EDS contract which has encouraged the IT sector in this state, the United Water deal which has encouraged the expansion of water services and the growth of water companies and export services, and the Partnerships in Rail program, which is now commencing. Those are the sorts of key strategic decisions that governments can take with the assistance of business and industry to provide the framework and the underpinning for more impressive export performance in South Australia. I thank the honourable member for his question as it is important.

AQUACULTURE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about aquaculture and tuna feedlotting.

Leave granted.

The Hon. IAN GILFILLAN: It is sometimes said that marine aquaculture, including tuna feedlots, is of value as an environmental monitor. The health of farm species such as tuna or oysters can be viewed as an indicator of the quality of the environment in which they are maintained. The tuna feedlot industry generates substantial waste (either uneaten food or faeces) underneath each pen. Much of the waste disappears because it becomes food for other species, although it thereby alters the food chain.

However, as far as the fish are concerned, the presence of organic matter in or below tuna feedlots might adversely affect them in at least two ways: either through algal blooms stimulated by the increased nutrient levels in the water or through anaerobic microbes producing hydrogen sulphide as they decompose sediments on the sea floor. These are potential problems of which the industry is well aware.

In 1996, 1 700 tonnes of southern bluefin tuna (75 per cent of the total number stocked in that year) died during April and May. The fish were subject to insurance claims estimated at $45 million. An official government report concluded that the cause of the mortalities was a storm on 12-13 April 'which stirred up the [naturally occurring] sediment beneath the cages in locations where the current and depth of water was insufficient to prevent the sediment causing severe harm to the fish.'

Surveys conducted soon after the mortalities found neither dissolved oxygen nor microalgae at levels which have caused other fish kills overseas. In the light of these findings, insurance claims were paid. However, on the ABC TV program *Quantum* on 23 March this year it was suggested that the official report on the 1996 tuna mortalities was flawed. Marine botanist Gustaaf Hallegraeff told *Quantum* that when he examined a water sample he found that it was teeming with a toxic alga never before seen in Australia called 'chattonella'. The same organism—

An honourable member: Where does it come from?

The Hon. IAN GILFILLAN: Well, that is an interesting question. The same organism killed half a billion dollars worth of fish in Japan in 1972. Chattonella toxin was also present in the livers of the dead tuna. Despite this powerful evidence, the official explanation remains that 'a storm was the killer'. Hallegreaff says the methods used by the government's tuna kill inquiry 'destroyed any chance of testing for algae'. This is confirmed by the government report which concedes that the method used for preserving samples at the site had actually destroyed 'fragile forms such as chattonella'.

Mr Hallegraeff says that in Japan chattonella is 'an example of an algal bloom phenomenon which is actually induced by the waste products of the aquaculture industry.' The *Quantum* program also cited research in North America which suggests that some algal blooms, previously benign, are now turning toxic and, stimulated by pollution in the marine environment, are posing threats not only to farmed species but also to human health.

One year after the 1996 tuna kill another researcher attached to Flinders University's Lincoln Marine Science Centre, Carina Cartwright, conducted tests at tuna feedlot sites near Port Lincoln and found 47 species of algal bloom in cyst form. These included unidentified species of chattonella. One potentially toxic bloom affected all monitored sites near Port Lincoln in May and June 1997. Surprisingly, these findings did not prompt further research into this danger. The only subsequent research of which I am aware was compiled in December 1997. This study collected samples at 20 sites near Port Lincoln, but only three of these sites were near tuna pens. Since then, research into the possible presence of these organisms appears to have stopped. My questions to the minister are:

1. Does the government still subscribe to the precautionary principle of ecologically sustainable development which it endorsed in its 1998 Coasts and Oceans Strategy and, if so, what action, if any, is it taking to identify risks to the tuna feedlot industry from potentially toxic algal blooms?
2. Given that all research in this area is funded by or done on behalf of the tuna industry, what if anything is being done to identify risks to species or ecosystems other than tuna?

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

SMOKE ALARMS

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question in relation to smoke alarms.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be well aware that the deadline for smoke alarms to be fitted in South Australian homes was 1 January 2000. The details of the requirements were as follows: houses purchased before 1 February 1998 were to be fitted with a hard wired or 10 year life permanently connected non-removable, non-replaceable battery powered smoke alarm; all new homes were to be fitted with a hard wired smoke alarm; all houses sold since 1 February 1998 were to be fitted with either a hard wired or a 10 year life permanently connected non-removable, non-replaceable battery powered smoke alarm within six months of the transfer of the title.

Having purchased a residence in the middle of last year, I decided to have a hard wired alarm fitted in that building. However, it was difficult to find an electrician to conduct the work prior to the deadline. Much of this was my own fault, I must confess, because I did not get around to dealing with this matter until the end of the six month period was well in sight. Having eventually had an alarm—

Members interjecting:

The Hon. J.S.L. DAWKINS: I was well within it—fitted prior to Christmas and within the deadline. I wondered how many other people found it difficult to engage an electrician in the busy period leading up to 1 January. This experience prompts me to ask the minister, three months after the deadline, whether any information is available in relation to the number of South Australian households that are now fitted with the relevant alarms.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the honourable member for his question, and I am very pleased that, in terms of the law, he was diligent and had the smoke alarm installed by 1 January this year. I also was intrigued to know of the success of both our legislation in this area and our public relations campaign to alert people about the installation date of smoke alarms. In recent times Planning SA has undertaken an extensive survey of the installation of smoke alarms. The company engaged for this purpose was McGregor Tan Omnibus. I received a copy of the survey results this week dated 29 March, so the information is certainly current. I can advise that there were 400 respondents, 94 per cent of whom had installed a smoke alarm, which is exceedingly good news and a very positive result.

The Hon. A.J. Redford: I have got one—it goes off every time I cook a casserole.

The Hon. DIANA LAIDLAW: You are clearly overcooking your casserole. Of the remaining 6 per cent, 67 per cent who had not installed a smoke alarm indicated that they were intending to do so and 27 per cent were in rented premises. It is clear that the public relations campaign to alert people to install, for their own benefit, smoke alarms, either battery or hard-wired operated, has been effective. Clearly, we must do a little more to bring the other people into the scheme because this is a question of life and safety. Last year I think that 13 people lost their lives in house fires because their houses were not fitted with smoke alarms. If we can ensure that this year we do not repeat that result it will be excellent news.

Of these results I highlight that there is some concern about people living in rented properties and I think that, through real estate and land agencies, strata titles and a range of other areas, we should do some effective niche marketing in respect of landlords and their responsibilities under the legislation. I thank the honourable member for his question, and I point out that it is most satisfying that, when we pass legislation that is clearly in the community's interests and of benefit to families, the implementation of that legislation is effective.

LOCAL GOVERNMENT LEGISLATION

The Hon. G. WEATHERILL: I seek leave to make a brief explanation—

The Hon. A.J. Redford: Fresh from a successful convention!

The PRESIDENT: Order!

An honourable member: The Weatherill dynasty!

The PRESIDENT: Order! This is eating into question time.

The Hon. G. WEATHERILL: It is the Weatherill dynasty; leave it alone.

The Hon. R.I. Lucas: Do you have any more psalms that you want to sing?

The PRESIDENT: Order!

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Local Government, a question about local government bills.

Leave granted.

The Hon. G. WEATHERILL: In October—

The Hon. Diana Laidlaw: Is your question about legislation or bills to pay?

The Hon. G. WEATHERILL: Legislation. In October last year we were notified by the then minister (Hon. M.K. Brindal) that two bills had to pass through Parliament. He said that they were very important and that they must go through. They went through in November. They were proclaimed by the Governor shortly thereafter, and we are still waiting for these bills to be proclaimed by the minister. Since then, the ministry has changed and Minister Kotz is now the minister. Could the minister please let me know when these bills will be proclaimed?

The Hon. Diana Laidlaw: Do you have an interest in them?

The Hon. G. WEATHERILL: Well, I got a copy of them and all the amendments the other day. The act was only half of what it should have been. I felt that after five months something might have been done.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I think the honourable member meant that the Governor assented to the bills soon after they were passed by this parliament. As I recall, part has been proclaimed but we are waiting in relation to some issues and regulations. It cannot be proclaimed without seeing those regulations. I will follow up the detail for the honourable member and bring back a prompt reply.

SOUTHERN O-BAHN

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport a question about the southern O-Bahn.

Leave granted.

The Hon. A.J. REDFORD: Everybody knows that the O-Bahn from Tea Tree Plaza to the city has been a huge success and has allowed commuters to travel quickly and frequently to the city. In fact, one of the great legacies of the Tonkin government and the then Minister for Transport was the north-east O-Bahn and, indeed, following that—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: And the lack of capital expenditure by the Bannon government. It shone for over a decade like a beacon as testimony to what can happen when you have a magnificent government which has focused on capital expenditure. I understand there have been some recent announcements concerning the potential for a southern O-Bahn. I would be grateful if the minister could explain to parliament what she has in mind regarding a southern O-Bahn.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The Treasurer is listening to my every word in terms of any commitment to expenditure. I advise that our policy for passenger transport was a 10-year forward plan for infrastructure investment, which included a cost benefit study for a southern O-Bahn. I was able to announce at the weekend that detailed engineering studies will now be undertaken on very complex engineering issues in terms of the Emerson crossing, the Goodwood tram line and a few of those difficult issues of which—

The Hon. L.H. Davis: Of course, the Labor Party was against the north-east O-Bahn.

The Hon. DIANA LAIDLAW: Yes, it was. It wanted a light rail, but then I remember Mr Bannon, but without a licence, driving the bus along the new north-east O-Bahn and claiming all the success—enjoying going to Paradise and beyond.

Members interjecting:

The PRESIDENT: Order! I call on the Minister for Transport.

The Hon. DIANA LAIDLAW: By the end of the year, with this engineering study, we will also know the potential for private sector investment in a southern O-Bahn. I think that that is an important consideration in terms of any government decision making on the final construction of a southern O-Bahn. I believe that the potential for a southern O-Bahn is absolutely enormous, with buses using the Southern Expressway and linking into a guided track.

The work undertaken to date suggests a 10 to 17 minute saving in travel time for people using a southern O-Bahn. That is important not only in terms of access issues but also in terms of congestion on the streets through the inner suburbs where there is considerable concern about the number of motor vehicles. But people do need alternatives, and a southern O-Bahn has the potential to offer that alternative.

In terms of the debate on light rail compared to the O-Bahn system, I advise that the average cost of carrying passengers on the O-Bahn is .36¢ per passenger kilometre, which is considerably lower than train services in Adelaide which average .53¢ per passenger kilometre. It is also relevant to note that, in terms of the government subsidy per passenger, on top of the full fare ticket that we ask people to pay which in a sense is highly subsidised, the per passenger government taxpayer subsidy is $2.90 on the O-Bahn and $8.80 on the train. So, for every person who catches a train in the Adelaide metropolitan area, the taxpayer subsidy is $8.80.

In terms of the fixed infrastructure, it is also important to note that a ground level light rail transit system would cost $6.1 million per kilometre compared to $4.1 million per kilometre for the faster fully grade separated system. That means that it would not interfere with the road intersections—it would be grade separated. The cost of the rolling stock is also important to compare. The light rail transit is four times more expensive per person than for O-Bahn, based on $3.5 million for an 80 seat light rail vehicle and $.34 million for a 39 seat O-Bahn bus. There are many benefits in terms of the O-Bahn, including the cost of vehicles, the cost of the infrastructure and the proven success of the O-Bahn and the

much lower costs therefore in terms of the government subsidy for passengers.

In terms of an earlier interjection by the Hon. Terry Cameron, the government has never had any intention to sell the O-Bahn track. It is an important part, as is all the infrastructure, of public transport. It is all owned by the state government. It is the intention that it remains so.

GAMING MACHINES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question about the regulatory arrangements of the gaming machines industry.

Members interjecting:

The PRESIDENT: Order! I am sure no honourable member heard the explanation of what the question is about.

Leave granted.

The Hon. NICK XENOPHON: Since June 1998, the hotels and clubs in South Australia have operated a voluntary code of conduct in respect of the advertising of gaming machines. In October 1999 the hotels and clubs introduced a voluntary code of practice for their venues. I also refer to one of the key findings of the Productivity Commission's report on Australia's gambling industry. Page 4 of the summary states that self-regulatory approaches are unlikely to be as effective as explicit regulatory requirements. In most cases regulation can be designed to enhance rather than restrict consumer choice by allowing better information and control. My questions to the Treasurer are:

1. What level of supervision and/or auditing of the voluntary codes referred to takes place by the government, including the office of the commissioner of liquor and gaming, to ensure effectiveness of the codes, including the number of spot checks carried out by the commissioner's office to ensure compliance with the voluntary codes?

2. Given the Productivity Commission's clear findings in favour of regulation rather than self-regulatory approaches, does the Treasurer now concede that this would be a preferable approach? Further, will the government reconsider its previous support of the current voluntary codes of practice and consider ensuring that all gambling codes, including the poker machine industry, are brought under an explicit regulatory arrangement?

The Hon. R.I. LUCAS (Treasurer): I am forever intrigued by the honourable member's quixotic view of the world. Let me put this point of view to the honourable member: is he prepared to agree to all the recommendations of the Productivity Commission? I am not sure whether that is his position—that everything the Productivity Commission has recommended he is prepared to sign off on, particularly its views in relation to interactive and internet gambling. There is silence from the honourable member.

There is difficulty regarding any major report. Clearly, the honourable member agrees with some aspects of the Productivity Commission's report and disagrees very strongly with others—and I am sure that that is the view of many members of this chamber. I think it lacks a touch of substance to come in and say, 'Because the Productivity Commission has found this particular way and agrees with my view, the government should do it', and stay silent on the other aspects of the report that strongly disagree with the Hon. Mr Xenophon's view of the world, in particular his view about prohibiting or banning interactive or internet gambling. From my viewpoint, because I agree with that part of the report, it is a very powerful piece of persuasion—

The Hon. T.G. Cameron: So, you're both the same: you both agree.

The Hon. R.I. LUCAS: Exactly, but at least I acknowledge it. At least I am prepared to stand up and acknowledge that there are some aspects of the report that I agree with and some that I do not agree with. I do not stand up and argue that, because the Productivity Commission has found this way, ipso facto the government should do it. I think that is defective in its logic. As I said last week in response to the honourable member's question, the Productivity Commission is but one view of the world, and there are many other bodies, both within Australia and internationally, that have put and will put points of view in relation to gambling regulations and whether or not we should prohibit or ban internet gambling. I am sure the honourable member will be able to find many learned references to support his view in relation to internet gambling.

What I am saying is that the honourable member should not come into the chamber and argue that, because the Productivity Commission has said that this is right, therefore the government should do it. The honourable member is not prepared to do that with all the other parts of the Productivity Commission's report. He cannot pick and choose and use that selective argument. In relation to the first two parts of the honourable member's question, I am happy to take advice from the Liquor and Gaming Commissioner and others in relation to the operation of the current voluntary code and bring back a more comprehensive reply for the member's benefit.

FRINGE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for the Arts a question concerning the Adelaide Fringe 2000.

Leave granted.

