LEGISLATIVE COUNCIL

Thursday 29 March 2001

The PRESIDENT (Hon. J.C. Irwin) took the chair at 11.01 a.m. and read prayers.

SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest to be taken into consideration at 2.15 p.m.

Motion carried.

PROSTITUTION (REGULATION) BILL

In committee.

(Continued from 27 March. Page 1128.)

Clause 10.

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

Page 9, line 19—Leave out '200 metres' and insert:
the prescribed distance

The Hon. DIANA LAIDLAW: Mr Chairman, may I recommend that, in view of the Hon. Mr Cameron's having two very specific amendments to this clause, he move them and speak to them and then we debate them and determine our view on them. Then I should move my amendments and other members should move theirs because my amendments gets rid of the whole clause. The clause includes the matters that the Hon. Mr Cameron has sought to amend.

The CHAIRMAN: I am advised, and this chamber's experience is, that there is a sequence and we have to deal with every amendment, just as we deal with bills clause by clause. The same applies to line numbers: we cannot go back once we have come forward. There is a procedure that can be followed.

The Hon. A.J. REDFORD: I would not like to debate the Hon. Terry Cameron's amendment without hearing from the minister, because I will make my decision on this clause deciding between the two competing arguments. It is appropriate to have them both on the table.

The CHAIRMAN: With respect to clause 9, the perfectly democratic, usual process was followed and the committee nearly persuaded the Hon. Carmel Zollo to withdraw. She did not, but that does not mean that the process was bastardised. The process was perfectly correct.

The Hon. CAROLYN PICKLES: My amendment seeks to amend the Minister for Transport's amendment, and I assume that will be the one that the committee votes on first. However, the Hon. Terry Cameron has a further amendment dealing with the number of people who can work in the rooms. If that were successful I presume that I would then have to move a further amendment to that clause.

The Hon. DIANA LAIDLAW: I move:

Leave out this clause and insert:

Consents for developments involving brothels

10. (1) The following applies in relation to a development involving the establishment of a brothel or a change in the use of land to use as a brothel:

(a) the Development Assessment Commission is to be regarded as having been constituted under the *Development Act 1993* as the relevant authority;

(b) instead of assessing the development against, and granting a consent (a provisional development plan consent) in respect of, the provisions of the appropriate Development Plan, the Development Assessment Commission must assess the development and grant a consent in accordance with this section;

(c) the application for consent—

(i) must be made in the same way as an application for a provisional development plan consent; and

(ii) in addition, must be accompanied by a statutory declaration of the proposed operator of each sex business to be carried on at or from the brothel—

(A) certifying that the operator will be able to lawfully carry on the business at or from the brothel and that, to the best of the operator's knowledge and belief, each other person proposed to be involved in the business may lawfully be so involved; and

(B) complying with any other requirements prescribed by the regulations;

(d) subject to the following paragraphs, the Development Assessment Commission has a discretion to grant a consent in respect of the development;

(e) the Development Assessment Commission is to consider the application and refuse consent (without further dealing with the application under the *Development Act 1993*) if, in the opinion of the Development Assessment Commission—

(i) the site of the development is situated within 200 metres of a place primarily used as—

(A) a school or other place for the education of children; or

(B) a place for the care or recreation of children; or

(C) a church or other place of worship; or

(D) a community centre; or

(ii) the brothel would have more than 8 rooms available for the provision of sexual services;

(f) if the application is not refused under paragraph *(e)*—

(i) the development is to be regarded as having been assigned to Category 2; and

(ii) Category 2 is to be taken to require notice of the application to be given, in accordance with the regulations under the *Development Act 1993*, to an owner or occupier of each piece of land with a street frontage on the same street (or streets) as the site of the proposed development and any part of which is within 200 metres of that site (in addition to the persons to whom notice is required to be given under that Act);

(g) in making its decision on an application, the Development Assessment Commission—

(i) must have regard to the following matters:

(A) whether the site of the development is situated—

· in a part of a an area zoned or set apart under a Development Plan for residential use; or

· in a part of an area in which residential use is, according to a Development Plan, to be encouraged;

(B) the proximity of the site of the development to a place primarily used as—

· a school or other place for the education of children; or

· a place for the care or recreation of children; or

· a church or other place of worship; or

· a community centre;

(C) whether, in its opinion, the brothel would, in conjunction with other brothels in the area, tend to establish a red light district *ie* an inappropriately high concentration of brothels in the same area;

(D) an assessment of the development against the provisions of the appropriate Development Plan (but the Development Assessment Commission is not bound by those provisions);

(E) an assessment of the development against any other criteria prescribed by the regulations; and

(ii) may have regard to any other matter the Development Assessment Commission considers appropriate;

(h) the Development Assessment Commission—

(i) must give the council for the area in which the development is to be undertaken a reasonable opportunity to provide a report on relevant matters under the *Development Act 1993* as modified by this Division; and

(ii) may presume that the council does not desire to provide a report if one is not received within 6 weeks after the council received the application for consent or such longer period as the Development Assessment Commission allows; and

(iii) must give proper consideration to a report of a council under this paragraph but is not bound by any recommendation contained in the report;

(i) if the Development Assessment Commission grants a consent under this Division, the consent is to be regarded as a provisional development plan consent for the purposes of the *Development Act 1993*.

My amendment seeks to delete clause 10 and insert a new clause. Clauses 9 and 10 provide the development approval regime for brothels based on the application of the Development Act but in a modified form. This recognises the desire to use the standard planning approaches and it also recognises the absence of brothel policy in council development plans and the need for a locational policy within those plans. That is the whole point of clauses 9 and 10 and the development planning provisions.

When this bill was before the House of Assembly, some issues were dealt with that I think I should address now because they will help to explain why I seek to delete clause 10. In the House of Assembly the Development Assessment Commission was appointed as the authority to enable a consistent state-wide approach to planning considerations in regard to any brothel application. However, the House of Assembly made no distinction between planning consent and building consent and ongoing building management issues, such as, for instance, fire and building safety inspections, and it made DAC the authority for all such issues. This is unprecedented in planning terms.

The House of Assembly also provided for an early 'no' decision for DAC to refuse brothels in residential areas and within 200 metres of community facilities. It also provided for a size limit on brothels with a maximum of eight rooms and indicated that DAC must consult all neighbours within a 200 metre radius, including streets behind the brothel, and that they must be nowhere in sight of the brothel. DAC is not bound by the development plan in every council area because no development plan contains a policy on brothels.

The House of Assembly also decided that schedule one should provide a measure to give 'interim legal protection' during the assessment of brothels which were unlawful prior to the commencement of the act. That is the transition provision that we addressed the other night and have already deleted. We have already tidied up another issue in relation to exemptions for home activities under the approval process.

My key concerns with the measures adopted by the House of Assembly are that no recognition is given to building control issues, there is no role for councils, and the 200 metre radius for consultation with neighbours is excessive given that it includes streets and residents that are nowhere in sight of a brothel. I believe equally that it is inconsistent—but maybe it is by design—that the House of Assembly has banned DAC from giving approval for any brothel that would tend to establish a red light district as well as banning them in residential areas.

I think it is inherently inconsistent because the lack of suitable sites will see either the continuation of illegal activity which this bill seeks to address or will inevitably lead to red light districts. Perhaps the intention of some members of the House of Assembly was to so confuse the issue that it would look as though it was offering some support to the legalisation of brothels and the protection of women in particular working as prostitutes but provide a planning system that is inherently inconsistent and incoherent which would see no brothels—other than perhaps 200 kilometres from the GPO.

I have a range of amendments on file to address those inconsistencies in what I think is an incoherent package of planning measures. I propose to insert machinery provisions which require applications to be lodged in the same manner as all other planning and development applications: that is, that they be lodged with the council in the first instance and then the council in respect of a brothel application would forward that to DAC. By this means, not only will the council have a role but it will also have an opportunity to comment to DAC.

I think that is appropriate considering the issues, but also because I support brothels in residential areas subject to certain conditions. This opportunity to comment, as I provide in my amendments, would be for the standard six week period that applies to all other forms of development. I will also move amendments to provide that, in relation to inappropriate persons, applicants for a brothel development must submit a statutory declaration that they are not 'banned' from operating a brothel as a result of breaches of other parts of the act. This means that DAC will not have to deal with or consult the community on applications that are essentially hypothetical.

The bill provides, and I have maintained this in my amendments, that DAC has an opportunity to say an early 'no' to an application, and one of the reasons for saying an early 'no' is criminal activity and improper persons. I find it difficult to accept that DAC would have to assess all of that because it would hardly provide DAC with an opportunity to say an early 'no' to an application, and anyone applying should be able to confirm to DAC by statutory process that they are not an inappropriate person under the terms of my amendments.

I also seek to provide that DAC can make a planning decision and refer the building rules assessment and ongoing building safety issues to a council. This issue has given councils some concern. They are much happier that DAC not only assesses and possibly approves the application but that it is also responsible for all the building safety issues. I do not accept that. The reason councils are arguing in that manner is that they believe that if they have to handle building safety matters they will be seen as the approving agency. That, to me, is not logical. Councils are simply the recipient of the application. They move it across to DAC and DAC has to undertake all consultations with neighbours. It is clearly seen out front that it is the one assessing the application and if it gives approval it is clearly seen in that light also. Only if approval was given would councils became involved in delivering something that another body had assessed and approved.

I have provided for the early 'no' to retain the 200 metres provision in relation to community facilities and for large brothels above eight rooms. The red light district and the ban on residential zones I have made discretionary for DAC. The

bill from the House of Assembly provides that an early 'no' is where an application is above eight rooms or within 200 metres of community facilities, which would tend to establish a red light district or is in a residential zone. I have retained two of those mandatory early 'no's, the 200 metres from community facilities and the above eight rooms. I have provided that two other measures be discretionary for DAC, that is, the residential zones and the red light district: DAC would have to have regard to those matters in assessing the application.

That generally explains the amendments on file. My intention is to provide a role for councils, retention of the early 'no' but more discretion for DAC in assessing that because it is inherently inconsistent with what the House of Assembly has provided—that DAC could not approve an application that would tend to establish a red light district or contemplate residential use. That would see the proliferation of illegal activity and establish a strong red light district zone, which is not what the industry wishes, and certainly not what I would wish to see arising from this measure and not what the community would want in the short or long term.

The Hon. CAROLYN PICKLES: I move:

New clause 10.

Leave out from subclause (1)(e)(ii) '8' and insert '5'.

If the minister's amendment is successful it amends the number of rooms available for the provision of sexual services. I am amending it to five rather than eight as I think eight goes into the realms of large brothels. From talking to a number of members on this issue, I believe that they would prefer brothels to have a smaller number of rooms. If the minister's amendment is not successful, I will move it to the existing clause.

The CHAIRMAN: If the Hon. Mr Cameron wants his other two amendments to be considered by the committee, he should consider moving them now because the first question that I will put to the committee will test the minister's amendment of a whole new clause. If the first question supports the minister, there will not be any beginning to the clause: the first 19 lines will have gone and therefore there is no point in Mr Cameron's amendments being considered after that.

The Hon. K.T. GRIFFIN: Cannot he then move that amendment as an amendment to the substituted clause?

The CHAIRMAN: He can do that, yes.