The Hon. SANDRA KANCK: My office has been informed that, in the lead-up to Fringe 2000, the Executive Director of Arts SA, Mr Tim O'Loughlin, offered the Fringe some $100 000 extra funding on the condition that the organisation employ a General Manager. Mr Roger Sanderson was duly appointed General Manager, but the promised money was not forthcoming. I am told that this failure to honour the promise of extra funds created enormous budgetary stress for the Fringe. My questions to the minister are:

1. Why was the original offer made?

2. Why was the offer of extra funds not fulfilled?

3. What impact did the appointment and subsequent departure of Roger Sanderson have upon the budget of the Adelaide Fringe 2000?

The Hon. DIANA LAIDLAW (Minister for the Arts): I am not sure who is feeding questions to the honourable member, but that person would not have the best interests of the Fringe at heart and, if the honourable member did, she might have asked me these questions privately instead of airing them publicly, because I would not want necessarily to reveal information in this place that would hurt Mr Sanderson.

The Adelaide Fringe is an incorporated board on which, as Minister for the Arts, I do not have a representative. The South Australian government funds the Fringe through Arts SA. The board and management applied last year some time for a business incentive payment so that it could explore ways in which it could extend its function and so fully utilise

the General Manager and other staff who were engaged for the Fringe and, as the Fringe is held only every two years, how it could use that staff more productively to either support the administration of other organisations and generate income for the Fringe or look at a whole range of other business incentives.

As I understand, the board was not satisfied with the way in which that business consultancy was being managed by Mr Sanderson, and some other issues, and the board made a decision that his position should be terminated. I was never alerted prior to that decision that that was on the agenda or that that was going to be the way in which the board would move, but I was informed after the decision was made. If there is any other information that the honourable member may like I would be happy to tell her, but I would not wish further to muddy the waters, if that is the best way of expressing the situation.

GOVERNMENT PROPERTY SALES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question about government property sales and lease-back arrangements.

Leave granted.

The Hon. CARMEL ZOLLO: I have been prompted to ask this question because of a telephone call I took at my home several weeks ago. There was nothing improper about the call. The caller was ringing on behalf of a national property group targeting mum and dad investors in South Australia to attend a free seminar to tell them about the opportunity to purchase government property and the terms and conditions and incentives available. I was given as an example by the caller the sale of the Hallett Cove Primary School in relation to which, I understand, between seven and 10 investors purchased the school from the Education Department and are now subsequently leasing it back to government for a guaranteed return, with incentives for the investors. The property given as an example was built in an innovative manner by the previous Labor government so that the buildings could be subsequently disposed as residential properties, with only minor modifications when there was no longer a need for a school in that community.

Following the election of the Liberal government the asset was disposed of in the manner outlined to me, that is, by selling an existing asset and leasing it back. The current government's scheme is very different from the previous government's initiative and support for build and own schemes, which involve new construction, as opposed to the current scheme of selling existing assets and leasing them back. This may mean the government obtaining some capital but then being left with a recurrent account debt. My questions to the minister are:

1. How many government property assets have been sold under the lease-back arrangements since the Liberal government came to office in 1993?

2. What assets are currently for sale?

3. What contractual arrangements are offered to purchasers, including maintenance arrangements?

4. What is the recurrent account commitment for rental and other costs from such sales?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): The honourable member's dealings with the national property group, it seems to me, have nothing to do with the government's program of disposing of assets which are surplus to government requirements or in those cases where it is proposed by government that an asset be sold and leased back by government.

As I understand it, the National Property Group—and I will obtain further information on this—has been reasonably active in getting together syndicates of investors to purchase property from not only government sources but also banks and many other commercial organisations which are selling assets but leasing back—thereby obtaining the benefit of the release of capital which can be applied more effectively in the enterprise. So, if the National Property Group is still active in that area, it comes as no surprise to me.

I am not aware of any current project or program of sale of government assets on lease-back arrangements, but I will make inquiries and bring back a more detailed reply to that aspect of the matter. Neither do I have at my fingertips details of the number of properties that have been sold in the past. I will obtain that information as well as the other information sought by the honourable member and bring back a more detailed response.

The Hon. T.G. CAMERON: I ask a supplementary question. Will the minister provide the same information to the previous Labor government?

The Hon. Carmel Zollo: We are talking about two different schemes.

The Hon. R.D. LAWSON: I will be happy to bring back that information if it is still available.

The Hon. CARMEL ZOLLO: By way of a further supplementary question, will the minister differentiate between the two schemes?

The Hon. R.D. LAWSON: Certainly.

EMERGENCY SERVICES LEVY

The Hon. J.F. STEFANI: 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 invoicing of the emergency services levy.

Leave granted.

The Hon. J.F. STEFANI: I am aware that most property owners in South Australia have been issued with an account for the emergency services levy. However, I am advised that some property owners have not yet received an invoice for the levy. My questions are:

1. What are the total number of accounts issued to date for the emergency services levy, and what is the total amount that has been invoiced?

2. What is the number of property owners who have not yet been invoiced for this levy, and what is the total amount yet to be invoiced?

The Hon. K.T. GRIFFIN (Attorney-General): I am happy to refer that question to my colleague in another place and bring back a reply. I am not personally aware of whether all people have received their levy notice, but it would not surprise me if some issues in the system still have to be addressed. For example, a levy notice might have been issued but that person was entitled to a concession, so a fresh notice had to be issued, or it may be that two properties should have been on the one levy notice—they might have been adjoining properties—but they were issued with separate notices. A whole range of issues go to the question of whether the final levy notices have been issued, but I will bring back a reply.

The Hon. IAN GILFILLAN: By way of a supplementary question, may I ask why I have not received an emergency services levy bill for my property at 27 Fisher Street, Norwood?

The Hon. K.T. GRIFFIN: I will take great pleasure in checking that matter, and I will put the information on the public record in response to the honourable member's supplementary question.

CRIMINAL LAW CONSOLIDATION (SEXUAL SERVITUDE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 838).

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Leader of the Opposition, the Hon. Sandra Kanck and the Hon. Angus Redford for their indication of support for this bill. As mentioned by the Hon. Mr Redford, as a result of consultation following the introduction of the bill, I propose to move an amendment relating to the offence of procurement for prostitution. Before doing so, I will respond to the comments made by members during this debate.

During the second reading debate on 4 April, the Hon. Sandra Kanck asked two questions: first, how will this legislation enmesh with whatever survives from the House of Assembly debate on the prostitution bills; and, secondly, will this legislation ultimately require further amendment as a result of the decisions on the prostitution bills made in the House of Assembly?

In response to the first question, this bill makes it a serious criminal offence to compel, unduly influence or deceptively recruit another into a state of sexual servitude or to keep a person in such a state. It also prohibits the use of children for commercial sexual services. The sexual servitude and child related offences sought to be created by this bill represent the worst kinds of conduct associated with prostitution and other forms of sexual activity. This type of conduct is already the subject of several international conventions.

Last year, the commonwealth parliament passed the Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 to fulfil its part of a package of commonwealth, state and territory offences relating to sexual servitude and deceptively recruiting people for commercial sexual services. This type of conduct should be treated as seriously criminal whatever path is taken relating to prostitution law reform.

In answer to the second question, none of the sexual servitude or child related offences sought to be created by this bill will be affected by the outcome of the debate on the prostitution bills in the House of Assembly. The only offence that may be affected is the offence of procuring for prostitution, and then only if one of the bills that seek to decriminalise prostitution is passed.

If my proposed amendment is accepted, this bill will amend the existing offence of procuring for prostitution and remove it from the Criminal Law Consolidation Act 1935 so that it becomes an offence under the Summary Offences Act 1953. It is only this new procuring offence in the Summary Offences Act (which deals with the less serious forms of procuring) that will need further consideration if any of the bills that decriminalise prostitution is passed.

In debate on 6 April the Hon. Angus Redford, whilst supporting the bill and the amendment in other respects, took issue with the penalty for the procurement offence proposed under the amendment. The existing maximum penalty for the offence of procuring for prostitution is seven years imprisonment; the proposed new maximum penalty is three months imprisonment for the first offence and six months for a subsequent offence.

There are, I would argue, several problems with retaining a seven year maximum penalty for simple procurement. The first is that a seven year penalty for simple procurement would be the same as the maximum penalties for the more serious offences of procuring an adult by undue influence or deception—offences against proposed sections 66 and 67 of this bill for which the penalty is the same as the maximum penalty for deceptive recruiting in the commonwealth Criminal Code Act 1995 on which this bill is based.

The seven year penalty for the existing offence is to cover not only simple procurement but these more serious offences which are now separately dealt with in this bill as sexual servitude offences. The amended offence of procurement deals only with the less serious types of procurement and should not have the same maximum penalty. If it did, the penalty for less serious forms of procurement would be greater than the maximum penalty of three years imprisonment for asking a child over the age of 12 years to provide commercial sexual services, which is an offence under proposed section 68(2) of this bill and greater than the maximum penalty of two years imprisonment for receiving the profits from commercial services provided by a child over 12 years, which is an offence against proposed section 68(3) of this bill.

The second problem is that a seven year penalty for simple procurement does not correspond with penalties for prostitution offences of equivalent seriousness in the Summary Offences Act, such as the offence of living on the earnings of prostitution, which is in section 26, and the subsequent offences of keeping and managing a brothel, covered by section 28, or permitting premises to be used as a brothel, covered by section 29.

The third problem is that a seven year penalty for simple procurement would be out of proportion with the penalties for crimes of equivalent seriousness that do not involve prostitution. The penalty proposed in this amendment for simple procuring for prostitution is the same as the penalty for the offence of female genital mutilation or for gross indecency in a public place.

However, if the penalty of seven years were retained it would treat procurement for prostitution as many times more serious than these offences. It would be greater, for example, than the penalty for the offence of malicious wounding, which is five years imprisonment, and equal to the penalty for bribery and corruption of a police officer, which is seven years imprisonment. It is my view that the penalty set for the proposed new offence of procurement is consistent with the scale of penalties for offences against South Australian criminal law.

I recognise that there will be differing views on this issue. In the amendment which I have moved, and in the bill which is before us, I have sought to achieve a rational approach. However I recognise that there is a degree of emotion in respect of the issue of procuring and also, in some quarters, a view that simple procurement ought to be treated as seriously as, I suppose one would call them, aggravated offences, which we are proposing to enact in the bill. We will

have an opportunity to debate those issues during the committee stage of the bill.

I know that the opposition and others may prefer to see this bill dealt with only when the prostitution bills have been considered by both houses. I would suggest that that is an ill advised course. It may be convenient to put off the deliberation on these serious criminal offences that we are proposing to enact, but I think it is short sighted. We do not know what the outcome of the prostitution bills will be either in the House of Assembly or the Legislative Council.

The offences which are proposed to be created in the bill before us are capable and should stand alone from the more emotive and controversial debate in respect of the question of reform of the law relating to prostitution. If we do not pass one of those bills in some form or another, it would be my contention that not passing the bill before us would leave a gap in the law, and that would be quite unacceptable. As I say, others will have different views on that question. I have a very strong view that we ought to push along with this bill. It does not involve the sorts of moral and political judgments which have to be made in relation to the law relating to prostitution. I think we ought to get on with it. There has been legislation at the commonwealth level, and I know that these issues are under consideration in other jurisdictions. Because there are some issues that need further consideration in relation to this bill, I will not proceed today with the committee consideration but I hope that we will be able to do that later this week.

Bill read a second time.

SUMMARY OFFENCES (SEARCHES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 734.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the second reading of this bill. However, I note that the Leader of the Opposition and the Hon. Ian Gilfillan have placed amendments on file; therefore, the bill will be the subject of further debate in committee. Nevertheless, at this time there are several matters raised by honourable members that do need to be addressed.

The first issue raised by the Leader of the Opposition is that she was puzzled as to why consultation did not take place before the bill was introduced. The honourable member is referring to my indication during the second reading that extensive consultation has taken place since the original bill was introduced, remembering that it was introduced in the previous session to enable that consultation to occur and also to give proper notice to honourable members so that they could consider it—but I suspect that over the break they did not.

It has been my practice, towards the end of a session, to introduce a number of bills so that they are on the public record and available for consultation. It is always my hope (and perhaps it is a vain hope) that that would then give members enough time to do their consultation so that we could continue with the debate when parliament resumed. When I first introduced the bill to parliament on 4 August 1999, it was for the purpose of initiating public consultation on the bill. I had no expectations that the bill would be passed during that sitting, and I recognised that the bill would lapse because the end of the sitting heralded the end of that session of the parliament.

The second issue raised by the Leader of the Opposition related to the perceived conflicting views held by me and the Law Society. The Hon. Ian Gilfillan also indicated that he has serious concerns in relation to this matter and sought some assurances in respect of the matters raised by the Law Society. The sum of the Law Society's original submission is that the bill substantially increases police powers at the expense of a corresponding diminution of citizens' rights. I very vigorously dispute the Law Society's assertion. I stress that the bill does not increase police powers to search a person taken into custody and, in this bill, the government has never intended to increase or alter the grounds on which the police may conduct an intimate search.

When I introduced this bill to parliament I made it clear that the object of the bill is not to state or alter the grounds upon which a search may be conducted but rather to deal with aspects of how the search may be carried out, that is, the government intended to regulate aspects of an intimate search that will lawfully take place. This is an important point to keep in mind when considering how this bill will alter the current laws. In basic terms there are two elements to any search: first, the authority to conduct the search, that is, can the search be conducted lawfully; and, secondly, how that search is to be conducted, that is, was the lawful search carried out in an appropriate manner without impropriety and in accordance with any legal requirements?

This bill deals only with the second aspect of the search, namely, the conduct of a lawful search. Nevertheless, the Law Society appears to be of the view that the bill will affect the first element of a search, that is, the authority to conduct an intimate search rather than just affecting the second element: the practical conduct of a lawful search. This can be seen by the fact that the society points to two factors to support its claim that the police power to conduct a search had been increased: first, that the ambit of a permitted search of an arrested person is significantly increased because the bill postulates that the inspection of the anus, vagina, etc., are considered to be part of the search; and, secondly, a search is excluded from the scope of the Criminal Law (Forensic Procedures) Act 1998 (to which I will refer as the forensic procedures act) and is therefore excluded from the safeguards offered under that legislation.

Both factors that the society uses to support its assertion that the bill significantly increases police search powers rest on the assumption that the current section 81 does not authorise the conduct of an intimate search. However, most fundamentally I dispute the assertion that there is no power to conduct an intimate or internal search under the current section 81 of the act. The current section 81 establishes a general power to search a person taken into lawful custody, and the common law gives guidance as to the nature of the search and the grounds on which such searches are justified.

As the society alludes in its submission, the common law appears to say that it is the duty of a police officer to take all reasonable measures to ensure that the prisoner does not escape or assist others to do so; does not injure himself, herself or others; does not destroy or dispose of evidence; and does not commit further crimes, such as malicious damage to property. The case law also appears to indicate that the measures that are reasonable in the discharge of this duty will depend on the likelihood that the particular prisoner will do any of these things unless prevented.

Based on these common law principles it appears that intimate and internal searches will not necessarily be prohibited, but the circumstances of the case will need to justify the intimate or intrusive procedure. As such the power to conduct an intrusive or intimate search in appropriate circumstances exists at common law and the bill does not change this position. In arguing that the common law would not allow an internal search to be conducted, the society cites a number of cases to illustrate the point that the courts have held that far less intrusive procedures were not justified by the common law.

However, in many of these cases the illegality of the procedure arises from the purpose for conducting the procedure rather than the nature of the procedure carried out. For example, the society referred to the case of the Queen v. Ireland in which the police not only visually examined scratches on the accused's hands but also compelled the accused to submit to a photograph of his hands. Both the Supreme Court and the High Court held that there was no such power to compel an accused to have his or her hands photographed for the purpose of recording matter that may be of assistance at the trial. At page 33 of the judgment, Chief Justice Barwick states:

> The question is whether [the police officer] can compel a person to submit himself to photography for some purpose other than the identification of that person.

The society has also referred to the Queen v. Grollo and Howard in which the Federal Court was required to consider the ability to compel a detainee to provide fingerprints. The court considered the common law as to fingerprinting and appeared to accept that the police have a right to search on request but no right to take fingerprints. It is fundamental in reaching this conclusion that the taking of fingerprints is not a search. Therefore the current position with respect to police authority to conduct an intimate search is that both the current section 81 and the common law operate together to provide that, where the circumstances justify it, the police will be authorised to perform an intimate search.

The current section 81(1), as far as is relevant, simply provides:

> When a person is taken into lawful custody, a member of the police force. . . may search, and take anything found upon, his or her person.

This is a general statement that the police may search a person in lawful custody, and the current position is that the common law fills in the gaps.

The Hon. T. Crothers: Is a record kept of what is taken?

The Hon. K.T. GRIFFIN: For search purposes?

The Hon. T. Crothers: Is the Attorney saying that the arresting officer can search and confiscate—

The Hon. K.T. GRIFFIN: Yes, if anything is confiscated there is a record.

The Hon. T. Crothers: Is that then made a matter of record.

The Hon. K.T. GRIFFIN: Yes, it is. Under the bill section 81(1) would be replaced—

The Hon. T. Crothers: If $100 were taken would the record reflect that money was taken or that $100 was taken?

The Hon. K.T. GRIFFIN: That is correct. I am sure that is the position but I will make sure that that is checked because I do not want to mislead the honourable member. I am confident that that is the position.

The Hon. T. Crothers: Will the Attorney will get back to me on that?

The Hon. K.T. GRIFFIN: I will come back with that information in committee. I think that situation is covered by the police general orders, but I will double-check that for the honourable member. Under the bill section 81(1) would be replaced by the following provision:

> A person who is taken into lawful custody may be searched in accordance with the section.

Essentially, if the bill is adopted in its current form the section will go on to deal with matters that must be complied with in order to properly conduct a legally authorised search, but it does not deal with or affect the grounds on which a search may be conducted.

There is no provision in the bill clearly indicating that the police are authorised to conduct an internal or intimate search at any time other than when authorised in accordance with the common law power to search. As a result, if the bill is enacted, section 81(1) will still simply constitute a general statement that the police may search a person in lawful custody, and common law will, precisely as is done now, fill in the gaps by dictating when a search is justified. To conclude on this point, the situation is that, whether or not the bill is enacted, police power to conduct a search of a person in lawful custody will remain the same.

As a consequence, a fundamental aspect of the Law Society's concerns about this bill—that is, that police powers to perform intimate searches has increased—has been shown to be incorrect. The bill does not affect the authority of the police to conduct an intimate search and it is not intended that this bill do so. This bill intends to deal with the conduct of a lawful search and no more. In this regard I note that the Hon. Ian Gilfillan has indicated that he intends to move an amendment to deal with the grounds on which police may conduct an intimate search. I am not convinced that it is preferable to define the grounds for conducting intimate searches. The scope of the general power to search contained in section 81 has been developed over many years by the common law, and there is no reason to believe that this is not operating appropriately.

In any event, I do not believe that this bill is the vehicle in which to move such amendments. As I have said, this bill deals with the second aspect of searches and presently does not regulate the police authority to conduct intimate searches. Amendments affecting the general power or authority of police to conduct intimate searches require substantial consideration and consultation, because it raises issues of contention and controversy. It is not appropriate to develop such proposals in a quick, ad hoc manner and to insert an amendment in this bill without substantial consultation. I make the further point that, if one is to move away from the common law or to seek to codify the common law, it does open the way for contentious litigation to identify whether or not what is in the written word accurately reflects the common law. One could predict quite extensive litigation if we move down the path that the Hon. Ian Gilfillan is apparently suggesting.

I return to the Law Society's original submission. Having shown that the police currently have the power to perform intimate searches when the circumstances would justify it, and that the bill does not affect this police power, it is possible to dispute the society's second claim, namely, that the bill has the effect of removing procedures from the purview of the Criminal Law (Forensic Procedures) Act and therefore decreases the protection currently afforded to an accused subjected to an intimate or intrusive search. The

forensic procedures act contains a definition of 'forensic procedure'. For the most part it is absolutely clear that a search would not constitute a forensic procedure. The definition of 'forensic procedure' is:

(a) the taking of prints of the hands, fingers, feet or toes; or
(b) an examination of an external part or an orifice of a person's body (but not an examination that can be conducted without disturbing the person's clothing and without physical contact with the person); or
(c) the taking of a sample of hair from a person's body (but not the taking of a detached hair from the person's clothing); or
(d) the taking of a sample of blood; or
(e) the taking of a sample by a buccal swab or a sample of saliva; or
(f) the taking of a sample of fingernail or toenail, or material from under a fingernail or toenail; or
(g) the taking of a sample of biological or other material from an external part of the body; or
(h) the taking of a dental impression; or
(i) the taking of an impression or cast of a wound.

Clearly, procedures of the kind specified in paragraphs (a) and (c) to (i) of the definition do not constitute searches. Therefore, to conduct such procedures, the provisions of the forensic procedures act must be complied with. It is only a procedure of the nature described in paragraph (b), that is, the examination of an external part or an orifice of a person's body, that may raise questions as to whether the procedure is a search or a forensic procedure. However, the question of whether it is a forensic procedure or a search will largely be determined according to the reason for performing it. For example, requiring a person in lawful custody to remove his or her clothing in pursuit of the discovery of bruising, scratches or other marks to be photographed, analysed and used in evidence is likely to be classified as a forensic procedure.

By comparison, requiring a person in lawful custody to remove his or her clothing in an effort to uncover a concealed weapon or secreted drugs is likely to be categorised as a search. The forensic procedures act should be seen as dealing with a police power to take body samples and other similar material for analysis to assist in an investigation. On this description of the forensic procedures act, efforts to uncover drugs secreted in a body cavity do not fall within the scope of that act. Whether or not the bill is enacted, the courts will need to grapple with the question of what is a forensic procedure and what is a search because of section 5 of the forensic procedures act. This is a difficult issue which is not easily resolved, except with regard to the facts on a case-by-case basis. The bill does not affect this issue and certainly it is not intended that it would resolve this complex issue.

The Leader of the Opposition read into *Hansard* the three further points that the Law Society raised in its latest submission on this bill. The first point was that police officers of varying experience will be able to carry out extended searches. Again, the Law Society is asserting that the bill is increasing police powers to conduct an intimate search. I have just addressed that issue at length and, again, I repeat that the bill is not directed towards increasing police powers to conduct an intimate search. However, there is another aspect of this first point, that is, that any member of the force with varying experience will be able to conduct what the Law Society has dubbed 'extended searches', which I assume means the intimate searches. However, this is not entirely correct, because the bill does expressly provide that intrusive searches may be conducted only by a medical practitioner or a registered nurse.

Therefore, a police officer would only be conducting an intimate search that does not constitute an intimate, intrusive search, which is basically a strip search. Police officers of any rank are currently authorised to perform such searches, assuming of course the search is lawful, which is determined with regard to common law principles. I am not aware of there being any restrictions on which officers may perform such a search in any Australian jurisdiction. There appears to be no justification for altering this position.

The second, further point raised by the Law Society in its most recent submission is not really a further point. The society states that a member of the police force cannot realistically be expected to differentiate between when a procedure is a forensic procedure or a strip search. As I have already said today, this is a matter with which the police must already grapple and a matter which is not intended to be dealt with here. This is a separate issue related to the authority to conduct a search of a person in lawful custody. I do not intend that we deal with this issue in this legislation.

The third issue raised by the Law Society in its second submission is that my letter does not address the concerns expressed by the Aboriginal Legal Rights Movement in a letter annexed to the society's submission. In the letter the movement raises concern about the perceived increase in police powers to carry out intimate searches. Of course, I dealt with this matter in my response to the society and have already discussed the issue in this reply. However, in the letter, the ALRM raises an additional issue relating to traditional Aboriginal people whose second language is English and highlights concerns relating to cultural sensitivities. Unfortunately, I overlooked addressing the movement's concerns in my response to the Law Society. However, the Aboriginal Legal Rights Movement raised at least one of these matters directly with me and I have responded to the ALRM directly in relation to its concerns. Nevertheless, I will deal with this matter here.

Essentially, the ALRM notes that there are provisions in the bill in relation to the use of interpreters. However, it expresses concern that the provisions may not be complied with in relation to Aboriginal people because there is a lack of Aboriginal interpreters. The issue of there being a lack of Aboriginal interpreters, however, is a practical question that needs to be addressed at a practical level. This concern should not prevent the insertion of the provision in the bill.

In fact, the movement notes in its submission to me that the requirement to ensure that an interpreter is present for the intimate search of non-English speaking people is a positive step because currently there is no requirement for the police to offer a detainee the assistance of an interpreter for the purpose of an intimate search. While section 83A of the act gives a non-English speaking person the right to an interpreter for the purpose of questioning, this right does not apply in relation to the conduct of an intimate search.

In relation to the issue of cultural sensitivities, the Aboriginal Legal Rights Movement points out some particular sensitivities felt by traditional Aboriginal people which do become issues when a traditional Aboriginal person is intimately searched. Cultural differences and sensitivities raise a plethora of issues that are not easily resolved. However, these matters are issues regardless of whether the bill is enacted or not, and it is not proposed to deal with these issues in depth in this bill. Nevertheless, the bill will ensure that the existence of cultural sensitivities is recognised.

The bill inserts a provision to expressly provide that procedures to be conducted under section 81, which include

all forms of search, need to be carried out humanely and with care to avoid as far as is reasonably practical offending genuinely held cultural values or religious beliefs. That concludes my comments on the Law Society's concerns about the bill. However, I am pleased that the Law Society has indicated its support for the two revisions I have made in this bill relating to the playing of video recordings and subsequent destruction of the video recordings of intimate searches.

The next issue that needs to be addressed relates to the provisions for video taping intimate searches. The Leader of the Opposition indicated during the debate that the opposition has difficulty with video recording intimate searches. The honourable member suggested that, as the law has not previously provided for an independent third party to be present for non-intrusive intimate searches, this legislation should provide for an independent witness to observe the search rather than providing for the video recording of such searches. The difficulty with such a proposal is that it is not clear who would constitute an independent third party. Such parties would need to be able to respond very quickly at any time of the day or night to attend at a police station to observe a non-intrusive intimate search.

As I have already indicated, the body search of a person taken into lawful custody may be a reasonable measure to ensure that that detainee does not escape, does not injure himself, herself or others, does not destroy or dispose of evidence, and does not commit further crimes such as malicious damage to property. If a search is conducted on the basis that it is a reasonable measure in ensuring that a detainee does not escape or does not injure himself or herself, it is imperative that it be conducted quickly. As such, searches performed on these grounds are not conducive to a requirement that a third party, who is not permanently located at the station in the event of a search taking place, be present at such searches.

While in principle an independent third party could perform the same role as video recording, that is, provide independent evidence of the practical conduct of a search, in practice this proposal has significant flaws. Video recording, on the other hand, provided there are strict controls on the storage and destruction of the tapes to guard against impropriety, does not suffer from such flaws. Video recording provides an independent, contemporaneous record of a search and, assuming the facilities are available, there will be no delay in the ability to conduct such searches.

While the Leader of the Opposition indicated that she will move amendments in the committee stage to delete the provisions in respect of video recording, I note that the amendments that she has placed on file alter the video recording requirements rather than delete them. I am pleased that she now appears to indicate some support for the concept of video taping, and I hope I might be able to persuade her to back right away from the position which she put down in her second reading contribution.

I am pleased also that the Hon. Ian Gilfillan has indicated some support for the concept of video recording intimate searches and has alluded to permitting, even encouraging, video taping in some circumstances, although I note that he, too, has prepared amendments that will water down what is currently essentially mandatory video taping of non-intrusive intimate searches.

Of course, the amendments will be further debated during the committee stage, and hopefully I will be able to offer some further contribution which might persuade both the opposition and the Democrats to accept that what is in the bill is a rational, sensible and reasonable approach to the issue which has benefits for the accused as well as police and others in the criminal justice system who might in some way be required to adjudicate upon issues which arise as a result of a search.

The final issue that needs to be commented on is the Police Association's objection to proposed new section 81(3)(f)(i) which requires a police officer to explain to a detainee the value of recording a search on tape. Essentially, the Police Association comments that it is not the role of an arresting or searching officer to explain to a detainee what is or is not of value and that this advice needs to come from a person such as a detainee's solicitor. However, this provision will not require a police officer to undertake the role of a solicitor and provide legal advice as the Police Association submits.

The provision will simply require an officer to inform a detainee why a search will be video recorded—that is, to provide an independent, contemporaneous record of a search—and that the video recording has general benefits, that is, the recording is independent evidence of the performance of the search. Of course, this obligation is not without precedent. I refer members to section 38(2) of the Criminal Law (Forensic Procedures) Act which imposes an obligation on an officer to explain the value of making a video recording of the procedure.

I note in this regard that the Hon. Mr Gilfillan has placed amendments on file which will amend the relevant provision in the forensic procedures act as well as the relevant provision proposed in this bill. While we will explore that matter further in committee, I can indicate that that is one area where I am prepared to go along with an amendment. In fact, I am having an amendment drafted which will be in a different form from that which is proposed by either the Leader of the Opposition or the Hon. Mr Gilfillan but which will hopefully address the issue in a practical and satisfactory way. Again I thank honourable members for their consideration of the bill so far. I look forward to the committee consideration of the bill.

Bill read a second time.

STATUTES AMENDMENT (WARRANTS OF APPREHENSION) BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 704.)

The Hon. IAN GILFILLAN: The intent of this bill seems to be to make life easier for the authorities when a prisoner on leave, licence or parole is alleged to have breached the terms of their liberty. At present the Parole Board and the Training Centre Review Board must apply to a justice of the peace for a warrant to arrest the person. Under the bill the respective boards would be able to issue their own warrants. In the case of adult offenders, any two members out of the six on the Parole Board would be able to issue a warrant; and, in the case of juvenile offenders, any two members out of the 10 or more on the Training Centre Review Board would be able to issue a warrant. It is also important to note the composition of the Training Centre Review Board: any two members might be two police officers.

If either board decides to seek a warrant from a justice of the peace, as they would still have to do for a person sought interstate, the bill makes clear that the justice of the peace

fulfils his or her duty by issuing the warrant without examining the basis for the request. The bill further, and uncontroversially, makes a distinction between a youth who is at large after his or her leave or licence has expired and a youth who remains at large not knowing that his or her leave or licence has been terminated early.