The Hon. K.T. GRIFFIN: So he can reframe his amendment so that it becomes an amendment to the new clause. I suggest we should hear the arguments on all these issues and, if the minister's clause gets up, that is, if we delete the present clause 10 and include a new clause 10, then it does not prevent us from moving amendments to the new clause. That will then deal with the substantive issues that the Hon. Mr Cameron wishes to deal with.

The CHAIRMAN: It is up to the committee as to how it wants to proceed.

The Hon. P. HOLLOWAY: Since we are now discussing the planning aspects of this bill, it would be appropriate that I put on the record (as I do not think that anyone else has) the views of the Local Government Association. Whatever one thinks about the LGA, it does have a legitimate role.

The Hon. T.G. Cameron: Self-serving.

The Hon. P. HOLLOWAY: The Hon. Terry Cameron has his views but, whether we like it or not, it is a separate tier of government, it does have responsibilities in many areas and it has a right to its views.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I guess on this issue it would claim it is, but maybe it is a matter of opinion. I will read out its letter dated 22 February, as at least it will put on record its views. I will then go on to explain how I intend to deal with this clause. The letter states:

I urge you to consider very carefully the points below given the serious implications for our communities. In its current form the Prostitution (Regulation) Bill and some of the proposed amendments will lead to the following significant, and in our view, most undesirable outcomes. The creation of what is effectively existing use rights would allow a brothel to legally operate right next door to a house, school, child-care centre or playground until such time as a formal application is assessed by the Development Assessment Commission (Schedule 1 transitional provisions). This could of course be up to several months.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: It will go when we deal with schedule 1, I think.

The Hon. Diana Laidlaw: Clause 9 is set up to go.

The Hon. P. HOLLOWAY: I understand it has been dealt with, but I wanted to put the correspondence in full. The second point continues:

The proposed new clauses 10(1)(e)(l) and (g)(l)(a) by the Hon. Diana Laidlaw would allow the DAC at its discretion to approve brothels in residential areas by removing the mandatory provisions in the bill (brothels to be excluded from residential areas).

The third point is:

The proposed new 10A (small brothels) by the Hon. Diana Laidlaw MLC would allow a number of small brothels to locate side by side in a suburban residential street without any approval or notice to adjoining residents, any appeal rights or any recourse.

The LGA remains strongly of the view that these provisions are not at all what the community is seeking. We are very supportive of the approach proposed by the Hon. Diana Laidlaw MLC to enable local community input through a mandatory referral of brothel applications by DAC to the relevant council. Local government does not accept, however, that councils be responsible for issuing development approval when it is DAC that would make the decision as to whether development plan consent is granted. This process would present a lack of transparency and accountability and would lead to confusion within the community as to who has made what decisions.

Since the final sitting session of parliament in 2000 the LGA has continued to undertake further investigations (including interstate research) into the anticipated impacts of the Prostitution (Regulation) Bill. The preferred position of the LGA is to establish a framework that provides for a stronger role to be played by the development plan as this reflects community expectation, provides greater clarity and increases the level of public notification. We have previously proposed a number of ways to address the significant problems outlined above (please refer to my letter to you of 4 December 2000). As previously advised, the endorsed LGA policy position in relation to prostitution is:

5.4.1 Any proposed legislative changes in relation to prostitution should not reduce the democratic role of local government to represent the interests of the community through the adoption of policies and principles in development plans and the assessment of development applications with the moral, social and religious considerations being matters for local determination by councils and their communities.

If legislation is passed (regardless of its final form) then due to wildly held fundamental concerns, the LGA is very supportive of the new clause 27 (Review of act) filed by the Hon. Carolyn Pickles, MLC that would see a review of the act after two years of operation. Given the inherent difficulties expected, it is suggested that a review be conducted after one year and a report be laid before both houses of parliament no later than 18 months (not 30 months) after the commencement of this section. The LGA remains prepared to constructively contribute to the development of legislation that would provide a workable and acceptable process for the assessment of applications for brothels.

Some contact numbers are then given, and it is signed by Mayor Brian Hurn, the President. I just wanted to put that on the record as the LGA position.

The dilemma that I face is that I have consistently opposed the location of brothels in residential areas. Perhaps I am a little more sensitive than most members of parliament, because I spent four years as a member of parliament in the lower house and I am well aware of the sorts of issues that come before local members of parliament every day of the week in relation to development issues and problems and relations between neighbours on all sorts of issues, and I am well aware of the problems that this would create for local members. Indeed, I find it very hard to believe that any members, particularly those in marginal seats, would ever contemplate the thought of putting brothels in residential areas.

However, that being my preferred position, it seems that I really have little alternative but to support the original clause in the bill as it comes to us from the House of Assembly, because clause 10(d)(i), of course, excludes brothels from residential areas. To be consistent with the position I have taken, the way in which I see the situation is that I really have no option but to support the original clause 10, even though I accept that it creates some other problems in relation to planning, should it get through.

I know that it is a very complicated issue because we have so many different approaches to planning before us in all the various amendments, and if I had had more time to devote to this matter I guess I could have tried to come up with a consistent set of amendments that would best deal with my position. But I have not done so. This has not been my priority, with all the other things that I have to do. I indicate that I will, at least in the first instance, support clause 10 in its original form, so that it will at least ban categorically brothels in residential areas.

The Hon. CARMEL ZOLLO: I indicate that I will support the original clause 10 in the bill, for the same reasons as those outlined by the Hon. Paul Holloway, because I believe that it provides tighter controls in relation to brothels in residential areas.

The Hon. T.G. CAMERON: Clause 10(c)(ii)(A) provides:

> certifying that the operator will be able to lawfully carry on the business at or from the brothel and that, to the best of the operator's knowledge and belief, each other person proposed to be involved in the business may lawfully be so involved;

Can the minister explain what that clause means and, in particular, the words 'each other person proposed to be involved in the business may lawfully be so involved'? That raises a doubt in my mind as to the phrasing of the entire clause. In my opinion, that would also pick up each person who worked in the brothel, because it provides, 'each other person proposed to be involved in the business'. If you are working in the business, you are involved in it.

The Hon. DIANA LAIDLAW: It is a legitimate question. I have been referred to the interpretation provisions of the bill. Clause 3(3) on page 6 provides:

> However, a prostitute is not to be regarded as being involved in a sex business only because the prostitute is entitled, by way of remuneration, to a proportion of the payments made for sexual services provided by that prostitute.

I think that that would be sufficient to alleviate the honourable member's concern that the prostitute would be involved under clause 10(c)(ii)(A).

The Hon. T.G. CAMERON: That would exclude a prostitute who was being remunerated a proportion of the payment that she was receiving for the sexual services provided by that prostitute. Fair enough. What about a cashier, or a cleaning attendant, or someone who tidies the rooms after the service has been performed—changes the sheets, cleans the room, etc.? In addition, a brothel may well have someone there to provide protection or security. Does it exclude or include security, cleaning staff, cashier staff and public relations staff? They might have a bar there which provides drinks and services. Are they all to be included? They are not excluded by subclause (3).

The Hon. DIANA LAIDLAW: That would be right. But I also do not believe that they would be part of the planning application for the development of the brothel. Normally, one would not identify cleaners and the like as part of the application process. I understand where the honourable member is coming from, but he is raising these questions in the section that deals with the initial planning application lodged with councils and transferred for consideration to DAC. DAC, in considering the application, will take account of the operator and those people nominated, and in the application they would have to indicate that they were lawfully able to conduct the business. But if the application is approved, the matters that the honourable member raises would be the same for the police and others to consider as they would with respect to any other lawful business. I highlight also (and it has just been brought to my attention) that clause 3(2) provides:

> For the purposes of this act, a person is involved in a sex business if the person is—
>
> (a) the manager of the business; or
>
> (b) a person who has a right to participate in, or a reasonable expectation of participating in, income or profits derived from the conduct of the business; or
>
> (c) a person who is in a position to influence or control the conduct of the business.

As I mentioned, it goes on to provide:

> (3) However, a prostitute is not to be regarded as being involved in a sex business only because the prostitute is entitled. . .

So, the interpretation clause regarding people involved in a sex business is quite specific in terms of what we would seek in a statutory declaration from the applicant.

The Hon. T.G. CAMERON: I thank the minister for her answer but I am not satisfied that the latest explanation on page 5 would exclude all these people. It provides:

> The manager of the business; or
>
> (b) a person who has a right to participate in, or a reasonable expectation of participating in. . .
>
> (c) a person who is in a position to influence or control the conduct of the business.

One would have thought that, if a brothel like Stormys appointed a security person to maintain security to deal with drunken or troublesome customers or to stop trouble there—and I am not a lawyer so I look to the lawyers here—they would fit into the definition of being 'a person who is in a position to influence or control the conduct of the business'. I will be pointed in the right direction if I am wrong.

The Hon. DIANA LAIDLAW: If that hypothetical person the honourable member has identified is in fact one of the applicants, that would be true; but if they are not part of the application process then it would not be reasonable to argue as the honourable member has. This is part of the application process for the development.

The Hon. T.G. CAMERON: I understand what we are doing. Again I go back to the wording. Perhaps I am misunderstanding what clause 10(c)(ii) means. It provides:

> in addition, must be accompanied by a statutory declaration of the proposed operator of each sex business to be carried on at or from the brothel—

I can follow that quite clearly. Then it provides:

> (A) certifying that the operator will be able to lawfully carrying on the business at or from the brothel. . .

I can follow that, but then it goes on—and this is what I take issue with, the way some of these things are drafted. It provides:

> . . . to the best of the operator's knowledge and belief. . .

That is a very tight clause—'to the best of the operator's knowledge and belief'. You could assign anything you wanted to what might be to the best of your knowledge and belief. Let me go on. It then has a comma and it then provides:

> . . . each other person proposed to be involved in the business may lawfully be so involved;

My interpretation of that is that that becomes the first test. Then you have a look at subclause (3), and that excludes all the prostitutes. Then you have a look at paragraph (c) which provides:

> a person who is in a position to influence or control the conduct of the business.

Well, that could be anybody. I understand what the word 'control' means, but it just says 'the conduct of the business'. That could include somebody who is made bar manager, manager of security or what have you. As I understand it, paragraph (a) would require the operator to submit a statement stating that, to the best of their knowledge and belief, all these people may lawfully be so involved.

The Hon. DIANA LAIDLAW: The honourable member supports the intent that—

The Hon. T.G. Cameron: I don't know about that.

The Hon. DIANA LAIDLAW: It's a question. I am just wondering whether you support the intent that DAC, as part of its immediate consideration of the application, should have the benefit of a statement in some form that the operator is legally able to carry on that business. The alternative is that DAC would not have that information at hand in assessing the application.

I think DAC has a right to that information in some form, because what we would be providing is that the application for the brothel would not be a valid application if it was submitted by a person who was not lawfully able to carry on the business. My concern with what was originally in the bill is how was DAC going to find that out; it was left high and dry without any means of finding that out. So, I asked for an amendment to say that the operator with their application must certify that they can lawfully carry on that business. If the honourable member also supports that sentiment then I am more than comfortable looking at the words and addressing his concerns.

The Hon. T.G. CAMERON: I do not have a problem with DAC receiving a certificate stating that the operator will be able lawfully to carry on the business—and I am not quite sure what that means; I will ask the Attorney-General to explain that to me later. My problem is with the words 'each other person proposed to be involved in the business may lawfully be so involved', and then when you look at what that means I accept it excludes the prostitutes but it does incorporate 'a person who is in a position to influence or control the conduct of the business'. That is a very broad definition. It might be a little ambiguous.