I understand the Attorney-General's intention, which is to streamline the process of getting an offender back into custody when he or she has violated conditions of parole, leave or licence. It might be argued by some that the Parole Board or the Youth Training Centre Board should need to prove their case before getting a warrant. Such an argument proposes that persons on leave, licence or parole should have some form of a hearing even in absentia—a type of procedural fairness—before a warrant is issued for their arrest.

I do not support this argument. It is quite clear that we are talking about people who already have been convicted of crime in a court of law. If they are released on certain conditions for limited periods, there should be no compunction and very little red tape to delay putting them back in gaol if they violate those conditions. Their release on parole, leave or licence is a privilege, and if there is an abuse of that privilege then the privilege should be curtailed summarily. At present neither the Parole Board nor the Youth Training Centre Board needs to go before a magistrate to get a warrant: an approach to a justice of the peace is all that is required.

Despite my sympathy with the Attorney-General's intentions, I am disturbed at the haste with which he has tried to have this bill debated. However, I acknowledge that in private conversation he has indicated some justification for that and no doubt he will put it on the *Hansard* record when he responds to the debate. As regards the principle to which he referred earlier, I believe that it is good law-making practice to have any bill lie on the table for many weeks, if not a few months, to gather feedback or community reaction or to generate debate amongst people who have an interest in the area of the potential legislation. With those few comments, I indicate that the Democrats support the second reading.

The Hon. A.J. REDFORD secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 November. Page 400.)

The Hon. R.D. LAWSON (Minister for Workplace Relations): I thank members for their expressions of support for the bill, which will substantially increase the penalties applicable under the legislation. In the course of remarks made during the second reading stage, the Hon. T.G. Roberts, on behalf of the opposition, raised a number of issues and arguments.

The Hon. T.G. Roberts: Very pertinent.

The Hon. R.D. LAWSON: They are very pertinent, as the honourable member says, although, as I read his speech, he did not raise any questions that required specific answers. However, he did refer in some detail to the statistics on the number of WorkCover claims made in recent years and pointed correctly to the declining incidence of claims. He was, of course, able to give figures for only the non-exempt employers and not exempt employers, as he acknowledged.

The WorkCover claim figures do not necessarily bespeak any particular trends in relation to breaches of the occupational health, safety and welfare legislation. Many work injuries occur without any contravention of the legislation. For example, journey injuries would largely be outside the scope of the occupational health and safety legislation. Many other degenerative conditions—exacerbation of medical conditions such as heart failure and the like—occur in the workplace and, in certain circumstances, give rise to compensable injury. However, they do not indicate whether or not the employer has been in breach of any provision of the occupational health and safety legislation.

I think the honourable member was entirely correct to refer to the Workers Rehabilitation and Compensation Act because that act and the Occupational Health, Safety and Welfare Act comprise a package of legislation and should be considered together. They were passed in 1986 and deal with two sides of the same issue in an integrated and comprehensive way. The Hon. T.G. Roberts mentioned that management practices had a lot to do with contraventions and breaches of the occupational health and safety legislation: I do not think that he would buy any quarrel with anyone on that proposition. He sought to argue that the contracting out of jobs did lead to the increased possibility—and I think he went further than 'possibility'—of work injuries, and he referred to integrated operations between full-time, part-time, casual and contract employees giving rise to the greater possibility of injuries occurring—

The Hon. T.G. Roberts: Increased risk.

The Hon. R.D. LAWSON: —and increased risk of injury because of that mix of employees and workers. He was not able to identify any statistics on the point, and I have not been able to locate any statistics that would support the proposition advanced by the honourable member.

The Hon. Terry Roberts also referred to the reluctance of workers to report injuries at first instance because of the possibility of retribution and the fact that reporting an injury might put in jeopardy their employment. Once again, I think that is an easy claim to make but a difficult one to sustain, and certainly I have not been able to find any statistics, evidence or cases that would support the proposition. The honourable member also referred to the fear factor in relation to occupational health and safety matters and supported the increase in penalties on that basis.

The bill is not introduced to raise the fear factor. The penalties suggested are really to be an appropriate reflection of the seriousness of the offences. It ought be remembered that these penalties were the result of a recommendation, and a unanimous recommendation, of the advisory committee under the act, a committee which comprises representatives of both employer and employee interests, as well as the government. I think the fact that the advisory committee did reach a unanimous view in relation to the penalties is a highly significant factor.

Some criticism has been levelled at the fact that the penalty for a worker taking insufficient care of his or her own safety has been increased from $1 000 to $5 000 in certain circumstances, a five-fold increase. There are other increases of similar magnitude, in fact substantially greater than that, but the point I make is that it was the advisory committee that recommended these penalties and it would have taken and did take into account the interests of all parties.

The Hon. Terry Cameron indicated support for the second reading and he indicated support for foreshadowed amendments of the Hon. Nick Xenophon, which I will come to in

a moment. The honourable member referred to a situation which he said he had faced and which I have certainly faced, as I am sure have other members of the Council, who were either lawyers or union officials or employers, where a worker had not been adequately compensated for an injury. Those cases occur and have always occurred, and especially at a time when common law was the commonly used method of obtaining compensation. But the penalty situation does not really advance or assist persons in that situation. Whether the penalty is large or small, if for some reason a worker does not receive compensation either because the injury did not occur at work or did not arise out of or in the course of his employment, or for any other number of reasons, and there are not so many occasions now under the current scheme I have to say, nobody in that situation would ever see it much improved by the increase or reduction in penalties.

The Hon. Terry Cameron indicated support for the notion that this bill ought be amended to include provisions which would allow prosecutions to be launched, not as is the case now by the inspectorate but by a wide range of persons, including, for example, the person injured, a union official on behalf of such a person, or even more widely than that, and, secondly, that the bill incorporate a provision which enabled the court to award out of any fine imposed or levied some form of compensation to an injured worker. Those proposals and suggestions, which the Hon. Nick Xenophon said he would incorporate in an amendment, although now I notice they have been incorporated in a separate bill to achieve the same effect, are opposed by the government. They are really a back door way of reintroducing common law damages in workplace injuries.

I mentioned that in 1986 a package of measures was introduced. That package of measures comprised the occupational health and safety legislation as well as the Workers Rehabilitation and Compensation Act, and there is a definite interrelationship between the two pieces of legislation. If the legislation at that time had incorporated some means other than the Workers Compensation Act to enable people to get compensation, provision would have been made for it. It is a comprehensive scheme and the integrity of it is undermined or interfered with if we introduce, in effect, some other form of compensation.

If we are to amend the Workers Rehabilitation and Compensation Act let us do that, but let us not by some back door means seek to reintroduce common law damages. It is easy to see the reason for this, the Hon. Nick Xenophon coming as he does, and as he said in his second reading contribution, with the background of being a leading member of the Plaintiff Lawyers Group, very much in favour of the reintroduction of common law damages into our workers compensation system. It is easy to understand why he has taken the position that he has.

I think it is worth mentioning that the Matthews report, which was the report that led to the 1986 legislation, came from a committee that was appointed in the early 1980s by the then Labor government. It established a steering committee on occupational safety, health and welfare. The report, 'The Protection of Workers' Health and Safety', was a most comprehensive report, usually referred to as the Matthews report. One of its members was Ms Stephanie Key, then not a member of this place but now a member of the House of Assembly and currently shadow industrial relations minister. That committee looked extensively at all of the issues and it specifically recommended against giving individuals the right to bring prosecutions in their own name. The committee observed (at page 193), and I think it is worth placing it on the record, as follows:

> By recommending a non-judicial form of enforcement, namely, a system of prohibition and improvement notices to be issued by inspectors, we have made the implicit judgment that prosecutions in the courts will in general only proceed if an employer blatantly disregards an improvement or prohibition notice. There will, of course, be exceptions. But although we expect the level of enforcement and future occupational health standards and requirements to rise, we do not expect that the number of prosecutions should necessarily increase. The steering committee is of the view that the present system of bringing prosecutions by an officer of the department to the Industrial Court is working satisfactorily and should continue.

That was the position then, and it remains the position to date. For completeness, I will quote from page 186 of the report, as follows:

> We do not favour giving individuals the right to bring prosecutions in their own name as this makes them and employers a clear target for victimisation.

So, the propositions advanced by the Hon. Nick Xenophon were considered by the committee which laid the foundation for the current scheme and rejected. The government also rejects them on that ground.

A number of other issues arise. For example, the interrelationship of any funds received by way of an award by the court to the compensation which might be received is simply not addressed by the Hon. Nick Xenophon in his proposal. The government does not support the amendments put on file by the Hon. Nick Xenophon. Once again, I thank those members who contributed to the debate and indicated their support for the bill.

Bill read a second time.

YOUNG OFFENDERS (PUBLICATION OF INFORMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 762.)

The Hon. K.T. GRIFFIN (Attorney-General): I am disappointed that the Leader of the Opposition and the Hon. Ian Gilfillan have indicated their opposition to the second reading of this bill. I hope they will reconsider their position, but if they do not I hope that other members will ensure that the bill passes the second reading stage. It does not close off their option to vote against the third reading if, ultimately, they are unhappy with the direction in which the bill is going after they have had an opportunity to consider it in more detail in committee.

The Leader of the Opposition has advised that the opposition does not support the bill, because in its view the amendments undermine an important principle: that is, the protection of young people at a time when they are most vulnerable. I do not disagree with that principle; I am a strong advocate of it. I am delighted that the opposition has put its position on the record because it will eliminate one of the potential areas for policy difference as we move into election mode when law and order tends to assume a heightened perspective. It is always tempting if one is not in government to look for issues such as reducing the age at which a person is considered to be a juvenile or a young offender for popular purposes.

I am pleased, therefore, that it is now firmly on the record that the opposition does not believe in exposing young people under the age of 18 years to that sort of public scrutiny and identification. I strongly support that position: that it is

inappropriate to reduce the age from 18 or to expose young offenders to extensive publicity. However, there is a provision when a matter is before a court for the court itself, in the circumstances of a particular case, to allow the publication of material which will identify the young offender.

The government is strongly of the view that the identity of a young offender should be suppressed. However, the government also considers that, where all parties consent to the publication of information which will, or tends to, identify a young offender as part of a report on the juvenile justice system, there is no justification for unduly restricting such publication. The amending bill will not, I suggest, undermine the general purpose of suppression, which is the protection of young persons, and will not compel a person to agree to the publication of his or her identity.

The purpose of suppressing a youth's identity is to protect a young person from being publicly labelled a criminal which, in turn, may prevent he or she from being accepted as a valuable member of the community. The amendment ensures that the legislation respects the right of a young person to decide whether he or she wants to be identified for certain purposes. In so doing, the bill establishes an application procedure in which the Youth Court is vested with the ultimate discretion to ensure that a youth agrees to the publication of his or her identity without undue influence and with recognition of the consequences. The youth is also in a position of independence and may determine whether, ultimately, the publication is in his or her best interests.

When determining an application, the court must consider certain matters, including the impact of the publication on the youth, the purpose of the publication, and whether it is necessary to publish the information for the purposes of a documentary or project. These limitations were suggested by the Youth Court itself and are significant issues which will operate to ensure that mere current affairs segments or minor reports on juvenile crime will not be permitted to identify a young offender. Like the Hon. Ian Gilfillan, I am confident that, if there is a doubt about the young offender's ability to give independent consent to the application or the possible effects on the child, the court would exercise its discretion in a conservative manner and refuse to permit the publication of otherwise suppressed particulars.

Basically, this is a very limited exception to the general prohibition on the publication of a young offender's identity. As the Hon. Ian Gilfillan acknowledges, a triple consent is required before publication is authorised—that is, of the youth, the youth's guardian and the court—and such consent would be difficult to obtain. There is also no obligation for a youth to consent to an application and therefore participate in the process. The provisions will be rarely used, meaning that the time and resources of the Youth Court will not be unduly strained by these amendments.

However, the Hon. Ian Gilfillan has highlighted a potential deficiency in the current provisions of the bill. Essentially the bill does not provide a youth or a youth's guardian with any course of action where he or she, or they, wish to revoke consent to the publication of a young offender's identity at some time after the court has granted an order to publish under the proposed new provisions but before the documentary or project has been published.

I recognise that a youth or a youth's guardian may wish to revoke consent to the publication if the finished documentary or project is quite different in character from the proposal originally endorsed or where there are long delays between permission being granted by the court and the publication of the documentary or project. However, this matter has not escaped my notice. In fact, I advise that I have already raised this matter with parliamentary counsel with a view to amending the bill. If this bill does go to committee, and I hope it does, I will move amendments in order to further strengthen the safeguards aimed at preventing the abuse of these proposed new provisions.

While some initial discussions have been held with parliamentary counsel about the form and nature of the amendments, the essentials of any amendment have not yet been settled. However, I can indicate that the proposed amendment will allow a young offender or a young offender's guardian to apply to the Youth Court for review of a court order at any time between a court order allowing the publication of otherwise suppressed information and the publication of that information. I will put the amendments on file as soon as possible.

The Leader of the Opposition also questioned how the new provisions will be monitored to prevent young offenders being exploited. Given that the Youth Court is the final arbiter in relation to these matters, it is the court that will be at the forefront in monitoring the new provisions. However, I note that the Juvenile Justice Advisory Committee, established under the Young Offenders Act, may also monitor and evaluate the administration and operation of the new provisions in accordance with its functions under section 55 of the Young Offenders Act. I also note that, as Attorney-General, I may require the advisory committee to investigate and report on the administration of these provisions if necessary.

The Leader of the Opposition also queried how many youths have sought to have their identity published for one reason or another. The Hon. Ian Gilfillan is correct in his belief that there has not been a clamour of documentary filmmakers or researchers complaining that their job is impossible because they cannot identify young offenders who have not been brought before a court. There has been one situation, brought to my attention to date, in which a person has sought to publish the identity of a young offender but was unable to do so despite the youth, the youth's guardian and the senior judge of the Youth Court at the time all being satisfied that there were no objections to such publication.

This case was sufficient to highlight that there could be circumstances where the current absolute prohibition on publication of certain information may not be justified, even though such cases will be rare. As such, the government has chosen to propose a very limited exception to the current absolute prohibition on the publication of particulars that identify or tend to identify young offenders dealt with by police caution or family conference.

Given the limited nature of the exception to the general prohibition, the number of applications are likely to be minimal and care has been taken to impose sufficient safeguards in the new provisions to ensure that the provisions are not exploited. I thank members for their consideration of the bill, if not their support of the second reading.

The Council divided on the second reading:

AYES (11)

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

NOES (8)

Elliott, M. J.	Gilfillan, I.

NOES (cont.)

Holloway, P.	Kanck, S. M.
Pickles, C. A. (teller)	Roberts, T. G.
Weatherill, G.	Zollo, C.

PAIR(S)

Schaefer, C. V.	Roberts, R. R.

Majority of 3 for the Ayes.

Second reading thus carried.

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 320.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading of the bill. It is intended to address concerns regarding the internal review process of the Police Complaints Authority, the Commissioner of Police and the Internal Investigations Branch. Following the review by Mrs Iris Stevens of the Police (Complaints and Disciplinary Proceedings) Act 1985, which was completed in July 1998, numerous recommendations were put forward to the government to address various failings in the act and its implementation.