Perhaps I could give you another example. These brothels, generally speaking, are open 24 hours a day but they will not have a manager there 24 hours a day, seven days a week: they will probably have four or five managers. They may appoint a manager and then appoint a number of acting managers who go in and do a shift. I guess a brothel that would have eight rooms could have a manager and up to four or five assistant or acting managers.

I can accept that all those people would fall under this definition of 'a person who is in a position'. This clause would mean that the operator would have to submit a certificate saying that they are all okay. Two weeks after opening, two of those managers might resign—they just might not like working in a brothel. So, they have to put two more people on. Does that then mean that they are acting illegally or legally? Would it mean that, if they were caught by DAC using people in a position to influence or control the conduct of the business, they could not use that person?

Then I have the other problem that has not been addressed—precisely what influence or control the conduct of the business is. It could include a bar manager or a security manager or what have you. I do not have a problem with the concept; it is just how far it will extend. I accept—I supported it on the Social Development Committee, and the Hon. Sandra Kanck would probably confirm that—that we did need to ensure that there was some probity undertaken of the people who would be conducting or running the business.

I am trying to find out where the line stops. I know it includes the managers and I know it excludes the prostitutes, but I am not sure whether it includes someone involved in security or bar management. I am assuming that it would incorporate all acting managers or relief managers. What if there was a situation where someone rang in sick and said, 'I am in hospital and I can't get there', and they had to get a relief manager? That person might have criminal convictions associated with the industry. It may well be that, if DAC knew that a person of that character was working there, it would not have approved the application. What loops do we have to ensure that a place is not licensed and six months later it is overtaken by criminal operatives? Make no mistake about it: if we make this legal, these underworld gangs and criminals will be like bees heading for a jar of honey to try to get involved in it because of the money to be made. I support the concept; I am just not sure where it starts and finishes.

The Hon. DIANA LAIDLAW: As I understand it, the honourable member is indicating that he shares my anxiety that, when assessing whether it should be a valid application, DAC should have before it whether a person has certified that, as an operator, they would be able to legally carry on the business. I understand that his concern is beyond the application process and assessment by DAC and is the longer term management issues. Is that correct?

The Hon. T.G. CAMERON: Yes.

The Hon. DIANA LAIDLAW: So, it is the longer term management issues. I have some sympathy for the honourable member raising these matters. I understand that, in relation to the longer term management issues, there can be an application for banning orders. This was addressed earlier in this bill and, in fact, we tightened the grounds for those banning orders based on amendments which were moved by the Hon. Mr Redford and which we supported.

The Hon. T.G. CAMERON: Is the position you are putting that you believe that, because of the system of banning orders which has been set up, that process is sufficient to ensure that we will not end up in a position of applying to the court for banning orders to get rid of convicted drug dealers, convicted paedophiles and people convicted of sexual crimes against women, and so on? We will have to rely on somehow finding out and then applying to have them banned from these places.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: Yes, I do have some concerns about that. That is why I supported the licensing system.

The Hon. DIANA LAIDLAW: Is the honourable member saying that, if this bill passes and it is a legal activity and has a valid approval, any person who works in the business in the future and who has a conviction and may have served a sentence should not be working in that business?

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I cannot give an undertaking on my feet—

The Hon. T.G. Cameron: It is a bit loose, that's all.

The Hon. DIANA LAIDLAW: I hear what the honourable member is saying. He has asked me for an undertaking or guarantee that the banning provisions are sufficient to say that a person who has a conviction and has served their sentence cannot do it. I cannot give that undertaking. I also believe that, in many circumstances, a person who has been convicted and has served their time should have the chance to live a life again. In circumstances involving paedophiles and the rest there are certainly much more sensitive situations.

The impact and effectiveness of the banning order to that extent is something I would have to address. As the honourable member would recall, the banning order provision is to be recommitted. I believe we should look at this issue under the banning order provision, because it is a separate and an additional issue to the matter that is currently before us in clause 10, which is the initial application and the certification that has to be provided by the operator. I think the honourable member is also arguing that the wording here is too loose in relation to the certification. Is that correct?

The Hon. T.G. CAMERON: Yes.

The Hon. DIANA LAIDLAW: You support the certification but you think it is too loose in relation to the people who should be named?

The Hon. T.G. CAMERON: I have concerns about who paragraph (c) picks up as a person who is in a position to influence or control the conduct of the business. If it applies only to the management staff or to the person in charge of the business, then I can accept that. However, if it picks up other staff—

The Hon. DIANA LAIDLAW: No, it does not pick up employees. This is part of—

The Hon. T.G. Cameron: I do not wish to argue about what constitutes an employee and what does not.

The Hon. DIANA LAIDLAW: The courts have very defined terms for what is an employee and how they interpret that. I recall the other night that the Attorney said that he did not envy the planning minister. I am now trying to deal with legal issues and I have considerable respect for the Attorney-General. It may be that, if I have not got this completely right, the Attorney-General will wish to add to it. I was asked earlier by the Hon. Terry Cameron whether I could give a guarantee that the provisions in the banning orders would be sufficient to ensure that a convicted person would not be an employee. I cannot give a guarantee that a person convicted would not be engaged as an employee.

However, I have been advised that, if someone finds out that the employee has committed a prescribed offence, they can apply—and this includes the police—to the court for a banning order to be put into effect. That banning order could apply to the employee or the operator. We have not banned the employment of that person but, if the police or others know that that person is being employed, they can apply to the court to have that person banned or the operator banned, and the whole place would close. That should help the honourable member a great deal in dealing with this issue.

The Hon. T.G. CAMERON: One can only assume from that explanation that the banning orders are likely to be submitted by the operators of other brothels as they try to put each other out of business. It will trigger off a banning war amongst brothel operators.

The Hon. DIANA LAIDLAW: I suppose that is no different from the normal commercial world, where someone is in the petrol business or the cement business and someone else undercuts and tries a range of things to put that person out of business. What the Hon. Terry Cameron has identified is what could be described as real world practice.

The bill as introduced provided that only the Director of Public Prosecutions or the Attorney-General could apply for a banning order. These measures in clause 6 are to be recommitted. The amendments moved by the Hon. Angus Redford, which I and the majority supported, provided that the community or the police could apply for a banning order. I did that because, if brothels are established on residential streets, I believe that the community should be involved, although I would not necessarily want the reverse onus of proof measures.

However, if this parliament decides that brothels should not be established in residential streets, in the recommitting of that clause I will reconsider community involvement in the banning orders, and that would address the honourable member's concern that any rival brothel owner could do this. I give that undertaking. That clause will be recommitted and, if we lose the residential measures which I know the honourable member opposes anyway, I will change my mind as to who can apply for banning orders.

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

Page 9—

Line 22—Leave out '8' and insert '10'

After line 30—Insert:

(2) In this section—

'prescribed area' in the City of Adelaide means—

(a) the area within the 'Central Activities District' or the 'Frame District' as defined in the Adelaide (City) Development Plan under the Development Act 1993 (as in force from time to time); or

(b) if regulations are made prescribing an area in the City of Adelaide for the purposes of this section—the area so prescribed (to the exclusion of the area referred to in paragraph (a));

'prescribed distance', in relation to the site of a development, means—

(a) in the case of a site within the prescribed area in the City of Adelaide—100 metres;

(b) in any other case—200 metres.

The CHAIRMAN: As outlined by the Attorney-General, if you are not successful the first time in amending the minister's amendment, you can do it later.

The Hon. T.G. CAMERON: I understand that. One amendment alters the prescribed distance from 200 metres to

100 metres. Brothels cannot be established within 200 metres of any prescribed establishment. An examination of a map of the Adelaide City Council area, taking into account where the schools, etc., are, indicates that brothels could not be set up in the Adelaide city district area. My concern is that, because a lot of the traffic for these services would be initiated in the CBD area, that would turn suburbs such as Mile End, Thebarton and Hindmarsh into corridor suburbs to which the brothels would all gravitate.

It was not my intention to support a bill that saw all the brothels being located in one or two suburbs on the outskirts of Adelaide. However, by leaving out the 200 metres and inserting 100 metres, it would mean that, if the bill were successful, brothels could be established within the CBD. In my opinion that would be a preferred position than siting them on the outskirts of the CBD where they are more likely to come into contact with residential areas, children, etc.

The other amendment seeks to alter the number of rooms from eight to 10. The smaller we make the number of rooms in these brothels, the more brothels we are likely to have. Expanding the number of rooms from 8 to 10 would not create a large brothel but would serve to limit the number of brothels that were open, which I think would be a good thing.

The Hon. SANDRA KANCK: I will be supporting the Hon. Terry Cameron's amendment with regard to the reduction from 200 metres to 100 metres. However, I certainly will not support the increase in the number of rooms. When the Social Development Committee reported in 1996, we recommended that, in the frame district of the Adelaide City Council, the distance be 50 metres. The 100 metres proposal would still catch a lot of existing brothels, but it would be better than the 200 metres provision.

I am using an old map. The prescribed area that Terry Cameron has in his amendment after line 30 refers to the area within the central activities district or the frame district as defined in the Adelaide City Development Plan under the Development Act 1993 as in force from time to time. As the map that I am working from is a 1996 map, it may not be exactly accurate, and I know that the map that the committee had was a coloured one, and mine has been reproduced in black and white.

In very rough terms, the frame district consists of two areas with North Terrace as the upper boundary. The eastern side of it is roughly north of Wakefield Street and slightly east of King William Street, and the other side sort of mirrors it, but it is more west of Light Square. That is the sort of area that we are talking about. As I have said, this is a 1996 map and, when we are talking about whatever map of the Frome district is in force from time to time, it might be slightly different.

I think the 100 metres is important because the Minister for Transport's amendment refers to the possibility of tending to create a red light district. If we have 200 metre zones, there is almost nowhere in the CBD where a brothel can locate. The few areas that would be left would most certainly create a red light district. I cannot see any other way around it.

The reality is that there are brothels operating in the city at present that fall easily within the 200 metre limit or the 100 metre limit. Lunchtime in the city is a time when brothels do business. There are men who leave their workplace during their lunch break and visit a brothel. Either the bill in its current form or the Hon. Diana Laidlaw's amendment will effectively prevent any brothels operating in the CBD. I know that, for many, that is their intention, but if we are dealing with the process of creating a legal brothel industry we must decide whether we are going to enable it to operate or prevent it. The 200 metre limit, as far as I can see in the context of the remainder of the minister's amendment, effectively will stop any brothel sex industry from operating in the CBD. The Hon. Terry Cameron's amendment of 100 metres will much more enable it.

I will address the issue of the size of brothels while I am on my feet. For me, even eight rooms is not acceptable. The Hon. Carolyn Pickles' proposition of five rooms is much more acceptable to me. Generally speaking, I would like to see our brothel industry as small, quiet and discreet as we can get it. I do not want in any way to promote the large, glitzy, neon sign, franchise types of operations. Therefore, regarding the size and the number of rooms in a brothel, I support the Hon. Carolyn Pickles' amendment.

The Hon. T.G. CAMERON: I seek clarification from the minister regarding the number of rooms. Will the minister explain the clause which refers to the number of rooms available for prostitution. What rooms does this include?

The Hon. DIANA LAIDLAW: In moving the reference to eight rooms being available, I have taken the exact wording that was passed by the House of Assembly. I understand—and my advice confirms it—that it does not include laundries, loos, or front reception areas; it is actually where the sexual service is provided.

The Hon. T.G. CAMERON: How would you determine where the sexual service is to be provided? There could be a house set up with a dining room, a TV room, a loungeroom and six other rooms being used as bedrooms. Would that constitute nine rooms or six rooms?

The Hon. DIANA LAIDLAW: The rooms where the activity is—

The Hon. T.G. Cameron: People don't always have sex in a bedroom.

The CHAIRMAN: Order! There is only one person on their feet at a time. The minister has the call.

The Hon. DIANA LAIDLAW: I have never been into a brothel. They may want to have a dining room. I would not have thought that too many brothels would have more rooms than they need beyond the rooms where the activities are undertaken. The honourable member may know more about that than I. All I have been told is that it is understood that it is the rooms where the activities are undertaken. The definition of 'sexual services' is as follows:

> . . . an act involving physical contact (including indirect contact by means of an inanimate object) between two or more persons that is intended to provide sexual gratification for one or more of those persons, but does not include an act of a class excluded by regulation from the ambit of this definition.

In terms of banning orders or whatever, if it was more than the number of rooms—if, as you say, they have 5, 8 or 10 rooms—if the police or the community want to check because they think there are more than five rooms, they can take that further. Is the honourable member arguing that 10 rooms—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I cannot say any more than that. It has been designed in line with the House of Assembly's provision, and I have adopted that provision that there can be eight rooms where the activities are undertaken.

The Hon. T.G. CAMERON: That is not what it says. As I understand it, you would lodge an application with the Development Assessment Commission. It is clear that the Development Assessment Commission is not to approve a development if the premises have more than eight rooms available for the provision of sexual services. That means

that, if it is a nine roomed house and they are going to use only five of them for sexual services, that house would not be approved. I am not a lawyer, but I see a couple of lawyers nodding in agreement.

The Hon. Diana Laidlaw: Not more than that.

The CHAIRMAN: Order!

The Hon. T.G. CAMERON: More than eight rooms available for the provision—

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: They will not know which rooms are available, including bathrooms. It just says 'eight rooms available for the provision of sexual services'. If the house has eight rooms, it does not matter what the rooms are currently being used for. It could be a laundry, a toilet or a bathroom; this clause would pick it up.

The Hon. CAROLYN PICKLES: It is some time since I have been inside a brothel—I did my research in this area some years ago—but my understanding is that a brothel may have a reception area, and there is often a room in which the sex workers sit when they are not actively participating in their job. Under the definition in this bill, that would be a perfectly acceptable room, even if it was in addition to the eight rooms. In other words, I understand that most of the rooms in which they work have beds in them of a variety of sorts.

There may be a room set aside for some other strange activities involving leather and equipment (which we will not go into now) that may not necessarily have a bed but is a room set aside for sexual services. We are being a bit unrealistic. For the purposes of the operation of the act, most people would want, when an act becomes law, to work within the confines of the law and, if there are five, eight, 10 or 50 rooms, they would be providing something the customers want, and the customers would want a reasonably comfortable room for the activity in which that takes place. I know some people are more athletic than others but, for the purposes of this piece of legislation, I think most people would expect the room where the sexual service takes place not to be the dining room, bathroom, toilet, kitchen or laundry but a room set aside. What people do in the privacy of their own homes is one thing and I have no objection to that, but what they do in a brothel is another issue.

I also refer to the issue of the 200-100 metres limit. I am waiting for the minister's comments in relation to the amendments moved by the Hon. Mr Cameron, because the amendment I had in mind was different from the one to which my attention was drawn and which involves the central activities district or the frame district of the city of Adelaide. When I introduced a bill in 1986 I could not understand, quite honestly, all the hoo-ha about having a brothel that was unsigned next to a school, church or whatever, but I recognise the sensitivities of the public and my colleagues in the lower house in relation to this and would support something that excludes it right next to a school, church, community centre or whatever.

Correspondence I had some time ago from the Adelaide City Council talked about the bill as it went into the House of Assembly in relation to the 200 metre limit within the city of Adelaide. It commented in a letter to me that about 95 per cent of the city excluding parklands is within 200 metres of a place of education, care or recreation of children, a church or place of worship or a community centre, which would then make it reasonably unworkable. There are a number of brothels, albeit probably illegally, located presently in the city of Adelaide. Some are in residential areas but some are set up in a business strip within the city limits, and I would have thought that that was a reasonable place to have them, but I would want to avoid anything that would congregate them all into one little area and not allow them to be spread out. Will the minister comment on the central activities district or the frame district contained in the Hon. Mr Cameron's amendment? I am not familiar with those definitions.

The Hon. DIANA LAIDLAW: There are two matters I will address briefly. I refer to the Hon. Terry Cameron's questions about the rooms available—five, eight or 10—and the range of measures before us to consider. In terms of the process of applying for the legal development of a brothel, the applicant would have to submit a whole range of material, including certification, about whether they are a lawful and proper person and also the layout plans of their proposed brothel. It is not the detailed building plan but the layout plans.

The Hon. T.G. Cameron: That is the intent—

The Hon. DIANA LAIDLAW: That is what would be required.

The Hon. T.G. Cameron: How do we know that?

The Hon. DIANA LAIDLAW: It comes under the powers of the planning process. DAC would wish to see plans for anything today—for any building in whichever council area from any applicant: it must have the layout plans. DAC would have those layout plans—not detailed building plans—and would give its approval based on those plans. If there were 20 rooms and it was told that there would be only eight, it would be pretty suspicious and may say 'No' to the application, which I would expect in those circumstances. However, if it said 'Yes' and nominated just the five, eight or 10 rooms, two matters would arise. Anybody in the community can appeal a breach of a planning application that has been approved. It does not matter whether it is a shed next door or a brothel.

If people thought five rooms were approved and in fact 20 rooms were being used, you would soon know whether 20 rooms were being used because the activity would be so great with cars coming and going. Why would you continue to have 20 rooms if you are given approval for such and not have them used, with all the set up costs involved? It would be a stupid business decision. You would know what was happening. People will observe others coming and going. Anybody can take to court a breach of the Development Act and, in addition, as I indicated before, it can be the subject of a banning order. I have been handed section 85 of the Development Act, which provides:

> Applications to the court.
>
> (1) Any person may apply to the court for an order to remedy or restrain a breach of this act or a repealed act (whether or not any right of that person has been or may be infringed by or as a consequence of that breach).

It goes on to outline how the application must be submitted to the ERD Court and the rest. Because the layout plans have to be submitted, I would see that as a condition of any approved application.

In terms of the issue of how many metres the development of a brothel should be situated from a community facility, a school, a recreation/care place, a place of worship, a church, a community centre and the like, in my amendments I have provided for 200 metres, as the House of Assembly provided, and at this stage it would be my intention to stay with the 200 metres. I would be prepared to reconsider that, depending on how my other amendments fare in terms of new clause 10A. What I have provided in my amendment, which the Hon.

Terry Cameron wishes to further amend back to 100 metres, is that that distance would apply to all brothel applications.

My amendments to clause 10 ask this chamber to consider that small brothels do not have to submit a planning application. If that is passed, I would think that a large brothel should be 200 metres away. But if my amendment fails, I would be prepared to reconsider the member's amendment of 100 metres, and I just wish to explain the context—

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Some clauses are to be recommitted. If this amendment goes through in this form—and I do not know whether it will go through at 100 metres or 200 metres. I will vote for 200 metres, but if I fail on 10A, which would exclude small brothels from the planning development approval process, I would be prepared to entertain 100 metres in the core Adelaide area, against the wishes of the member for Adelaide and some of his constituents.

The Hon. A.J. REDFORD: The Hon. Terry Cameron raised the issue of clause 10(d)(iii) (and I am reading from the clause that has come from the House of Assembly), which provides that the premises would have more than eight rooms available for the provision of sexual services. My reading of that clause is that the key words are 'rooms available for the provision of sexual services'. That would inevitably (and I do not know of any other way around it) be a question of fact. The process would be that the applicant would lodge their application and, one would assume that, unless they had some sort of death wish in relation to that application, they would submit a plan which would indicate that there were only, as currently drafted, eight rooms available for the provision of sexual services.

An honourable member interjecting:

The Hon. A.J. REDFORD: I have read a lot of novels. There are all sorts of places where this sort of activity can take place.

An honourable member interjecting:

The Hon. A.J. REDFORD: I think the minister is being a bit cute, because I am sure that she is as widely read as I am—probably more widely read.

Members interjecting:

The Hon. A.J. REDFORD: I am not talking about observation; I am talking about reading. There is some great literature out there.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The Hon. Bob Sneath interjects and says 'bedrooms'. It does not say that: it says 'eight rooms available'. One would imagine that one might see plans submitted where there are eight rooms available, and there might be another six rooms that are either shut off or designated for some other purpose. In that case, it would not offend against this provision. Obviously, if people started to expand or change the nature of how the premises were used and started using more than the eight rooms—or whatever room level the parliament determines—that person would run the risk of having a banning order made on the whole of their activity, which is a fairly significant sanction.

It would seem to me that, if someone came to me to ask for advice, the key words, as I said, are 'available for the provision of sexual services'. There are some rooms, such as a kitchen and a toilet, which one might presume are not available for sexual services. But if one saw (depending on what happens to the advertising provisions) advertisements saying that there was a kitchen or a bathroom, or something like that, available for sexual services, that might expand it out and then provide the basis upon which a banning order might be sought. At the end of the day, we will never get a definitive answer in this context—with the greatest of respect to the Hon. Terry Cameron—because we will have to deal with this on a case by case, fact by fact basis.

In terms of the planning application, when one looks at this clause, what the authority will have in front of it is, first, a note, or some indication as to where the premises are to be located, to ensure that they do not offend against the other provisions; secondly, a plan—and, obviously, the plan would designate what is or what is not available for the 'provision of sexual services'; and, thirdly, if the minister's amendments get up, some material comprising a statutory declaration. I do not see how you can put the authority in any better position than that, in any event. We do not expect an authority to be put in any better position in relation to a range of other activities and applications. Obviously, those who run the business, as I said, run the risk of being subjected to a banning order.

The Hon. Terry Cameron raised the issue (and I will stand corrected; I was listening to him through the speaker in my office) of the minister's proposed new clause 10(c)(ii)(A), about lawfully carrying on the business, and referred to the example of, I think, bar staff (and I suspect that they would not get a licence, anyway) or cleaners. One cannot be said to be carrying on a business unless there is some sharing of profits, and it would be hard to imagine a cleaner sharing in the profits and not carrying on the business.

I think that we need to be careful (and the Hon. Terry Cameron alluded to this quite succinctly and colourfully), in that you may from time to time have unsavoury characters who pretend that they are not involved in the business and, basically, spend their whole time at the premises being a cleaner. Again, that will be a matter of the facts that might be before any appropriate authority at any given time, and it may well be something that is brought before a court when one deals with a banning order. But I would have to say that, if someone is a cleaner and is receiving a share of the profits (and I cannot predict every decision made by the courts; they occasionally make the odd decision), I would find it very hard to imagine any court saying, 'Well, a cleaner is sharing in the profits but that cleaner is not involved in the business.'