These failings, as identified by the Attorney-General, include the following: undue delays in complaints handling procedures; lack of professionalism in the investigative procedure; no provision for an alternative external review of a Police Complaints Authority investigation; no process to challenge the Police Complaints Authority's decision not to proceed with an investigation; a general lack of fairness in the act; and a lack of confidentiality contrary to the intent of the legislation.

Mrs Stevens in her report identified findings but made no recommendations for reform. South Australians need to have faith in their police force. We believe that overall the integrity in the performance of our police force is of a very high standard and that is why, for all involved, any complaints that are raised need to be dealt with in a professional and swift manner. The integrity of our police force must be maintained, and so too must its funding. The opposition believes that further amendments are required to the bill to address properly the concerns that have been raised in our consultation with various groups on the issue. The Police Association has written to me on several occasions and I want to place on the record some of its observations. In a letter addressed to me dated 3 April the association states:

> As you will be aware, the Attorney-General has proposed an amendment to clause 10, page 4, after line 23 in response to our submission in relation to section 28(5) of the act. That amendment appears to create a fair process for all police officers involved in the investigative stage, and creates the opportunity to make representations prior to the Police Complaints Authority making critical comment.
>
> Section 28(8) Police (Complaints and Disciplinary Proceedings) Act.
>
> The requirement placed on police officers to answer questions under compulsion places them in a substantially different position to other people who are interviewed in relation to their conduct. One of the difficulties commonly experienced by police officers is attending at an interview without any knowledge as to what is about to be explored and then facing the expectation of answering questions without reference to accurate notes or records as to what actually occurred during the incident in question.
>
> It is our submission that this practice places police officers at risk of inadvertently giving an incorrect answer to a question asked under disciplinary provisions. I have enclosed a copy of our previous discussion as it relates to the provision of particulars. As you would see from this submission, such a situation can be dealt with by the provision of particulars some 24 hours in advance to all officers required to undergo a compulsory answering of questions during a discipline interview.
>
> The Attorney-General seems unwilling to differentiate between a discipline interview and a criminal interview. We maintain the view that in a criminal interview police officers have the same rights as those of any other member of the community. This includes the right to silence in the face of a criminal interview. An amendment to section 28(8) of the substantive legislation would place police officers in no different position in relation to criminal conduct than any other member of the community, it would merely be a mechanism for governing discipline interviews which is quite clearly a distinct form of employment related discipline.

In reference to section 18(1) of the bill, the association further states:

> During Justice Stevens' review of the act it was clear that there is some difficulty presented to police officers in determining what is and what is not a 'complaint' within the meaning of section 18 of the act (see Justice Stevens' report at page 34). Justice Stevens pointed out (page 36) that whereas the act provides that a complaint made to the authority must be in writing—the absence of a similar provision in respect of the commissioner leads to difficulties in deciding whether an oral criticism may amount to a complaint. Justice Stevens has pointed out that a number of police officers are unsure as to what does and does not constitute a complaint. There is quite some uncertainty among our membership as to what action should be taken by them where members of the public make remarks which are critical of other police officers. It is our view that it would be appropriate to amend the legislation so as to require a complaint to be given in writing.
>
> The Attorney-General has rejected this, stating that it was previously rejected in 1995 and that the experience in New South Wales in defining what is a 'complaint' leads to litigation. We are of the view that this is a somewhat simplistic view given that the inclusion of a provision for a complaint to be made in writing would lessen the amount of litigation on the issue of 'what is a complaint'.
>
> The main issue is to provide police officers with some certainty as to what their required actions are in the face of oral comments made by members of the public (quite often prisoners) which could be construed as criticisms of the actions of other police officers. The clarifying of this issue would be in accordance with the recommendations made by Justice Stevens.
>
> The Attorney-General's adviser has told him that this is not an issue, however we have information to hand which deals with officers being pursued in a disciplinary sense for failing to have taken action on 'complaints' which originated as oral criticisms of the actions of other police officers.

While the opposition sees merit in the argument that notice be given for compulsory questions, it has some further queries about the changes suggested to section 18 by the Police Association regarding the complaints procedure. The request that only written complaints are required to be investigated concerns the opposition as it fails to recognise a disadvantage such a requirement would have on those wishing to lodge a complaint with different cultural backgrounds and those with very poor literacy skills. We are concerned that it might not always be practical for complaints to be made in writing, and a verbal report to another police officer may be the only option for some complainants.

Having said that, the shadow attorney-general in another place is still seeking further advice on this issue and I understand that we will have some amendments in relation to these two parts of the bill. The opposition welcomes the Attorney-General's amendments to clause 10 of this bill and hopes to see a similar conciliatory result in respect of clause 6. I ask the Attorney: what other legal bodies and individuals were approached to provide comment on Mrs Stevens' recommendations? The opposition supports the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the second reading of the bill. With respect to the question raised by the Leader of the Opposition, I will undertake to obtain a reply and provide that in committee. I would like to get the bill into committee now with a view to the committee consideration being made an order of the day for another day of sitting. I can, though, make some observations on the comments of the Hon. Mr Gilfillan. The first comment that must be addressed is that which asserted that the inquiry conducted by Mrs Stevens was a Clayton's inquiry.

I can assure members that this is simply untrue. Apart from the fact that such a statement does impinge upon the probity of Mrs Stevens in conducting the inquiry, it is also true that Mrs Stevens, while not making recommendations, made findings which have been taken very seriously by the government and which have resulted in the bill that is before the parliament today. In addition, the Hon. Mr Gilfillan has expressed the view that this was a Clayton's inquiry because Mrs Stevens did not examine the nitty-gritty of individual cases. I remain of the opinion that such a limitation is entirely appropriate. Whether one is a police officer or a complainant and one thought that the matter settled, perhaps, years ago, the question must be asked how one would feel if it were opened up and exposed to public gaze again by another inquiry.

There is such a thing as finality in complaints, although some do not appear to think so, and there is a time when those who are dissatisfied must be told 'enough is enough'. In short, this was no Clayton's inquiry: this was the real thing, and that is why we are debating the bill today. The Hon. Mr Gilfillan is of the opinion that the bill is low on the government's list of priorities because of the time that it has taken to get to this point and because of the changes that have been made to the bill over the intervening period. The honourable member has missed the point and missed the obvious.

At the time that the Stevens' report was tabled in parliament, I indicated that there would need to be further consultation of a detailed nature before any attempt was made to resolve the technical and detailed issues identified by Mrs Stevens as requiring the further attention of the government. Both before and after the introduction of the bill there has been extensive consultation. The government, in framing the bill, is dealing with the Police Complaints Authority, which is an independent statutory body; the Commissioner of Police, who stands in a special relationship to government; and the Police Association, which has the right to take a strong position on behalf of what it sees as the rights of its members.

This combination of factors makes legislation in the area particularly difficult. The fact is easily demonstrated by simply reading the act as it stands today. What one finds is a complex, technical set of compromises in which almost every eventuality has been spelled out. It should come as no surprise that this interplay of independent bodies with differing interests and focus should lead to the same complexities and compromises and that it should take time and trouble to get it right.

In addition, while the Hon. Mr Gilfillan accuses the government of only tinkering around the edges, the honourable member can, in response to the bill, over what he considers to be an unacceptably long period, only tinker with other edges himself. I note what he has said about the amendments on file and will address those issues in committee, as I will, as I have already indicated, deal with the issues raised by the Leader of the Opposition. I thank honourable members for their indications of support.

Bill read a second time.

STATUTES REPEAL (MINISTER FOR PRIMARY INDUSTRIES AND RESOURCES PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 841.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this bill. I wrote to the South Australian Farmers Federation on 30 November last year and received a reply on 1 December advising me that the South Australian Farmers Federation agrees with the proposal of the Hon. Rob Kerin (*Hansard*, 18 November) that the acts be repealed. This bill seeks to repeal a handful of what are now redundant acts of parliament. I do not intend to go through the detail of them, but I want to put on the record that the Democrats support the second reading.

There is one point which is interesting and which is worth mentioning: in the second reading explanation that the minister had inserted in *Hansard* in the other place there is reference to the Fruit and Vegetables Grading Act 1934. Under that legislation certain standards of quality regarding shape, size and so on were fixed to keep some control over the quality of marketed fruit. I understand that two primary producers were unhappy about the repeal of this legislation. The ISO standards now apply, so I agree that the legislation is no longer needed. I quote the following paragraph from *Hansard* (page 548, Thursday 18 November):

> Despite this situation—

that is, the situation of the ISO standards applying—

> two grower-based respondents to the discussion paper suggested that, although industry self-regulation is well under way, the retention of the act may be necessary to deter a minority who persist in supplying fruit of poor maturity standard. The proposition was not accepted for the reasons already given, but government assistance in developing dispute resolution processes was offered. To date, the offer had not been taken up.

The Attorney, before he concludes the debate, may be able to say whether there was any follow up of that offer, which I think is a reasonable one: it was made by the government. However, I do not suspect that any babies will be thrown out with the bath water. Therefore, the Democrats support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the bill. The Hon. Ian Gilfillan has raised a question to which I do not know the answer, but I will arrange for a response to be forwarded to him that provides the information. The Hon. Paul Holloway has indicated support for the bill. The honourable member indicates that the opposition has consulted with the South Australian Farmers Federation and relevant industry bodies which are affiliated to that organisation. There is no doubt that there is overwhelming support for the repeal of these bills. The honourable member does say that there might have been some concern in relation to one of the bills, does not proceed to deal with that but then asks why it is necessary to repeal four of the old acts, suggesting that they could be reactivated in future, particularly when we are experiencing pretty difficult times.

There is no doubt that many of these acts have served us well, as he observes, but one wonders why they are to be removed from the statute book at this time. But then the honourable member goes on basically to answer his own question. It is obvious that there is support for the repeal of this legislation. The measures have been overtaken by events and have outlived their usefulness. If there are problems in particular industries where governments are required to intervene in the future, obviously if legislation is required it will be in a different form from that which is presently on the statute book, some dating back as far as 1934.

The Hon. Paul Holloway makes some criticism of the government in relation to the repeal of this legislation, suggesting that we are all about deregulating and about throwing care to the winds. I suggest that, if one looks carefully at that, one sees that it is something of a political remark which does not bear close scrutiny. I have to remind the honourable member that national competition policy was initiated by the Keating Labor government and that what we are doing is following through on the issues and legislation which has been put in place and which has been imposed by Labor administrations and agreed to by a former Labor state government. The Liberal government in South Australia is not about prejudicing the rural sector. Significant initiatives are being taken to provide infrastructure and other support within the rural areas of the state, much more so than our predecessor Labor government in this state.

To suggest that the repeal of the legislation referred to in this bill is an indication of our mood of not supporting the rural industries and the rural sector is really just not true. That has been acknowledged in other respects by the honourable member in dealing with the acts that are repealed by this bill. Notwithstanding those political criticisms of the honourable member, I think we are all of one mind that these acts have outlived their usefulness and it is appropriate to get them off the statute book.

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

DEVELOPMENT (SIGNIFICANT TREES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 759.)

The Hon. M.J. ELLIOTT: I support the second reading of the bill and congratulate the government for finally tackling this issue. It is an issue that many people living in Adelaide have been concerned about for probably the best part of a decade and a half. There is no question that trees provide a significant part of the character of Adelaide. As I drive down from where I live in the Blackwood area, the first view I get is simply of treetops, and those treetops cover very densely at this stage probably about 40 per cent of the area of Adelaide. Some suburbs which in the past have not had that tree cover have had very active tree planting campaigns, and we are yet to see the dividends of those.

It is an important part of the character of Adelaide, something that makes us different and, as cities in this world seek to compete, differences can take many forms. The urban form of Adelaide, including its appearance, is a unique feature of Adelaide and something which we should seek to protect. There is no doubt that difficulties arise when you seek to protect trees which are on private property, and that has to be acknowledged.

I do not have a great deal of sympathy for somebody who buys a property which already has a tree on it, and therefore the value of that property takes into account the tree. Whether it increases or decreases the value, I suppose people might argue differently. Having made a purchase of a property with a tree upon it, that purchase was made knowing that the tree was there. It is no different from buying a house next door to the airport or a main road. If it is already there, it is very difficult to complain about it as long as it complies with reasonable standards and issues concerning safety.

If you bought a property with a tree on it and then found that it had borers and it was a danger, you would have a legitimate concern. I understand the concerns of private property owners who purchase a property with a tree on it. Trees with a diameter of one metre take hundreds of years to grow, and I do not think they bought a property with a sapling on it and then suddenly discovered this mighty tree. It was almost certainly a mighty tree when they bought the property—it is just a little more mighty now! Once trees get to the ages of many of the big blue and red gums they do not grow particularly rapidly.

Having said that, I am pleased that the government has tackled the issue. We can see, in the regulations as first proposed, that protection was to be extended immediately to trees with a circumference greater than 2½ metres (a diameter of 90-odd centimetres) and that any other trees were to be picked up by the Development Act in due course. Amendments to the development plan, even with the best of intentions, can take some time. The concern that I have, and the concern I have even for the next week, is that, now that changes are imminent, the chainsaws will get to work. I am concerned that councils might come up with amendments to the development plan with the aim of achieving a particular purpose but the purpose might be undermined in the meantime by chainsaws getting to work.

I have on file an amendment—and I will get a chance to discuss it further in the committee stage—which seeks to go a little further and in the first instance provides interim protection for other trees. I commented earlier that I live in the Blackwood area. Earlier today, as I drove through the suburbs in that area, I took note of trees which would have a circumference of more than 2½ metres. Less than 1 per cent of the trees that grow in that area, probably even less than 1 per cent of those in the Belair National Park, would get to that 2½ metres.

Along the creek lines you will find the odd red gum and some blue gums, and many of their girths have still not reached that circumference. The overwhelming number of trees up there are black box, the majority with probably a diameter of around 30 to 40 centimetres: they are nowhere near as tall as the blue gum and red gum but are what provides the character of the Blackwood hills. People go there to live because of the trees. It is the most densely treed part of Adelaide and people choose to live there for two reasons: first, because of the sense of community that that area offers and, secondly, because of its extremely natural nature.

The legislation will offer no protection for the overwhelming majority of those trees that provide the character for the area. The council has had problems with smaller trees. Only about two months ago a developer on Main Road in Blackwood managed to crack the front page of the Messenger newspaper: the council had stated that it did not want certain trees cut down and the developer just thumbed his nose at that, cut them down, and I think faced a $50 fine. Considering how much money the developer made from splitting up the

block so that he could put three housing units on it rather than one, I think the $50 fine does not have him trembling in his boots.

The council had a clear intent that those trees should not be felled. It was not necessary: it could have been possible to build around them. Those trees were not of a size that constituted a threat to housing, and I think that what occurred was very disappointing. I am afraid that, if we wait for a development plan to be done by the Mitcham council covering the Mitcham hills in particular but other areas as well, we will see many trees cut down.

I wanted to have a provision which had interim effect to allow councils the chance to do their development plans. The proposal I put forward concerned trees that were more than four metres high. A tree four metres high does not constitute a mighty tree. In the Blackwood area there are black box which, even at full maturity, are probably around seven or eight metres high. There are also casuarinas (that is, she-oaks) and callitris pines. None of those trees are big but they are significant in the mix of vegetation. I want to see some level of protection while the council is preparing the development plan. The council could, while it is preparing its development plan, provide protection for trees over a height of four metres.

I recognise that some councils might decide that they do not want that power or that they want power over the whole of their council area; indeed, they might be quite happy to wait until the development plan comes in. That is the reason why at the very end the provision states, 'It does not include a tree within an area or part of an area of a council in relation to which the council for the relevant area has, by resolution, determined that this paragraph should not apply'.

So, councils could say, 'We don't want it', and I think some councils will do that, but some councils will say, 'We do want it'; and some councils might say, 'There are parts of our council area where it is important and areas where it is not.' Beyond that, I had intended to put more into the drafting, and I indicate that now and will perhaps explore it further in committee. I recognise that some councils might say, 'Although this allows us four metres, we are not interested in anything under six metres.' Since that is a greater height than the height prescribed, I do not think that that will be a problem.

It was my intention that a council could say, 'You have allowed four, but we are interested in six, eight or 10 metres', and it might even decide that the tree should have a certain width as well—as long as they do not go lower than the four metres. Four metres is the lower limit I have sought. As I said, I propose that it apply for only two years, and there might be debate in committee as to whether a shorter time is appropriate. I am looking for enough leeway to have the development plan amended so that the changed laws do not remove what we are seeking to protect. I will get a chance to explore that more in committee.

I would normally be very concerned about the speedy passage of this bill, and I suppose that I am still concerned to some extent. Just before I came into this Council I received a very lengthy fax from the LGA, and to this stage I have not had a chance to examine it in any depth. We are in the impossible position where the chainsaws are already being lubed, if not at work, and I can only hope that we might be able to cover any loopholes that emerge by regulation. I suspect that, with the amendments I am proposing, if the regulations pick them up, we will probably have it covered, because councils, by resolution, would then be able to fill the gaps. I support the second reading.

The Hon. T. CROTHERS: I support the thrust of the bill. Like the Hon. Mr Elliott, I have an amendment on file, as has my colleague the Hon. Terry Cameron. When I debated the matter with my parliamentary colleague the Hon. Mr Cameron, he assuaged my problems but then found others. I would like to pay tribute to Richard Dennis, the Parliamentary Counsel, who assisted us in drafting amendments which we have ensured are acceptable to the minister and which give us the best of both worlds with respect to their promulgation.

I thank Mr Elliott, too, for the commonsense and practical approach embraced in his speech. However, unlike him, I do not think we have made haste, although perhaps we have made haste in the terms that could be described by the old Latin maxim festina lente, which in English means 'to hasten slowly'. Now that we have done that, with all due respect to my colleague the Hon. Mr Elliott, whose speech I thought was excellent, the problem that I have concerns my amendment. Some months ago, probably back in August last year, when the local government legislation was up for consideration by this parliament and chamber, we carried a proposition which placed into the hands of councils much more power with respect to the lopping of trees where they impinged over one neighbour's fence and into another neighbour's property, where one neighbour was recalcitrant and the neighbours or neighbour were endeavouring to ensure the safety of their property and lives.

That is the same power that we give ETSA. That power emanated from a select committee that I was on in relation to the bushfires in the Stirling council area, where the council had been found guilty in a court because wires came into frequent contact with high tension cables, thus, it was said, causing the fire. As a result, the Stirling council was up for a $12 million insurance payout which, under our calculations, meant that every ratepayer in the Stirling area would have had to pay $200 each for about 20 years to discharge the debt.

The then minister Hon. Barbara Wiese and the Labor government came to the party and put up some taxpayers' funds to try to remedy that and, as a consequence, those local councils now in respect of insurance act collectively, so there is one big pot from which any future damages money can be taken, rather than each council sitting on its own, like a shag on a rock I suppose, having to be responsible for any damages that are issued against it in any court action that ensues.

The difficulty that I and the Hon. Mr Cameron find, and he has an amendment on file, is that, somewhat removed from the intent put into legislation under the Local Government Act, there would be an additional layer of cost imposed on the property owner who was endeavouring to move against a recalcitrant neighbour relevant to the lopping of trees, and that would be that one would have to fill in an application form, under the Development Act, at a cost of some $57 to $60 extra, over and above what would be the cost now. My amendment, if local government acts in respect of that matter, does away with that additional cost to the ratepayer in question. The Hon. Mr Cameron will have to speak for himself, but he, too, has a similar aim in respect of his amendment.

The government and the minister have very sensibly accepted those amendments, and I understand that the Hon. Mr Elliott has accepted them. So that covers the whole of the matter, although I am not speaking on behalf of the Hon. Mr Cameron, who is away on other more pressing business. As the only representative of a political party he gets many calls

on his time outside this chamber. I do not presume to speak on his behalf, but I do presume to thank him and Richard Dennis for the assistance they gave me in resolving the problems that I had thought would occur, unintended as they were, with this development amendment act, which would have added an additional layer of cost into the general rule of thumb that now prevails where trees are lopped.

There has been, of course, court case after court case heard in respect of the right of having trees impinging on a neighbour's property. It is in law known as trespass. So I think we now have, with those amendments in, and with the indications that the Hon. Mr Elliott has given in what I consider to be his very good contribution here today, the best of all worlds in respect of protecting trees that are decorous and that are so necessary in fact to the air that we breathe in maximum mayhem fashion, or are so necessary in respect of the huge and beautiful river red gums that we have.

Like the Hon. Mr Elliott yesterday, I was out viewing the huge trees up and down the length of Montacute and Payneham roads. I noticed one aspect was that the 2′5″ circumference is in respect of one metre from the ground, and, of course, as an old wood butcher, and old carpenter, I just fleetingly draw the attention of members of the Council to the fact that the bole of the tree is always greater in circumference than it is five, six or seven feet up the trunk. So one must bear that in mind as one considers these matters. It has only a small bearing; in fact I do not think it has any bearing on the bill in front of us. But it could have a bearing in respect ofcertain particulars. So with those few brief words from me I will resume my place and indicate that I will support the bill at the second reading stage and may subsequently have more to say during the committee stage.

The Hon. SANDRA KANCK: I would like to say a few words about this debate. From 1990 to 1992 I was employed by the Conservation Council and I was—

The Hon. T. Crothers interjecting:

The Hon. SANDRA KANCK: I think that is a very proud thing to have done, Mr Crothers. I had the responsibility of answering public queries and I found that the most common query was how people could stop a tree in their neighbourhood being chopped down. I gave advice to many people, who were successful as a result of lobbying and public meetings, and so on, in stopping those trees being chopped down. Quite a number of those people who had previously not been environmentally conscious went on after that experience to become environmentalists, because they became aware of the political process, became aware of the possibility of impacting it. So the good news for the government is that if this bill is passed there might be fewer people becoming environmentalists, because there will be fewer people being politicised with their street trees being cut down.

I hope that other members of parliament will give this swift passage, just as a government in the 1980s introduced native vegetation regulations, and they needed to be done quietly and swiftly. Similarly, this bill needs swift passage before any sort of massacre starts. One has only to look at what has been happening in Queensland in the past five or six months to see what happens if there is any sort of prevarication. As somebody who came from New South Wales where I could not even cut down a tree in my backyard no matter how wide its girth or how tall it was, I think this is very positive and forward looking legislation.

The Hon. T.G. ROBERTS: I rise to indicate that the Labor Party will be supporting the initiatives taken by the government on this. I, too, have to congratulate the minister for acting as quickly as she has, although I must say there was some urgency in the community about how to deal with this. It is not as though it has popped up in the past five minutes. The matter has been around for at least five or six years that I know of, in relation to community concern.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: I think the urban tree problem has taken different forms of expression and different issues have been raised. One honourable member referred to the bushfires creating a lot of interest in trying to deal with the problems associated with overloads and fires being started by high tension wires coming in contact with untrimmed or unlopped boughs. I was on a committee that looked at the issues associated with surges in power that were knocking out computers and domestic whitegoods, and that was also to do with the problems associated with local government not taking enough interest in trimming back trees for those practical reasons. There was a conservation lobby that gave evidence to our committee. They said that they really did not see it as being necessary to trim trees for those sorts of reasons and that they were prepared to live in suburbs like St Peters, Norwood and Unley and pay the price.

But there were other people who gave evidence that they wanted those trees trimmed for safety reasons and to prevent power surges from occurring that knocked out their domestic whitegoods, because in many cases insurance companies were not paying the householders for the damages as a result of those surges. People operating computer based home administration programs for study or business would continually have their livelihood put at risk by these sorts of power surges.

This issue has been around for some time, and it is up to both local and state governments to deal with it. The government has come up with a structured piece of legislation that attempts to deal with the problem. I say that it attempts to deal with the problem because it appears that, if a developer wants badly enough to knock over a tree, generally that is what happens or it is accidentally poisoned, killed or ravaged to the point where it no longer has any environmental value. It is the developer versus not only urban environmentalists but people who have an interest in maintaining the character of a regional area. So, the point made by the Hon. Mr Elliott regarding developers paying fines and penalties for knocking over trees is one which the government needs to keep an eye on.

A development problem is now emerging in Enfield where they are trying to relieve the problem of urban sprawl to the north and the south. We now have environmental vandalism (as some people call it) where our nationally identified heritage—although these buildings have not been registered architecturally—is being demolished to bring in contemporary designed homes which, in the main, do not have the same combination of cottage appeal and eucalypt presence, which complement each other. If a property has a touch of Tuscan about it, it can be advertised in the Saturday *Advertiser* as 'a piece of Tuscany for sale'.

Fifty and 60 year old homes, which in many cases are structurally sound, are being knocked over and terraced and paved areas with theme trees substituted. Eucalypts do not play a role in any of the new theme tree, architecturally cold plans that are now being sold around Adelaide to overcome urban sprawl to the north and the south by infilling larger blocks, which exist in the eastern and inner suburbs (such as

Unley) and spoiling the landscape for many people. Candle pines go up where eucalypts prevailed.

So, the honourable member's point about gumnuts and overlying branches do not become a problem because all you have is pencil straight trees with paving that do not impact on the neighbour's yard. This certainly takes away the appeal for native birds and the corridors for which Adelaide is well noted which harbour our native fauna and flora as well as fruit trees in people's backyards (apricots, plums and peaches, etc.) which, in many cases, offered a plentiful supply of food for parrots, while the eucalypts provided nesting regimes.

If we are not careful and if we do not bring in legislation to protect the older eucalypts from the ravages of theme and fad developments, we will end up with a pretty boring landscape, and people will wonder why we do not have something to protect the Adelaide landscape from the ravages of these sorts of new development ideas. So, we support the bill.

I will look at advising the shadow minister in another place of the amendments of the Hon. Mr Crothers and the Hon. Mr Elliott, but I am sure that we can support the principles of those amendments. We will progress the minister's bill quickly and do all that we can to facilitate it. We do not want to be blamed for any mass extermination of eucalypts in the metropolitan area by people cutting down a lot of the trees that we are trying to save simply because the bill has not come into force.

I pay tribute to the many Adelaidians who put up with a lot of structural problems in their houses to allow old gum trees to remain. They have a level of tolerance that I do not understand. I have seen houses where the whole foundations have been lifted and cracks have appeared in the walls not only because of the soil on which these houses rest but the roots of these big, old gum trees. They are prepared to put up with those sorts of structural problems, whereas people in other suburbs are not prepared to put up with leaf litter falling onto their driveway. It is difficult for governments to bring in legislation with which everyone can agree because of the varying views and ideas that people have. If we can get consensus in the Council between the major parties and the Independents—

The Hon. T.G. Cameron: And the minor parties.

The Hon. T.G. ROBERTS: And the major minor parties. If we can get agreement amongst ourselves, it is up to us to sell that to the community. The honourable member gave us fair warning of his gumnut amendment—

The Hon. T.G. Cameron: To which honourable member are you referring?

The Hon. T.G. ROBERTS: The Hon. Trevor Crothers. When he was in the party room, he gave us a long lead time to consider his amendment, because it was one of those matters that he could stitch in to any contribution in the party room. It did not matter which motion we were talking about, whether it was to do with foreign affairs or industrial relations, he would always make a contribution on the gumnut resolution. With those few words and that little bit of licence I indicate that we support the bill.

The Hon. T.G. CAMERON: I will be very brief. I rise to support the legislation and congratulate the Urban Trees Reference Group for the report that it has prepared. A lot of emotional hype, I believe, was being built up about trees. It was an issue that had to be dealt with and, with a couple of minor amendments, it looks like the reference group has been able to come up with a set of propositions which will enjoy the support of everybody in this place. And that is no mean feat.

There is an amendment standing in my name, which is self explanatory and with which I will deal later. SA First will support the Hon. Trevor Crother's amendment and will listen to the debate on the amendment which stands in the name of the Hon. Mike Elliott before making a decision.

The Hon. NICK XENOPHON: I rise in support of the bill. I also indicate my support for the amendment of the Hon. Trevor Crothers. I congratulate the government for moving on this issue. It is clearly an issue of significant community concern, and it is clearly a step in the right direction in preserving the grand trees of Adelaide. I congratulate the Hon. Trevor Crothers for his common-sense amendment, which I understand the government is supporting. I also note that the Hon. Mike Elliott's amendments will in some way be incorporated by the Minister, given her undertaking.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): It is a terrific moment to see all who have spoken in this place have spoken with such generosity in terms of the issues and enormous goodwill to each other so as to address the matter expeditiously. I thank them all for—

The Hon. T.G. Roberts: Hallelujah!

The Hon. DIANA LAIDLAW: Yes, hallelujah! When you consider from where we have come over the past decade with this issue, it is tremendous to be able to work with the Legislative Council in such a positive and cooperative manner with goodwill all around and that the beneficiaries are these significant trees as well as the living environment overall. I stress very firmly that this is not about prohibition in terms of trimming or felling trees. This is about the assessment of trees so that those private property owners who are agitated about the moves we are taking need not believe that they will not be able to put their case to the council and have it considered on its merits.

I believe the amendments proposed by honourable members opposite all add value to the considerations of the Urban Tree Reference Group and the government. Certainly, I am prepared in various forms to support them. I thank the Hon. Terry Roberts who, throughout this issue, has given me encouragement to proceed. It is not always easy when you have members and Independents. It was very comforting to know that I had his support throughout this issue.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. M.J. ELLIOTT: I move:

Page 3, after line 20—insert:

or

(c) until 1 July 2002, without limiting the operation of paragraph (a) or (b)—a tree of a species indigenous to South Australia—

(i) that is within metropolitan Adelaide; and

(ii) that is more than 4 metres high and, if the council for the relevant area has so resolved, satisfies other criteria specified by the council for the purposes of this paragraph; and

(iii) that may be cleared without the consent of the Native Vegetation Council under the Native Vegetation Act 1991 because—

(A) the tree is within a part of metropolitan Adelaide excluded from the operation of that act by or under section 4 of that act; or

(B) the clearance of the tree is authorised by regulations under that act,

but not including a tree within an area, or part of an area, of a council in relation to which the council for the relevant area has, by resolution, determined that this paragraph should not apply;;

During the second reading debate, I talked about the reason for this amendment. One point which I did not make and which I will make now is that this amendment relates only to species indigenous to South Australia. It does not relate to any tree over four metres. That is important because it means that the Tasmanian blue gums and other interstate species planted in gardens that grow quickly and then fall over have no conservation value. Perhaps if the trees were so big that they became significant in the sense of size, there could be an argument for their conservation.