The Hon. T.G. Cameron: What if he channelled his profits into a blind trust? How would you find out?

The Hon. A.J. REDFORD: We will always be confronted with that problem. I have had some experience with this as a member of the legal profession. There are provisions in the old Legal Practitioners Act (and I think there are some similar provisions in the current one, but I dealt with it under the old act) where a non-lawyer is not allowed to share in the profits of a legal practice or be engaged in the practice of the law. The issue used to arise with respect to debt collection businesses, where a non-lawyer would establish a debt collection practice and there would be some questions as to whether or not that non-lawyer was engaged in the provision of legal services. On the other hand, there would be the difficulty with lawyers who were prohibited from advertising their business in the environment that existed in those times, and those lawyers' debt collection companies would advertise the debt collection business, and there were all sorts of dramas were about whether the lawyer was using the debt collection business as an advertising front.

Again, the best that one could do in those circumstances, with that sort of regime, was to deal with it on a case by case, fact by fact basis. I had a couple of experiences (and I will

not name names) where I gave advice, and the Law Society and other authorities dealt with it, and it was quite difficult. I know that the Hon. Terry Cameron disagrees with my approach, and I acknowledge that the Hon. Terry Cameron voted against my approach when we dealt with the issue of banning orders. That is why I have sought to insert into the bill, successfully to this point, first, the expansion of the range of people who may apply for a banning order and, secondly, because this information is particular to the operators of the enterprise, the requirement that the operators demonstrate that they are operating within the law, that is, that the cleaner or the barman is not engaged in the business.

I think that that will provide a substantial impediment to the concerns alluded to by the Hon. Terry Cameron. I think he put it quite well and colourfully, that if this gets through there will be the potential for this sort of enterprise to attract organised crime—I think he said bees to honey. That is a very astute observation and that is why I have advanced the proposition that, first, a broad range of people can apply for banning orders and, secondly, the onus is on the operator to demonstrate that they are not part of some organised crime capacity, that at the end of the day at the stage of applying for a banning order there are no criminal sanctions. I am not trying to revisit it, but it is something that needs to be taken in context in dealing with the clause.

The Hon. R.R. ROBERTS: I will be supporting the proposition that was established by the lower house. I have listened to the contributions of a number of speakers with respect to this and I find the rationale and logic in some cases to be hypocritical and in other cases illogical. I disagree with the proposition espoused by the Hon. Terry Cameron with respect to the distance from a nominated institution, which are places of worship and schools.

What we are saying here is that, if you send your kids to a school in the metropolitan area, it is all right for them to be subjected to lewd behaviour or any other perceived dangers in having a school close to a brothel. What we are saying is that it is all right for metropolitan kids to be subjected to that sort of pressure but in country areas we cannot do that. So we have a discriminatory proposition there.

The Hon. Sandra Kanck interjecting:

The Hon. R.R. ROBERTS: For the sake of the Hon. Sandra Kanck, I am certain that people in Mount Gambier and large provincial cities and the entrepreneurs in the brothel business will be saying, 'Well, why don't we get the same benefits we do in the metropolitan area?' This proposition is premised on the fact that we make it easier for these people involved in the illegal prostitution business in the metropolitan area to become legal.

I do not believe in organised prostitution, living off the earnings and the third party interventionists in the sex trade. I have said before that it is my belief, and I think it is a fact, that prostitution between consenting adults in private without causing offence has not been an illegal act in South Australia since about 1978. It is not a question of whether or not you like sex. I think we need to be consistent about it.

The minister has said that she will oppose the Hon. Terry Cameron's proposition for large brothels. Her next amendment provides that small brothels do not have to have planning approval—and I do not understand the logic of that because if you have the same demand, whether at a small or large brothel, the likelihood of some of the offences that are feared by members of the lower house who have set the distance at 200 metres are probably more likely to occur on the streets and in the vicinity because they cannot meet the demand at a rate which is acceptable to keep them off the streets. I find the whole thing a little hard to follow.

I believe that the bill has been promoted by the majority of those people in the lower house who approve of the provision of sexual services through brothels and the prostitution trade. Whilst I disagree with their theory I think that on this occasion, at least in this area, the consensus of the lower house is the one that I will vote with at present. I will be supporting the clause as it stands part of the bill, and when it comes to the clause to which the minister has alluded—and I know it is jumping the gun—whereby she believes that small brothels do not need planning approval I will be opposing that also.

The Hon. K.T. GRIFFIN: I just want to make a few observations about the minister's proposed amendment. I am inclined to support it for the reason that it is a much more consistent approach with the provisions of the Development Assessment Act than what is in the bill. There are of course two difficulties with it: the one the Hon. Mr Cameron has raised about the statutory declaration being required to accompany the application for consent from the applicant about the operation of the business and those involved in the conduct of that business; and of course there is the other issue which attracted significant debate, and that is whether or not the brothels ought to be permitted within a residential area. What the amendment does is to ensure that that issue is taken into consideration by the Development Assessment Commission. It is a discretionary factor compared with the clause in the bill which absolutely prohibits brothels within a residential zone.

It seems to me that if we can get the process correct they are the sorts of issues that can be addressed subsequently by way of perhaps recommittal of the clause if the minister's amendment gets up, and we can then give consideration to those two issues in particular. The Hon. Terry Cameron has raised the issue of the number of rooms available for the provision of sexual services. Whilst I am tempted to add more to it, I think that ultimately it does come back to a matter of DAC exercising commonsense, but it is possible that there are rooms which might not necessarily be designated as bedrooms and which nevertheless, in the context of the application, might be regarded as available for the provision of sexual services.

There are a number of other issues I can raise. I am inclined to support the minister's clause if only to ensure that we get the process right. If it is carried and if there are issues within that amendment that need to be reconsidered such as those two to which I have referred, I think we can recommit it.

The CHAIRMAN: The question I will put first is that all words in clause 10 down to but excluding 200 metres in line 19 stand part of the clause. If you want the present clause to stand or to contemplate Mr Cameron's amendment you would vote 'yes'; and if you want to support the minister you vote 'no'. Is everyone clear on that?

The Hon. A.J. REDFORD: Is the Hon. Terry Cameron at liberty to amend if the Hon. Diana Laidlaw is successful?

The CHAIRMAN: Yes, he certainly is. I will put the question again: that all words in clause 10 down to but excluding '200 metres' in line 19 stand part of the clause.

The committee divided on the question:

AYES (6)

Dawkins, J. S. L.	Roberts, R. R.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	Zollo, T.(teller)

NOES (10)

Cameron, T. G.	Elliott, M. J.
Griffin, K. T.	Kanck, S. M.
Laidlaw, D. V.(teller)	Lawson, R. D.
Pickles, C. A.	Redford, A. J.
Roberts, T. G.	Sneath, R. K.

PAIR(S)

Lucas, R. I.	Gilfillan, I.
Holloway, P.	Davis, L. H.

Majority of 4 for the noes.

Question thus negatived.

The CHAIRMAN: The question is that the remaining words in clause 10 stand as printed.

Question negatived.

Progress reported; committee to sit again.

[Sitting suspended from 1.01 p.m. to 2.15 p.m.]

PROSTITUTION

Petitions signed by 606 residents of South Australia concerning prostitution, and praying that this Council will strengthen the present law and ban all prostitution related advertising to enable police to suppress the prostitution trade more effectively, were presented by the Hons Caroline Schaefer and A.J. Redford.

Petitions received.

VOLUNTARY EUTHANASIA

A petition signed by 357 residents of South Australia concerning voluntary euthanasia, and praying that this Council will reject euthanasia legislation in any form, was presented by the Hon. Caroline Schaefer.

Petition received.

WOMEN'S STATEMENT

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a statement on the subject of the Women's Statement 2000-2001.

Leave granted.

The Hon. DIANA LAIDLAW: I also seek leave to table a copy of the Women's Statement 2000-2001.

Leave granted.

The Hon. DIANA LAIDLAW: The Women's Statement 2000-2001 highlights innovative programs and investments made across government for the benefit of women throughout South Australia. As this year is also the International Year of Volunteering, the statement also highlights the work of women as volunteers. As we all know, women's volunteering underpins so many of the services and activities undertaken every day in our state.

The inaugural Rural Legends Awards 2000, for example, celebrated the extraordinary contribution of women in rural communities. In part, increased numbers of volunteers during 2000 also enabled the Women's Information Service to handle a 54.4 per cent increase in contacts, including a 75 per cent increase in the number of women visiting the shopfront in the Station Arcade, North Terrace. WIS's free of charge programs to help women gain experience using computers and internet services contributed to this outstanding outcome.

In health, the government provided new funding for a midwifery skills enhancement project for rural and remote midwives and a community midwifery project to extend birthing and maternity care options for women in northern Adelaide. Through BreastScreen SA, all South Australian women can access mammography screening, and South Australia has the highest level of screened women in the nation, and this week the milestone of 500 000 women being tested was achieved.

In education, the government is ensuring that women are being assisted to increase their employment opportunities and extend their participation in community life. For example, a new parents' room at the Para West adult campus now provides breakfast and support for women with young families so that they are able to complete their secondary education. Meanwhile, the Women's Advisory Council is expanding its production of 'check list' information to include the needs of young women. Overall, the check lists are designed to help women achieve financial independence.

In the arts, a wide range of women's creative endeavours receive recognition and financial support. One such example is Silver Sirens, a performance group of older women in Whyalla, which has received funding to produce a drama celebrating the centenary of Federation. The government is also supporting families through a school holiday public transport program. The Great Escape Kit enables adults to purchase one adult day trip ticket and take up to two children on outings free of charge throughout the school holiday period.

In the public sector, the government is taking the lead in introducing new voluntary flexible work arrangements to assist employees to achieve a greater balance between work, family and community responsibilities. These measures are of particular benefit to women who generally juggle the competing demands of career and family. Women now represent 62 per cent of the public sector work force and, over the past 12 months, there has been a 30.6 per cent increase in the number of women executives.

Last year Transport SA won the Australian Institute of Engineers award for advancing the participating of women engineers in the work force and for raising the profile of women in engineering through the Sylvia Birdseye Scholarship. In terms of the graduate recruitment program, the Department of Treasury and Finance, for example, achieved a 50 per cent recruitment of women as finance, economics and accounting graduates. Meanwhile South Australia continues to have the highest representation of women on government boards and committees of any state in Australia, now with just over 33 per cent.

Overall, while I have simply highlighted a very small selection of all the initiatives taken across government to address the interests and needs of women in South Australia, as the front cover of the statement broadcasts, all the initiatives are proudly made in South Australia. I commend the Women's Statement 2000-01 to all members and I have been advised that, due to a printing hitch, whereas I anticipated it would be ready for distribution today, it will be next Tuesday.

QUESTION TIME

DOMICILIARY EQUIPMENT SERVICES

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before

asking the Minister for Disability Services a question about Domiciliary Equipment Services.

Leave granted.

The Hon. CAROLYN PICKLES: On Thursday 4 May 2000, the Minister for Human Services told parliament that he was concerned that the Premier's competitive neutrality unit was proposing to curtail the activities of the Domiciliary Equipment Service to a point which would have made it unviable and that he was concerned by any action that would increase costs to consumers.