My concern is for the areas with significant local trees. They are part of nature corridors native to South Australia. I have not said 'locally endemic' because that would be too complicated for the councils to argue that a particular species grew in a particular place. Tasmanian blue gums are not endemic to South Australia and, unless they are over 2½ metres circumference, they would not be picked up even by what I propose here. I stress again—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Yes, that is right. With this amendment, I am seeking to have an interim process while development plans are being drawn up. What I do not want is for chainsaws to be at work while the council is drawing up the development plan. I do not think the public would appreciate being told the trees were and would continue to be protected and then find out that they were not.

The government would appreciate that it would cop it in the neck. There have already been examples of the sorts of trees that I am talking about that have been felled in the Blackwood area (a number of blackbox), and there is a real risk that hundreds of thousands of them could be cut down while councils are busy preparing their plans.

The Hon. DIANA LAIDLAW: The government is prepared to accept the argument that the honourable member has put, and I have canvassed this issue with other speakers on this matter. I have asked the Hon. Mike Elliott whether he will accept this amendment not being provided for in the bill but being incorporated in the regulations. As I outlined in my second reading speech and as everybody who has had an opportunity to read the bill would appreciate, it is essentially an enabling provision and the detail is in the regulations. It is for that reason that parliamentary counsel, my office, officers within Planning SA and my cabinet colleagues have cooperated magnificently in preparing draft copies of the regulations to show all members so that they can see the way in which we were planning to proceed with this matter.

The draft regulations that I have circulated highlight that the detail is in the regulations. It defines a significant tree as a tree with a circumference of 2.5 metres or more or, in the case of trees with multiple trunks that have a total circumference of 2.5 metres, the average circumference is 750 millimetres or more at a point one metre above the natural ground level. The detail of the honourable member's amendment would fit very neatly if adjusted to the terminology of the regulations. If he would accept that, I would be pleased in turn to accept the matter that he proposes.

I also give an undertaking that, before the bill is debated in the other place, I will have available a further copy of the draft regulations, which I aim to have introduced and gazetted by Thursday week so that those interested would be able to see them.

The Hon. T.G. Roberts: Holy Thursday?

The Hon. DIANA LAIDLAW: Oh, glory! Does the world work on that Thursday?

The Hon. T.G. Roberts: Yes.

The Hon. DIANA LAIDLAW: So it is Friday we stop. It is my aim to have this measure proclaimed and assented to, if the Governor can be organised, by Thursday week. I highlight to everybody to whom I have circulated the regulations that I have since added two further matters that were discussed by my party today, which is a variation of what the Hon. Mr Elliott is proposing in terms of how it would apply. The effect would be that trees 1.5 to 2.49 metres or, in the case of trees with multiple trunks that have a total circumference of 1.5 metres or more to an average circumference of 500 millimetres or more, would be regarded as a significant tree if a council applied to the minister to gazette a regulation, and that the council in those circumstances would have to confirm that it was seeking to ensure that it made amendments to its development plan within one year of the proclamation of the bill.

So, I would agree that the council would have to apply on the understanding that it would give me the undertaking that it would move quickly with respect to assessing the trees that were to be included in its development plan. The second amendment I have proposed since the regulations means that, at the second anniversary of the commencement of this regulation, there would be a review of the whole of the operation of this act. That review would be undertaken within six months of that two year period and be available for public inspection.

The Hon. M.J. ELLIOTT: To expedite things, I want to clarify a few matters. First, I note that it probably would be more consistent for my amendment to be in the regulations. But I am not in a position to amend regulations: I am in a position to amend only the bill. So, I want to be quite clear on the procedure from here. I have found that, whenever this minister has said that she will do something, she has always done it. Some people are people of honour and some are not. I trust this minister, but there are some with whom I would not agree to carry out this sort of process: it is as simple as that.

The Hon. T.G. Cameron: You are a trusting soul.

The Hon. M.J. ELLIOTT: I am at this stage, because I have had no reason to be otherwise—but I do not forget, either. Is the minister saying that she is prepared to accept the notion of four metres? The criterion I have proposed is four metres. I also accept that later on councils might say that they are not interested in four metres: they might like to make it more and, by resolution, they might be able to do that. In fact, I have not made that explicit. I am quite happy for councils to say they are not interested in this four metre criterion at all or to say that they would like another height—which, of course, could be a greater and not a lesser height. I am quite happy for them to say that it should be in conjunction with the trunk or various other things. Four metres is the starting point which they cannot go below, but they might decide that they will have something less rigorous. Is the minister saying that she is prepared to accept that?

The Hon. DIANA LAIDLAW: That is so, and I give an undertaking that the government is earnest about this issue. I will develop the regulations with the honourable member. The Hon. Trevor Crothers, the Hon. Terry Roberts and the Hon. Terry Cameron have all worked through this exercise,

so we will do it together and make sure that we are happy overall in terms of reflecting the sentiment. In the next few days we can look at the issue of whether it is four metres or five metres; whether it is until 1 July 2002 or 2001 is provided for in the regulations that I have drafted. We could debate that. But the honourable member has my undertaking that the essence of what he wants will be reflected in the regulations.

The Hon. M.J. ELLIOTT: The other issue then becomes an issue of time. The minister has been talking about a year: I propose two years. I am trying to be flexible about this, but I suppose that what I want to be confident about at the end of the day is that, first, we have enough time to go through the development plan amendment process, to start with. Having done that, I suppose there might be a recognition, indeed, that there are still issues that might need to be addressed legislatively afterwards. For example, four metres is proposed, but it will expire at some period afterwards. What will the regulations do after that? We may be left with only 2½ metres, which does not include an expiry. So, we are offering a high level of protection and then it might disappear.

I recognise that there might be a need for further amendment of the act or regulations once councils start going through the development plan process and appreciate what the problems might be. I appreciate that we want to make this as short as possible but I want to make sure that we still have sufficient time, and I wonder whether 12 months will be too short a time in which to do two things: to carry out the development plan process and then, perhaps recognising that there is still a need for some other change of regulations or legislation (and parliament sometimes does not sit for three or four months), having a capacity to address issues in that regard. I wonder whether perhaps we cannot meet halfway and make it 18 months.

The Hon. T. CROTHERS: I am somewhat supportive of the suggestion that Mr Elliott has made, and I wonder whether it is possible to have the best of both worlds, with a view to restoring the matter to the *Notice Paper* in 12 months and, if the act is working out, fine. If it requires a further extension of 12 months, that could be done at that time. If not, if things are going swimmingly, we will have had 12 months in which to have a look at it. The act then might fall off the *Notice Paper* if no move is required in respect of those matters that the Hon. Mr Elliott canvasses.

The Hon. DIANA LAIDLAW: I will give an undertaking. It is provided in the regulations that the whole process will be reviewed in two years. I think that was recommended by the urban tree reference group and, as far as possible, I have at all times sought to reflect what that group wants because it has made compromises. We would not be here today if wider community interests, whether it be the Conservation Council, the LGA, the HIA, the UDIA or environmental lawyers, had not given ground but all gained in the process. I would not want to fiddle too much, because we are poised on eggshells a little and, notwithstanding the goodwill of what the honourable member suggests, I would prefer to proceed as outlined and not get too hung up on whether it is one or two years.

My view is that the councils where the major pressure is have already done the majority of the work, and it will not take them long to get their PAR ready for public exhibition or consultation and to be finally authorised. Councils need not go through this process, and the honourable member has said already that in terms of the indigenous species it is not relevant to every council. They may opt out so that it is not an issue thereafter. I think the other councils that want to opt in will undertake it with some urgency and that the development world and property owners require that of councils.

We are talking about private property. We need to put the pressure on councils to advance these issues so that people are not held up in the air about what can or cannot happen on their land. Without getting bogged down now, I urge that we insist that this be an absolute major priority for councils. Most of them are well advanced in respect of those that will progress this issue.

The Hon. A.J. REDFORD: I make two very brief comments for the benefit of the Hon. Trevor Crothers. I lay London to a brick that we will be revisiting this legislation because, normally, when we do legislation with this sort of haste, as night follows day, it comes back. Secondly, I give the honourable member my assurance as chair of the Legislative Review Committee that we will diligently go through the regulations and, given his interest, I will do my best to ensure that the honourable member is kept fully informed, subject of course to the absence of an unforeseen diminution of resources which we have had to suffer from time to time over the past 12 months.

Amendment negatived; clause passed.

Clause 4 passed.

New clause 4A.

The Hon. T.G. CAMERON: I move:

Page 5, after line 2—Insert:

Amendment of s.39—Application and provision of information

4A. Section 39 of the principal act is amended by inserting after subsection (1) the following subsection:

(1a) No fee is payable under this section in relation to an application made by the owner or occupier of land (the 'relevant land') in order to remove or cut back a part of a significant tree that is located on an adjoining land but is encroaching on to the relevant land.

I understand that the government is supporting the amendment standing in my name, and I thank it for that. I will not dwell on the amendment because it is fairly straightforward. It seeks merely to provide that no fee is payable under this act in relation to an application made by an owner of a property seeking an order to remove or cut back part of a tree which has previously been determined to be significant. It seems to me to be a bit rough when you have an irresponsible neighbour who is blessed with a significant tree in his backyard that is dropping leaves in your gutters and perhaps creating a fire risk. We all know that river red gums are prone to drop huge limbs.

The legislation, as it was, would have meant that, although you are trying to get someone else to act responsibly in respect of a tree in their yard, you must pay the application fee. This amendment will mean that people will be able to seek an application to have an errant neighbour cut back their tree without being required to pay the fee.

The Hon. DIANA LAIDLAW: The government is prepared to accept the amendment. We believe that the amendment has been well thought through and is reasonable and fair in the circumstances. I highlight that councils already have the ability to waive or reduce fees under section 39 of the Development Act but it is, of course, discretionary. The amendment ensures that it is beyond doubt that no fee will be charged.

New clause inserted.

Clause 5.

The Hon. T. CROTHERS: I move:

Page 5, after line 31—Insert:

(ab) under, or in connection with the operation of, an order under section 299 of the Local Government Act 1999; or

My amendment is similar to the amendment just moved by my colleague the Hon. Mr Cameron in that it relates to trees that trespass onto a neighbour's property. The neighbour in question may have spoken to the other resident and found that he or she is somewhat recalcitrant in trying to reach some commonsense arrangement. Subsequent to that, the local council or local government body might be contacted by the ratepayer who feels offended by the overgrowth onto his or her property, and if that local government body agrees to pick up the complaint of the resident in question then no additional fee (I think it is about $57) will be charged. There is no fee of that nature under the present Local Government Act so, should the council adhere to the act, that fee also should not be payable as we believe that it is a non-intended consequence of the Development Act. The matter has been spelt out in the Hon. Mr Cameron's amendment and, consequently, in mine.

The Hon. DIANA LAIDLAW: The government supports the amendment. I have spoken with the Hon. Terry Cameron and the Hon. Terry Roberts—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: I said that the government supports the amendment, and I have also spoken to the—

The Hon. T. Crothers interjecting:

The CHAIRMAN: Order!

The Hon. DIANA LAIDLAW: I have spoken to all other members with whom I have worked on this bill and they, too, support the amendment and see it as beneficial in terms of the new provisions we are bringing in in respect of all private property rights.

Amendment carried.

The Hon. T. CROTHERS: I move:

Page 5, line 32—Leave out 'any act' and insert:
another act, or specified provisions of another act.

This amendment is consequential on my first amendment.

Amendment carried; clause as amended passed.

Clause 6 and title passed.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That this bill be now read a third time.

I will not delay the Council, although this is a matter for celebration. I thank members for dealing with this matter with superb goodwill and generosity in terms of their time and understanding. I also thank all members of the Urban Tree Reference Group who, between Christmas and 21 March, gave an enormous amount of time, effort, thought and debate to this issue that has vexed the community for a long time. However, we have now come to some conclusions that will be of benefit to all. I sincerely thank all members.

Bill read a third time and passed.

PORT BROUGHTON RURAL TRANSACTION CENTRE

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement given earlier this day by the Hon. Dorothy Kotz, Minister for Local Government, on the subject of the Rural Transaction Centre at Port Broughton.

Leave granted.

STATUTES AMENDMENT (BHP INDENTURES) BILL

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

The Hon. R.I. LUCAS (Treasurer): I move:

That this bill be now read a second time.

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

Leave granted.

This bill seeks to ratify a Deed of Amendment entered into by the State and BHP on 30 March 2000 amending the 1937 and 1958 Indentures to facilitate the transfer by BHP of its rights and obligations under the Indentures to a new company to be formed from BHP's long products steel business. Among other proposed supporting amendments to the two Indenture Acts, the bill seeks to repeal s.7 of the *Broken Hill Proprietary Company's Steel Works Indenture Act 1958* which presently exempts BHP and its subsidiaries from liability for creating certain types of pollution. The bill also seeks to provide that an environmental authorisation under s.37 of the *Environment Protection Act 1993* may be granted or renewed so that it remains in force for more than 2 years.

The government has been concerned for some time about BHP's plans for Whyalla and its long products business, and has been in regular contact and discussion with senior management of the company for more than 12 months. On 6 October 1999 BHP announced it would be divesting the long products division of its steel business, which includes the iron ore mines in the Middleback Ranges, and the Whyalla steel making plant.

The government indicated to BHP its willingness to facilitate this plan because the government believes this will be in the best interests of the Whyalla community. The government formed the view that any alternative would see the Whyalla assets remain in BHP's hands, and that was not a tenable outcome for Whyalla. BHP was clearly signalling that it had better options elsewhere and wouldn't be committing new resources to the long products business. The government's willingness to facilitate BHP's transition from the long products business was, however, always conditional upon the ability of the government and BHP to agree on measures which responded to the reasonable and legitimate concerns of the Whyalla community.

Throughout the ensuing discussions the government has also consulted regularly with the Whyalla Council and the Whyalla Economic Development Board to understand the issues of concern to the Whyalla community. The government would like to express its appreciation to the both the Council and the WEDB for their leadership and the constructive contribution they have made throughout what has been a difficult and challenging period for the Whyalla community. This agreement between the South Australian government and BHP addresses the substantive issues raised by the Council and the Board, and will give the people of Whyalla justified cause for optimism about their future.

The government's greatest concern is employment in Whyalla, and ensuring the steelworks remain viable and competitive. In this regard the government has taken great comfort from the assurance of Dr Bob Every, the new CEO of the long products company, that the Whyalla steel works and the iron ore mining operations in the Middleback Ranges will be the cornerstone of this new national steel business. They will be integral to the success of the new steel company.

There are four main elements to the agreement between the government and BHP. Firstly, BHP will give approximately 3600 hectares of land to the Whyalla Council and the State government, which is 45 per cent of the land it currently owns or occupies.

A large portion of some 700 hectares will be given to the Council to establish an industrial estate, which has been a long standing ambition of the Council. A portion, including the golf course, will be given to the Council for community recreation and leisure purposes. A further portion of approximately 1100 hectares will be given to the government to extend the Whyalla Conservation Park and for road reserves. The Council will also gain the sites occupied by the maritime museum, Tanderra and a portion of the Yaringa Gardens.