At the written request of the Executive Director of Statewide Health, Professor Brendan Kearney, on 23 November 2000 that Domiciliary Equipment Services be costed to ensure its compliance with the government's competitive neutrality principles, lawyers Norman Waterhouse were engaged to advise on a report by Ernst & Young which had been commissioned by the Department for Human Services on the cost of reflective policies of DES.

The report by Norman Waterhouse of 17 January 2001 found that the DES pricing practices satisfy the government's neutrality principles. Despite these findings, the executive of the Department of Human Services has now made a decision to deny DES the opportunity to tender to renew a contract with Veterans' Affairs, and DES has been told that it cannot tender to continue work on the Housing Trust modifications for the disabled scheme. My questions to the minister are:

1. Why is DES being denied the opportunity to tender for the Veterans' Affairs and Housing Trust home modification contracts?

2. Why was the Department of Veterans' Affairs not consulted?

3. Why did the minister state in a letter to the General Secretary of the PSA dated 23 March 2001 that he was surprised to learn of the Norman Waterhouse report and that he had not seen their advice, when it was dated last January; and, before signing the letter, why did the minister not ask for a copy?

The Hon. R.D. LAWSON (Minister for Disability Services): The Domiciliary Equipment Service was set up, I believe, by an arm of the Northwest Adelaide Health Service at some time in the past and without any ministerial approval from either me as the Minister for Disability Services or the Minister for Human Services. The service established a retail outlet on Richmond Road, obtained a number of agencies, and was competing in the retail market for the supply and servicing of wheelchairs and other equipment.

That matter was the subject of a complaint by a number of small business operators who operate in a similar field and who claimed that the Domiciliary Equipment Service was undercutting them in price and not charging full cost recovery, bearing in mind that employees of the Domiciliary Equipment Service were all employed within the public sector.

As a result of complaints lodged through the Office of the Business Advocate, a competition review was undertaken within the appropriate section of the Department of the Premier and Cabinet. That review disclosed that the Domiciliary Equipment Service was conducting its affairs in a way which was inconsistent with this state's obligations under competition policy and that it was not operating in a competitively neutral fashion.

Consequently, the service was told to wind down its retail activities forthwith—and I believe that that occurred during the second half of last year. The service had obtained a contract from the Department of Veterans' Affairs and that contract was ongoing. It was directed that the service could continue to meet its obligations under the Department of Veterans' Affairs contract but that it would not be permitted to renew that contract when it expired.

The service was directed to continue to appropriately serve the needs of clients of domiciliary care and the Northwest Adelaide Health Service—and I understand that that has occurred. I also understand that the Department of Veterans' Affairs contract is about to come to a conclusion and, consistent with all the information that I have seen, the direction given last year that the service not continue with that tender is appropriate.

The honourable member asked about the advice of Messrs Norman Waterhouse, lawyers. I have seen a claim made by the Public Service Association that that firm had given legal advice which would have been based on instructions to the Domiciliary Equipment Service. What authority the Domiciliary Equipment Service, a state government agency, had to engage outside lawyers and not consult the Crown Solicitor on this matter is something that I will not stay to examine. Suffice to say that the advice from Norman Waterhouse has not been given to me nor, as far as I am aware, to the department. I would be pleased to see that advice and also the instructions upon which the advice was made. Until I see that advice and understand the basis of it, I am not prepared to comment upon it.

It is interesting that the Domiciliary Equipment Service, which has been going its own merry way for quite some time without ministerial involvement, should have sought private legal advice and not given it to either myself or the Minister for Human Services. I am certainly prepared to examine that advice and, when I receive it, I will make an appropriate response in relation to it.

ELECTRICITY, SUPPLY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question on government electricity supply contracts.

Leave granted.

The Hon. P. HOLLOWAY: On Tuesday the Treasurer indicated that the Department for Administrative Services was responsible for negotiating electricity contracts for government departments. My questions are:

1. Will the minister list the electricity retailers or brokers it is currently negotiating with?

2. Is the government negotiating a whole of government electricity contract or is it negotiating on a site by site basis?

3. In total how many government sites will require a negotiated contract and will the minister provide a full list of these sites?

4. In the case of self-managed unattached government sites, for example, Partnerships 21 schools, will the department negotiate the electricity supply contracts or will those contracts be negotiated by the individual agency?

5. Is it government's intention to reimburse these sites for the increase in power prices?

The Hon. R.D. LAWSON (Minister for Disability Services): The Treasurer did correctly say that the Department for Administrative and Information Services, through contract services and I believe under the guidance of the State Supply Board, is examining the question of the whole of government purchase of electricity. I am not aware of the

name of the parties with whom negotiations are being conducted, nor am I aware of the advisers who have been retained by the department. I am not entirely sure that as minister I am entitled to know the precise details of the process at this stage. I will seek further information and bring back a more detailed response as soon as possible.

ABORIGINES, JUSTICE LIAISON OFFICER

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation prior to asking the Attorney-General a question on the Aboriginal justice liaison officer.

Leave granted.

The Hon. T.G. ROBERTS: I have asked a number of questions in this chamber in relation to the procedures and methods used in difficult circumstances in dealing with people with different ethnic backgrounds, indigenous people and people with mental disabilities, and particularly the process and procedure to avoid confrontation and loss of life in those very difficult circumstances. I have been informed that it appears that the funding for the Aboriginal justice liaison officer is about to run out, and I am not sure whether the position is to be refilled or renewed.

I guess the plea from the people who contacted me was to maintain the service position of Aboriginal justice liaison officer for a number of reasons, including the advice and intervention that can be provided by such an officer in some of those difficult circumstances and also to provide a written report and to assist in the collection of evidence from those people involved who in many cases also have difficulty dealing with our justice system. From the information given to me, it would be a tragedy if we lost such a service from our justice system. Will the Attorney-General give a commitment that the position of Aboriginal justice liaison officer will be retained and that this position will be expanded to include direct involvement and form part of police procedures in some of those cases that I have mentioned and to provide a service for follow-up and evidence collection in such matters?

The Hon. K.T. GRIFFIN (Attorney-General): I am surprised the honourable member is suggesting that the Aboriginal justice officers scheme is to be terminated. He may be talking about something different from me but according to my information there are three Aboriginal justice officers in the courts, two males and one female. They were appointed on a trial basis to the Port Adelaide Magistrates Court in December 1998. Those appointments were made as a result of the review of the collection of fines and expiation fees. When we implemented the new fines enforcement system, we recognised that there was a large number of Aboriginal people who were in default in payment of their fines and therefore we determined to try a new approach in dealing with them—hence the appointment of three Aboriginal justice officers.

The role of those officers was to educate the Aboriginal community about the operation of the new penalty management procedures and the operation of the court and justice system generally, because there is a significant lack of understanding of the way in which the court system operates; to assist Aboriginal people in court to make sure they understood judgments—for example, to explain the options available for the payment/discharge of fines, and to explain their obligations in relation to the payment of fines and the ramifications if they do not comply with the court order; to assist with the development of fine enforcement policy and process with respect to the Aboriginal community; and to provide an interface between the Aboriginal community and the court and justice system.

That was the rationale for it, prompted by the new fines enforcement system which we introduced and which came on stream just over a year ago. There was a review of the Aboriginal justice officers pilot program. The consultant who took that review was recommended by the Division of State Aboriginal Affairs. The purpose of the review was to assess how well the current Aboriginal justice officers services were working and to identify what, if any, changes were needed to improve the operation. It was a broad review of the scheme. It was not a review of the individual Aboriginal justice officers' performance.

The review findings were very positive. They were based on in-depth interviews with a broad cross-section of stakeholders, from government and non-government agencies and the Aboriginal community. The findings of the review support the continuation and the expansion of the Aboriginal justice officers program. The review found that the initiative had increased the number of Aboriginal people and their families telephoning and coming into the Port Adelaide Magistrates Court; reduced the negative stereotyping of the courts by the Aboriginal community; promoted a sense of ownership in the court system amongst Aboriginal people; increased awareness by the court system of Aboriginal issues; improved the level of fines payments by Aboriginal people; established a positive link between the court system and the Aboriginal community; encouraged Aboriginal people to come to court to deal with outstanding fines and other processes; and provided an accessible shopfront service for Aboriginal people and other justice agencies.

There were about 50 recommendations made by the review. They covered the role of the officers, the location of the officers, line management, administrative support, facilities, training, promotion of the services provided by the Aboriginal justice officers, the selection process for those officers and, particularly, the services to be provided by Aboriginal justice officers on the Anangu-Pitjantjatjara lands.

As a result of the report, two additional Aboriginal justice officers have already been appointed. One services the Drug Court where there is a half full-time equivalent, one services the Mental Impairment Program where again there is a half full-time equivalent, and there is one Aboriginal justice officer currently on secondment to the Justice Strategy Unit in my Attorney-General's Department.

I should say also in relation to services to Aboriginal people in the courts that the Aboriginal court day project at Port Adelaide, which has proved to be so successful within the Aboriginal community and in dealing with Aboriginal defendants, has already been extended to Murray Bridge—that was a few weeks ago—and it is proposed that by the middle of this year it will be extended to Port Augusta. That is a very innovative approach which other states and territories are now looking at and looking to adopt, and I am delighted that what started as an initiative of the magistrates has now proved to be a significant benefit to the whole community and not just to Aboriginal people.

Community consultation has occurred in Port Augusta regarding the recruitment of two Aboriginal justice officers to support the Aboriginal court day there and also to promote further community education. All in all, there are some very positive things happening in the courts system, particularly in relation to Aboriginal issues. As the honourable member can hear from what I have just said, rather than winding up the service it is in fact being extended.

GOLDEN GROVE VILLAGE SHOPPING CENTRE

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 about bus services at the Golden Grove Village Shopping Centre.

Leave granted.

The Hon. J.S.L. DAWKINS: I recently received a copy of a response to a survey distributed by the Liberal candidate for Wright, Mr Mark Osterstock. A response from a retired married couple in Wynn Vale sought comments in relation to apparent rumours that the bus stop facility at the Golden Grove Village Shopping Centre may be removed. My questions are:

1. Can the minister indicate whether there is any truth in these apparent rumours?

2. Can she also inform the Council of any developments in the provision of facilities for public transport passengers in the Golden Grove area?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I had also been alerted to rumours that, at the Golden Grove Village, the services may be removed arising from an announcement made by me on behalf of the government late last year that a new bus park and ride interchange facility will be built nearby in the Golden Grove area. I advise the honourable member, the Liberal candidate in the area and your constituents without qualification that there has never been any intention by the Passenger Transport Board or me to remove that bus stop interchange or transfer the site from the shopping centre when the new interchange is constructed.

I have to acknowledge, however, that the current shopping centre facility has proven to be most convenient for public transport passengers as a transfer facility. They can get their shopping done easily, it is secure, well lit and highly convenient. But it is my experience that shopping centre owners generally do not like public transport initiatives or interchanges at the sites that are most convenient for their customers or for public transport users.

They certainly have a preference for seeing the maximum space made available for private cars, and this has been one of the frustrations with the current site. Certainly, public transport has brought more people to the Golden Grove Village, but increasing numbers of people have seen management of the car park become more and more difficult in making space available for public transport users and their vehicles. Hence the government decision late last year to establish the new park and ride facility at the Golden Grove High School site on The Grove Way to cater for some 180 vehicles.

In the announcement that I made last November, I advised that work would start in March. It is now 28 March and the advice I received when I was alerted to the possibility of the question is that preparatory work has started on the site. Clearing, soil investigation and depth for services started this week. So we have met that deadline. The project should take some 10 weeks to 12 weeks to complete following the Development Assessment Commission and tendering processes. So the new site is well under way. Overall, in the long term, the site at the Golden Grove Village will never be removed as long as the PTB and the government of the day maintain that commitment, which this government does.

HOLDFAST SHORES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport questions about the Holdfast Shores/West Beach boat harbour.

Leave granted.

The Hon. M.J. ELLIOTT: I have asked a series of questions in this place over some years about the costs associated with the movement of both sand and seaweed in relation to the West Beach boat harbour and Holdfast Shores. I think I first asked questions on 17 February 1999 about the cost of sand movement. We were told that the initial budgeted cost was $306 000. I received an official response to my question in February 1999, and on 2 May 2000 the Council was informed that the cost of sand movement had increased to $750 000. I asked further questions on 14 November last year, and I received a written answer late in the year and the answer was finally tabled in this place on 13 March this year in which the minister confirmed that the budgeted maintenance costs for Holdfast Shores and West Beach boat harbour were $2.2 million for 2000-01. However, the minister said in that response that the budgeted cost for future years was $1.5 million.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: And West Beach boat harbour, and so on. I note that the word used was 'budgeted'. In fact, when I asked previous questions I asked for the real costs and not the budgeted costs. I note that the answer was initially prepared late last year, although tabled this year, and that the dredge at Glenelg has not stopped since and that, in fact, a more intensive dredging program was about to start a couple of weeks ago. I also note that a second dredge was operating at West Beach in December last year and has not stopped working there, either. Noting that a lot of that work has continued since the answer to this question was first prepared, my questions are:

1. Will the minister now tell this place what are the expected costs of sand removal and movement and seaweed removal for the current financial year?

2. Does the minister anticipate the budgeted figure for the following year being greater than the figures that she provided to this place only a short while ago?

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): It is quite difficult to answer this question in a considered way because it is worth noting the way in which it has been framed, to put the worst possible light on the range of figures.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, I just want to highlight—

The Hon. A.J. Redford: You have to remember that it was asked by the prince of happiness!

The Hon. DIANA LAIDLAW: That is probably a fair comment. It was certainly a bleak response last night from the honourable member on the Adelaide to Darwin railway. Often his misgivings are misplaced but we do not hear that later. What is worthwhile pointing out is that the question was framed in a manner that looked at sand at Holdfast Shores. Then, as he went through his question, he clouded that issue and he has given us figures, which I freely provided, in terms of sand and seaweed at Holdfast Shores and West Beach. I need to highlight the way in which it has been framed to put the worst possible picture in terms of cost. Now we are

talking about sand and seaweed at two different sites, not the one issue at the one site to which the honourable member referred.

I have said to the honourable member previously that, in terms of the seaweed issue, it had not been anticipated, and we had a whole range of weather conditions and the like which were, I think, a one in five or 10-year experience—I cannot remember. That has been explained to the honourable member, and it is a bit like circumstances in nature. You cannot always anticipate in any given budget year that you will have to predict the worst environmental circumstances at that site in that year.

I cannot indicate to the honourable member at the moment what the costs are at this day. I can simply indicate budgeted costs, as I provided to him earlier, and therefore I will get the answers for the honourable member promptly.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: You are saying it is worse. You really wish it to be worse, but—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott can ask another question.

The Hon. DIANA LAIDLAW:—I have had no reason, because it has been done within contracted price, to ask about the issue, and I have had no advice given to me that the costs are outside budgeted amounts. So, the honourable member I think really wishes to find that this will be an extraordinarily difficult issue. He wishes to put the worst light on it, but that is his nature. I will get the facts.

DEVELOPMENT APPLICATIONS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on development applications.

Leave granted.

The Hon. CARMEL ZOLLO: The system improvement bill to amend various sections of the Development Act 1993 passed both Houses of Parliament late last year and has since received assent. Section 71A(1) of the recently amended act requires a council to prepare and adopt a building inspection policy. In doing so, councils must, according to section 71A(4)(a), take into account the financial and other resources of the council and of its local community, amongst, of course, other important factors, which the act spells out.

The opposition recalls, as I am sure do the Democrats, that this section was contingent on a fee, a levy, that councils would be empowered to charge on certain types of development applications. I understand that, to date, the necessary amendments have not been made to schedule 6 of the development regulations to enable councils to impose such a fee or levy. As such, councils that are at present preparing budgets are faced with uncertainty and, as a consequence, are delaying the development of building inspection policies. My questions to the minister are:

1. Is it intended by the government to stifle the monitoring and compliance of development approvals by councils whilst still claiming that they have introduced amendments to improve what is currently an appalling situation with respect to compliance?

2. Can the minister advise when this promised change will come into effect and what the quantum of the levy or charge will be?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I have never heard talk of a levy and there is no provision in the amending bill for a levy, so that is a bit of a beat-up in the phrasing of the questions. There is certainly provision for a charge and I have received advice from the Local Government Association (and I think I gave that advice to the Hon. Terry Cameron at the time this provision was being debated in the development bill) that the LGA has suggested a charge of $40. If that is approved by me or forwarded to the government, that would apply from 1 July when any adjustments to charges in terms of CPI or other index base apply. Charges are usually announced as part of the budget, and I envisage that the advice of the charge will be part of that budget process and will apply from 1 July.

OVERTAKING LANES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question on overtaking lanes.

Leave granted.

The Hon. CAROLINE SCHAEFER: I am sure most of us who drive on country roads frequently would acknowledge that the introduction of passing lanes has been one of the great improvements to our highways. I found a small news item from the *Whyalla News* stating that the Whyalla City Council intended to write to the minister and thank her for exceeding commitment to construct two overtaking lanes between Port Wakefield and Port Augusta in this financial year. It is a rare thing to be thanked for anything in government.

The Hon. R.R. Roberts: They were all going to be built before they opened up the road train route five years ago.

The Hon. CAROLINE SCHAEFER: No, they were not.

The PRESIDENT: Order! This is question time, not debating time.

The Hon. CAROLINE SCHAEFER: That interjection requires a bit of a reply.

The PRESIDENT: But not in your explanation.

The Hon. CAROLINE SCHAEFER: Would the minister explain at what stage the construction of the passing lanes has reached, what our commitment was originally and when the government intends to finish constructing the passing lanes on the main highway?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I, too, was very pleased to read in the *Whyalla News*, and then to receive the letter from council, that council had passed the resolution congratulating the Premier, the government and myself on accelerating the construction of these overtaking lanes.

I should highlight that, if one receives federal funds, it is easier to accelerate these projects. This is a national highway, and this state has strongly pushed for the approval of funding from federal programs for overtaking lanes across the national highway system in South Australia. As the Hon. Caroline Schaefer would have been out of order if she had answered an interjection from the Hon. Ron Roberts, on her behalf I indicate that, although it may surprise Mr Roberts, he is actually wrong. The government did again—

Members interjecting:

The Hon. DIANA LAIDLAW: It may not surprise other members, but it may surprise the Hon. Ron Roberts, because the government did not make it conditional on the construction of all the passing lanes for A-trains to be granted the right to come, first, to Lochiel and then into Adelaide. I know that to be so because I had to take a calculated risk to get

approval for those road trains when we did not have all the overtaking lanes that one would feel are desirable.

Not only did I hold my breath but I think many people in the area did also in the hope that this calculated risk would pay off. It certainly has in terms of the transport benefits for people in the mid-north and beyond in respect of both accessing Adelaide markets and produce being delivered to regional areas at a much cheaper cost per delivery because of the efficiencies of road train operations.

However, we did say that we would seek funding for the overtaking lanes on the national highway system, and because of very competitive tender rates—which is interesting in terms of the competitive tendering process that this government has introduced for road construction works over the past seven years—this meant that Transport SA's projection of five overtaking lanes in this financial year was out. We have been able to construct six overtaking lanes, one more than we had planned, and that is in addition to the two lanes that were constructed in the past financial year.

On National Highway 1 (between Port Augusta and Port Wakefield) six lanes will be built during this financial year at a cost of $4 million. They are all under construction now and should be completed by the end of April. This will bring the total number of lanes constructed over the past five years to 14 at a total cost of $7.7 million, and there are plans for the expenditure of further commonwealth funds to see perhaps 14 more built over the next four or five years.

However, that number has not yet been confirmed nor the dollars at this stage, but that is not surprising—we will get that closer to the time of the federal budget. The competitive tender rates for bidding to undertake this work have ensured that the community is able to gain advantages, including further overtaking lanes. I thank the honourable member for her question, and I am sure that, by using these overtaking lanes, she will be able to drive within the speed limit.

BIODIESEL FUEL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment, questions about biodiesel fuel.

Leave granted.

The Hon. T.G. CAMERON: Diesel generators are a significant source of pollution in the United States and reliance on them is growing. Seattle may soon have a new tool to combat energy crunches at a reduced cost to the environment. The city is launching a pilot program that will test the capacity of biodiesel fuel to curb air pollution without compromising operations. Produced from vegetable oil, sewage plant waste and even fast food grease, biodiesel fuel can be used anywhere that diesel is used. It can reduce cancer causing risks associated with diesel by as much as 90 per cent. A report prepared by the renewable energy policy project for the Washington state government has found that nitrogen oxide, produced by diesel engines, is a major cause of urban smog and a contributor to respiratory problems in humans.

The report supports a number of alternatives to diesel power generators but says biodiesel may be the best immediate means to cleaner energy. Power produced using wind turbines, fuel cells or solar power technologies all require new pieces of equipment and the associated costs. Diesel generators using biodiesel fuel, however, would not. The price of biodiesel fuel has also recently dropped to 30¢ below the cost of diesel fuel. My questions are:

1. Is the government aware of biodiesel's capacity to prevent damage to human health and the environment as well as cost saving for fuel?

2. Have any local studies been undertaken to see if biodiesel fuel is appropriate for South Australian energy needs?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): It is an interesting series of questions, which I will refer to the minister to bring back a reply. Is this just for generators and not for engines in motor vehicles and heavy vehicles generally?

The Hon. T.G. Cameron: I understand it can be used for both, but the article is not clear.

The Hon. DIANA LAIDLAW: I would like to learn more.

TAX EVASION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about tax evasion.

Leave granted.

The Hon. L.H. DAVIS: I noted recently in eastern states press that there has been community concern and considerable publicity given to a practice of some lawyers in New South Wales principally who have exploited bankruptcy provisions effectively to avoid paying millions of dollars in taxation. I understand that this is a matter of some national concern and my questions to the Attorney-General are:

1. Is he aware of this practice, which has received publicity in New South Wales?

2. Are the Attorneys-General of Australia looking at this matter with a view to closing any legal loopholes?

3. Is this practice of tax evasion to his knowledge confined simply to New South Wales at this stage?

The Hon. K.T. GRIFFIN (Attorney-General): I am not aware of any instance in South Australia where barristers have gone bankrupt and failed to pay their income tax, but I suppose it is not surprising that I do not know that because there are confidentiality provisions under the Income Tax Assessment Act that would mean that I would not have that information directly until the barrister became bankrupt, in which case the name would then be on a public register but not necessarily publicised through the media. I do not make a habit of checking the bankruptcy register periodically to see who has become bankrupt. It has been a problem in New South Wales in particular where very large sums of money have been outstanding for tax and the barristers have been declaring themselves bankrupt to avoid that liability but have apparently continued to work as barristers. In one or two instances I recollect that there were reports of a barrister or two who had gone bankrupt more than once.