BHP has assured the government there are no material environmental issues in relation to the land which is to be given away.

The remaining land owned or occupied by the steel company will only be used for steel-making or related purposes, unless the Council or the government agrees to another use. The operations of other

non-steel businesses currently on the site, such as Cognis and Pacific Salt, will however, be unaffected by this agreement.

Secondly, the new steel company will make annual payments to the Council in lieu of rates. These payments will increase progressively until they equal $550 000 per annum by mid-2007. In total the Council will receive more than $8.6 million over the next twenty years, which I understand is more than 4 times what BHP has paid the Council over the last twenty years.

Thirdly, unlike BHP, the new steel company will no longer have an unfettered right to discharge effluent into the sea, or discharge smoke, dust or gas into the atmosphere under section 7 of the 1958 Indenture Act. The Act will be amended to ensure the new steel company will operate under the full authority of the Environmental Protection Authority. Whilst BHP has always sought to comply with the intent of South Australian environmental legislation, and for a number of years has been implementing environmental improvement programs in cooperation with the Environmental Protection Authority, it was agreed the rights enjoyed by BHP are clearly no longer acceptable at the beginning of the twenty first century.

Finally, BHP has agreed to a formal process which the new steel company will use for reviewing any request to access the port. This has the potential to open up new opportunities for other businesses to locate in Whyalla, such as the proposed shipbreaking operation or even proponents looking to re-establish Whyalla as a centre for ship-building. The new policy which will be applied when such requests to access the port are received is also tabled today.

This agreement comes at a critical time, and represents a major step forward, not just for Whyalla, but for the entire Upper Spencer Gulf region. This agreement benefits all stakeholders by securing the future of the steelworks and the jobs of the steelworkers, paving the way for new investment by the new owners of the business, providing new opportunities for economic development in Whyalla and better environmental protection, and providing a significant financial boost to the Whyalla Council.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure. The whole of the bill, except for clause 19, will come into operation on assent by the Governor. Clause 19 comes into operation on the day on which the rights and obligations of BHP (or its successors and assigns) under the 1937 and 1958 Indentures first become rights and obligations of a person that is not a related body corporate (within the meaning of the *Corporations Law*) of BHP.

Clause 3: Interpretation

This clause is formal.

Clauses 4 to 15—these clauses amend the 1937 Act.

Clause 4: Amendment of long title

This clause amends the long title of the *Broken Hill Proprietary Company's Indenture Act 1937* ('the 1937 Act') to reflect the ratification of the Deed ('the 2000 Deed of Amendment') that is effected by this bill.

Clause 5: Insertion of s. 1A

This clause inserts an interpretation provision into the Act. References in the Act to 'BHP' mean The Broken Hill Proprietary Company Limited, while references to 'the Company' mean BHP, its successors and assigns. 'The Indenture' is the Indenture set out in Schedule 1 of the 1937 Act, as amended from time to time, and 'the 2000 Deed of Amendment' is the Deed set out in Schedule 2 of the Act.

Clause 6: Amendment of s. 2—Validation of Indenture and 2000 Deed of Amendment

This clause amends section 2 of the Act. Section 2 currently ratifies the Indenture set out in the Schedule of the Act. This clause amends section 2 to extend that ratification to those provisions of the 2000 Deed of Amendment that amend or relate to that 1937 Indenture.

Clause 7: Repeal of s. 3

This clause repeals section 3 which is an obsolete provision.

Clause 8: Amendment of s. 5—Saving of certain rights

This clause is consequential.

Clause 9: Amendment of s. 6—Further provisions as to the Indenture

This clause is consequential.

Clause 10: Amendment of s. 7—Construction of Government railways

This clause is consequential.

Clause 11: Amendment of s. 8—Right to cross tramways, etc., of the Company

This clause is consequential.

Clause 12: Amendment of s. 9—Leases in paragraph B of the schedule to the Indenture

This clause is consequential.

Clause 13: Insertion of s. 10

This clause inserts new section 10 into the Act. New section 10 provides that if at any time the rights and obligations of the Company under the 1937 Indenture (as amended) are assigned to and assumed by an assignee in accordance with the Indenture, all other rights and obligations of the Company under the Act vest at the same time in the assignee. In addition, in those circumstances, the assignor and the State of S.A. are released from any future obligation to each other under the Act *except* where the assignee is a subsidiary of BHP (within the meaning of the *Corporations Law*), in which case BHP is not released from its obligations to the State under the Act unless and until the assignee ceases to be a subsidiary of BHP.

Subsection (3) requires the Minister to give notice in the *Gazette* of the assignee's name and registered address within 14 days after any assignment and assumption of rights and obligations under the Indenture take effect (though a failure to give notice does not prejudice the assignment and assumption).

Clause 14: Substitution of schedule heading

This clause inserts a new heading to the existing Schedule to the Act.

Clause 15: Insertion of Sched. 2

This clause inserts into the Act, as Schedule 2, the 2000 Deed of Amendment.

Clauses 16 to 23—these clauses amend the 1958 Act.

Clause 16: Amendment of long title

This clause amends the long title of the *Broken Hill Proprietary Company's Steel Works Indenture Act 1958* ('the 1958 Act') to reflect the ratification of the Deed ('the 2000 Deed of Amendment') that is effected by this bill.

Clause 17: Amendment of s. 3—Interpretation

This clause inserts some definitions into the Act. References in the Act to 'BHP' mean The Broken Hill Proprietary Company Limited, while references to 'the Company' mean BHP, its successors and assigns. 'The Indenture' means the Indenture set out in Schedule 1 of the 1958 Act, as amended from time to time, and the '2000 Deed of Amendment' is the Deed set out in Schedule 2 of the Act.

In addition 'the prescribed day' means the day on which the rights and obligations of the Company under the 1958 and 1937 Indentures first become rights and obligations of a person that is not a related body corporate (within the meaning of the *Corporations Law)* of BHP.

Clause 18: Amendment of s. 4—Validation of Indenture and 2000 Deed of Amendment

This clause amends section 4 of the Act. Section 4 currently ratifies the Indenture set out in the Schedule of the Act. This clause amends section 4 to extend that ratification to those provisions of the 2000 Deed of Amendment that amend or relate to that 1958 Indenture.

Clause 19: Substitution of s. 7

This clause repeals section 7 of the Act and inserts new section 7. Section 7 of the Act currently exempts the Company and any subsidiary from liability for certain forms of pollution caused by its works at or near Whyalla.

New section 7 provides that the repeal of section 7 does not affect the exemption afforded to BHP or to any subsidiary of BHP by the repealed section in respect of pollution occurring before the day on which the rights and obligations of the Company under the 1958 and 1937 Indentures first become rights and obligations of a person that is not a related body corporate (within the meaning of the *Corporations Law)* of BHP.

In addition, despite any Act or law to the contrary, no assignee under the 1958 Indenture has any liability for pollution that occurred before that day and that falls within the exemption afforded to BHP or a subsidiary.

Subclause (2) provides that the current section 7 is repealed and the new section substituted only on the day referred to in the new section, ie, the day on which the rights and obligations of the Company under the 1958 and 1937 Indentures first become rights and obligations of a person that is not a related body corporate of BHP.

Clause 20: Insertion of ss. 7A and 7B

This clause inserts new sections 7A and 7B into the Act.

New section 7A provides that any exemption from a provision of the *Environment Protection Act 1993* that is granted under section 37 of that Act by the Environment Protection Authority to the

Company in respect of pollution resulting from its undertaking at or near Whyalla on or after the prescribed day (the day on which the rights and obligations of the Company under the 1958 and 1937 Indentures first become rights and obligations of a person that is not a related body corporate of BHP) can be granted or renewed by the Authority for such period as the Authority thinks fit. That is so despite any provision of the *Environment Protection Act* or its regulations to the contrary. (Except in certain circumstances the regulations under the Act currently limit exemptions under section 37 to a period of two years).

New section 7B empowers the Registrar-General to make appropriate entries in the Register in respect of certain lands that vest in the State pursuant to the 1958 Indenture (as amended). It also makes provision for the conversion of a statutory easement arising under the Indenture into a normal easement, or for the discharge of the statutory easement, should the relevant parties agree to do so.

Clause 21: Substitution of s. 12

This clause inserts new section 12 into the Act. The existing section 12 is obsolete. New section 12 makes the same provision in relation to the vesting of and release from rights and obligations under the 1958 Act as are made by new section 10 of the 1937 Act (inserted by clause 13 of this bill) in relation to the rights and obligations under that Act.

Clause 22: Substitution of schedule headings

This clause inserts a new heading to the existing Schedule to the Act.

Clause 23: Insertion of Sched. 2

This clause inserts into the Act, as Schedule 2, the 2000 Deed of Amendment.

Schedule: The 2000 Deed of Amendment

The Schedule to this bill sets out the text of the 2000 Deed of Amendment entered into by the State and BHP on 30 March 2000.

Clauses 1 and 2 amend and affirm the Indenture to which the 1937 Act relates. The salient amendments are:

- a new clause 18 is inserted that empowers the Company from time to time to transfer, with the State's consent, its rights and obligations under the Indenture to an assignee, by the execution of a deed by the Company, the State and the relevant assignee that is substantially in the agreed form (*see* Annexure 2). The State must give its consent if the assignee is a related body corporate of the assignor or is one of a group of companies to which the Whyalla steel works (and related operations) are to be transferred as part of an integrated group of businesses capable of processing most of the Whyalla works' output. If the proposed assignee is not such a body corporate or company, the State cannot unreasonably withhold its consent if satisfied that the assignee is responsible and solvent, and if satisfied that the assignee will secure the ongoing viability of the Whyalla works. BHP will remain liable under the Indenture in the event of failure to comply by an assignee that is a subsidiary of BHP.
- a new clause 19 is inserted that secures, in the same terms as clause 18, the State's consent to a change in effective control of the Company.

Clauses 3 and 4 amend and affirm the Indenture to which the 1958 Act relates. The salient amendments are:

- a new clause 26A is inserted that sets out the parties' agreement regarding disposal of certain of BHP's freehold land (*see* the maps set out in Annexure 1), and binding BHP not to allow third party use (ie for non-steelmaking purposes) in the future in respect of the remainder of its freehold land in Whyalla. If, by the end of this calendar year, BHP has not disposed of the relevant pieces of land as contemplated by subclauses (2)-(6), the land vests in the State (subclause (8)). Subclause (7) imposes on the relevant pieces of land a restrictive covenant against residential development or any use of the land that is adverse to the Company's undertaking. The covenant runs with the land for so long as the steelworks continue to operate. Once land is transferred or vested under this clause, it will fall back into the area of the Whyalla council (subclause (9)). Any infrastructure owned by BHP that is on the land transferred or vested by this clause continues to be owned by BHP, subject to any written agreement to the contrary (subclause (10)). The Company has an easement over the land for the purpose of operating, maintaining or replacing that infrastructure.
- a new subclause 31(5) is inserted relating to the transfer of the Company's rights and obligations under the Indenture. This subclause is to the same effect as new clause 18 of the 1937 Indenture.
- a new subclause 31(6) is inserted relating to changes in the effective control of the Company. This subclause is to the same effect as new clause 19 of the 1937 Indenture.

Clause 5 provides that the Deed of Amendment does not come into operation unless and until an Act ratifying the Deed, enabling the Deed to be fully carried out and securing the rights of BHP and its successors and assigns under the Deed comes into operation. This clause also provides that the right of the Company under the 1958 Indenture to terminate the Indenture if the 1958 Act is amended does not apply to an Act the sole effect of which is to ratify and approve or otherwise support the terms of the 2000 Deed of Amendment and to repeal section 7 of the 1958 Act in the manner specified in paragraphs 5.3*(a)* to *(d)*.

Clause 6 provides that the law of South Australia governs the Deed of Amendment and that each party bears its own legal costs. Stamp duty on the 2000 Deed of Amendment is to be paid by BHP.

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

WRONGS (DAMAGE BY AIRCRAFT) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ROAD TRAFFIC (MISCELLANEOUS No. 2) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

DISTRICT COURT (ADMINISTRATIVE AND DISCIPLINARY DIVISION) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

MINING (ROYALTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 770.)

The Hon. SANDRA KANCK: I indicate that the Democrats support this bill in principle, and we have already placed on file some amendments. We like the option of the government's being able to reach an agreement on a lower royalty if a mining company value adds in South Australia. A very good example of that is the granite quarrying that occurs on Eyre Peninsula. That granite is shipped to Italy where it is dressed and then it is brought back to South Australia and other places in Australia. It is a major loss to South Australia that that is done that way, as well as, of course, the greenhouse gas that gets added in the cost of shipping that to and from Italy. No only does it have those benefits but it would provide jobs on Eyre Peninsula. On the other hand, we do not want to see the government offering a lower royalty rate to our mining company to encourage it to further enrich uranium and, when we get to committee, my amendment will deal with that.

We also like the fine that will be imposed when a company fails to provide a return in time to the Director of Mines. I do, however, have some concerns about imposing a maximum royalty limit of 2.5 per cent. That, of course, is the current rate, and I was told at my briefing that the 2.5 per cent is competitive within the world. So, it is appropriate that at the moment it be 2.5 per cent; but, if for some reason worldwide the royalty rates were to go up, it would seem very foolish that South Australia could miss out on some royalties

as a result of imposing the maximum proposed in this bill. We also believe that the public needs to know when the government intends to surrender value on royalties. My amendment will also require the government to advise via the *Government Gazette* where an agreement has been made to reduce the royalty rate. I would appreciate it if the minister could advise, either in summing up or in committee, whether the provision being passed in this bill to lower the royalties will result in any pressure from WMC to lower the royalty rate in the Roxby indenture act. I indicate support for the second reading.

The Hon. P. HOLLOWAY: The opposition supports the second reading of this bill. The purpose of the bill is to provide the government with greater flexibility in the setting of mineral royalties so as to promote the downstream processing of minerals in South Australia; naturally, the opposition supports that objective. The state receives royalties from large mineral operations such as Roxby Downs under indenture provisions specific to those projects. Oil and gas royalties are set under the Petroleum Act, but royalties imposed under section 17 of the Mining Act apply to other mining operations such as extractive industries. In this state there are, I guess, a few small gold and copper mines and, potentially, new uranium mines which might pay under this provision.

Prior to this bill, royalties on mining operations were set at 2.5 per cent of the value of the minerals. The royalty applies to the delivered value of the commodity, which includes freight and handling charges. This means that any on-site value adding such as refining of the minerals would increase the value of the mine output and thus attract a higher royalty. It is argued by the government that downstream processing is deterred by this provision as a miner can avoid higher royalties by processing the minerals off site and, in particular, interstate or overseas. Under this bill it is proposed that the minister can alter the rate of royalty within the range of 1.5 to 2.5 per cent.

Under proposed new clause 4b(b) the minister may, on application or his own initiative, reduce the prescribed percentage to be applied in a particular case in order to take into account processing carried out before the minerals leave the area of the mining tenement or private mine, and the minister may then vary this prescribed percentage if circumstances subsequently change. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

At 6.28 p.m. the Council adjourned until Wednesday 12 April at 2.15 p.m.