I have noted some of the excuses used such as, 'Oh, I forgot to pay my tax' or 'I could not find time to prepare my tax returns'—not particularly original excuses, nor ones that I think anyone could justify. In one instance I recollect that there were about seven years of tax returns not lodged by a barrister and hundreds of thousands of dollars in unpaid tax was due.

It was considered at the Standing Committee of Attorneys-General meeting in Adelaide last Friday: we considered the representations made from the commonwealth Attorney-General as well as from the New South Wales Attorney-

General and decided that a working party should be established, which would report to our officers to the Standing Committee of Attorneys-General and that that would seek to develop both a better appreciation of the issues as well as the scope of the problem and look at ways in which that would be better addressed.

In South Australia, in any event, we do not have the same problem as New South Wales. In New South Wales they have a divided profession: a separate bar and also solicitors. In this state we have a fused profession, or an amalgamated profession, and the Legal Practitioners Act applies to both barristers and solicitors, and under that act there is a specific provision (section 49 of the act) which requires that a legal practitioner who has become bankrupt, or is subject to a composition or deed of arrangement, or an assignment with or for the benefit of creditors, or who is or who was a director of an incorporated legal practice during the winding up of the company for the benefit of the creditors, must not without the authority of the Supreme Court practice the profession of the law. There is a $10 000 maximum fine if that provision is breached and, if conditions are imposed upon practice, a similar maximum fine is applicable for a person who breaches the conditions of any authority granted by the Supreme Court to continue in practice.

Quite obviously, if there is a lawyer whose only skill is in practising the law, it is in the best interests of the creditors that that person continue to practise as long as no unethical practices are involved. The South Australian Legal Practitioners Act does give an opportunity for the Supreme Court to look at each case on its merits, put appropriate conditions upon a right to continue to practise and certainly to supervise what a bankrupt practitioner in those circumstances may or may not do. So, I would expect that, probably at the next standing committee of Attorneys, or the one after, later this year, there will be a report on the issue. But, as I say, so far as South Australia is concerned it is to a very large extent of academic interest because of the way in which our profession is structured and because of the current provisions of the Legal Practitioners Act.

KEARNEY, PROF. B.

The Hon. SANDRA KANCK: My question is directed to the Minister for Transport, representing the Minister for Human Services, and it is about Professor Brendan Kearney and the impact of decisions made by him. I ask the minister:

1. When does the secondment of Professor Brendan Kearney to the position of Executive Director Statewide Services expire?

2. Does the minister have any plans to extend that secondment and, if so, under what conditions?

3. At such time as the secondment ends, will Professor Kearney return to his roles as Chief Executive of the Royal Adelaide Hospital and Chief Executive of the Institute of Medical and Veterinary Science?

4. Did Professor Kearney preside over the transfer of management of the laboratory service at the Queen Elizabeth Hospital to the IMVS?

5. Does the IMVS charge Queen Elizabeth Hospital 100 per cent of the CMB fee for any test performed?

6. When allowance is made for the transfer of salaries from the Queen Elizabeth Hospital allocation to the IMVS allocation, has the transfer of services resulted in savings for health expenditure and, if so, will the minister provide a breakdown of the savings?

7. What have investigations revealed about the possibility of the Queen Elizabeth Hospital being able to obtain the services of private pathology laboratories on a contract basis? Is it correct that private laboratories would be prepared to contract the services for 70 per cent of the fee? If not, what fee has been suggested? If a private laboratory can offer the service at a cheaper price than the IMVS, why is the Queen Elizabeth Hospital continuing to use the services of the IMVS?

8. Is it true that Professor Kearney is currently using his position as the Executive Director Statewide Services to exert pressure on the Women's and Children's Hospital to increase collaboration with the IMVS? If not, what is the nature of the relationship Professor Kearney is wanting to establish between the two institutions?

9. Is it true that a significant funding deficit in DHS has seen Professor Kearney place pressure on direct individual health units such that the Flinders Medical Centre is taking out loans to cover the shortfall in its allocation, that the Women's and Children's Hospital has been told to freeze expenditure on equipment purchases from its non-operating account which is comprised of non-government moneys, and that some health units have been told to take out an overdraft facility?

10. Where an overdraft facility is required by Professor Kearney, what legal advice or financial support to obtain legal advice is being offered by the department to the relevant hospital boards about their consequent responsibilities and obligations?

11. What are the legal implications for members of hospital boards authorising the use of overdraft facilities or the taking out of loans?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the series of questions to the minister and bring back a reply.

CREDIT CARDS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General a question about credit card transactions at poker machine venues.

Leave granted.

The Hon. NICK XENOPHON: Some members may be aware that last month the District Court of New South Wales ordered a Sydney hotel which advanced problem gambler Simon Famularo $70 000 via his credit card to refund his money plus interest. Press reports refer to the court finding that O'Malley's Hotel at Kings Cross misled gambling addict Simon Famularo in 1997 when the licensee assured him that it was no problem to advance him cash on his American Express Gold Card. Judge Terry Naughton of the District Court found the hotel knew or ought to have known that it was illegal under the New South Wales Liquor Act and in breach of its merchant agreement with Amex to provide cash on credit for gambling.

I have a copy of the decision which I am more than happy to pass on to the Attorney. On 10 October and 8 November last year I asked the Attorney a series of questions in relation to credit card transactions and in particular about the misdescription of credit card transactions in the context of poker machine venues, and the Attorney did respond to those questions relatively promptly. The Attorney responded to a series of questions about the concerns that I raised relating to a venue providing a cash advance on a credit card where the

transaction is misdescribed as a purchase of goods or services and in some cases particularly as food and drink and instead cash is advanced.

On 30 November the Attorney in response said that there were instances of businesses, traders and suppliers of goods and services providing a transaction slip as a courtesy and that they must do so if requested by the consumer. He went on to say:

> In the absence of provisions such as those relating to statements of account, the law does not recognise misdescriptions in the form of inaccurate reporting of the terms of a contract. A transaction slip or receipt does not usually contain the full terms of the contract.

He also stated:

> A misreporting of a transaction after it has occurred is not actionable in the normal course of events and neither should it be unless serious consumer detriment can be attributed to it.

My questions to the Attorney are:

1. Given his previous response to my question of 8 November and answered on 30 November, can he clarify whether a cash advance given at a poker machine venue on a consumer's credit card is in breach of any consumer credit legislation and/or the Gaming Machines Act first, if there is no description of the transaction and, secondly, if the transaction is described as food and beverage where cash instead is advanced?

2. Does the Attorney consider that the remedies obtained by Mr Famularo in the New South Wales District Court last month would be available to a problem gambler in similar circumstances in South Australia, or does he consider that there are sufficient differences in South Australian law that will not afford a problem gambler in similar circumstances the sort of remedies that Simon Famularo obtained?

The Hon. K.T. GRIFFIN (Attorney-General): It sounds like the honourable member wants some free legal advice.

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: Well, sometimes the legal advice is worth what you pay for it. I am not familiar with the New South Wales District Court judgment but, if the honourable member wants to make a copy available, I will be happy to receive it. However, that may not encourage me to give him any legal advice. I will look at the issue—

The Hon. Nick Xenophon interjecting:

The Hon. K.T. GRIFFIN: You want free legal advice.

The Hon. Nick Xenophon interjecting:

The PRESIDENT: Order! The Hon. Nick Xenophon has asked his question.

The Hon. K.T. GRIFFIN: It is probably a hypothetical case as well, although it is a decided case in New South Wales. I will undertake to look at the issues and bring back a response.

BELAIR RAILWAY LINE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport a question in relation to the Belair line.

Leave granted.

The Hon. M.J. ELLIOTT: I will start by congratulating the minister. After I approached her last year in relation to the land for sale next to the Coromandel station, the minister, within minutes of my passing her a handwritten note, passed one back to me saying, 'I will have a look at it.' She has now had a new car park put in at the Coromandel station. I was on the 8.09 a.m. train from Blackwood, which goes through Coromandel, and I noticed that that car park was full and the old car park (which used to be full) was full as well. It seems it is so successful that in the carriage I was in 15 people were standing by the time we got to—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: By the time we had got to Eden Hills—

Members interjecting:

The PRESIDENT: I have called for order.

The Hon. M.J. ELLIOTT: —there were some 15 people standing in the carriage I was in and many of them stood the whole way to the Adelaide station.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Did I? I had a paper to read—the joys of getting on at Blackwood before the people get on at Coromandel, and so on. The line seems to be enjoying some resurgence and I think it is partly due to a response to improved facilities. My questions are:

1. Will the minister give consideration to expanding and improving the parking facilities at the other stations, because both Blackwood and Eden Hills stations also need a significant upgrade?

2. Is the minister prepared to put on an extra carriage so that people do not have to stand the whole way down?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Your constituents would not have to stand if you stood for them and I think I will try that course before putting on a new rail car. As the honourable member knows, each rail car costs about $4 million and I would have to consider the option of purchasing a new rail car for the 15 standing passengers—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, that is a reasonable question. We have some rail cars on stand-by in case of breakdown and, I believe, some that have stopped because they have passed their use by date and are used just for parts. Other than those on stand-by, every rail car is used today.

The Hon. T. Crothers: Maintenance?

The Hon. DIANA LAIDLAW: Yes, rail cars are regularly taken off either for safety because of regular maintenance or the ad hoc maintenance because of graffiti and vandalism, but fortunately that is happening less and less often.

In relation to investment in 'Park and ride', plans are well advanced for investment in rail, including 'Park and ride'. When I gave my statement on the southern O-Bahn the other day I indicated that I will be progressing the other work that has been explored across the rail system. I will be advancing it in the budget context and statements should be made shortly. I hope that the honourable member will keep encouraging more people to use the line. We want more and more patronage because it helps me in my budget bids against other ministers with the Treasurer.

ESSENTIAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Essential Services (Miscellaneous) Amendment Bill.

Leave granted.

The Hon. K.T. GRIFFIN: I wish to make a statement to clarify one matter in my speech on 14 March 2001 in reply to the second reading debate on the Essential Services (Miscellaneous) Amendment Bill 2000. In response to a question from the Hon. Terry Roberts, I stated:

> There has to be proof first of all that the direction was given to the person in any of the ways which are identified in proposed subsection (4). If the person is, for example, out in the scrub, with no radio, no telephone and no newspapers and contravenes the direction which has been given publicly, at large, then it is my view that the person is not guilty of an offence.

Whilst this statement is strictly correct, I am concerned that it may have been misleading.

It may be thought from my statement that in relation to an offence under new section 4(5a) it is necessary for the prosecution to prove that the person is actually aware of the direction. While it would be necessary for the prosecution to prove that the direction was given to a person, it would be sufficient in the case of a direction which has been given in a newspaper for the prosecution to show that the direction was actually published in the newspaper. It would not be necessary for the prosecution to show, for example, that the defendant had actually read the newspaper in question.

The essence of the Hon. Terry Roberts' question was whether a second offence, that contained in new subsection (5a), sought to impose strict liability. The answer to that question is that it does, subject to the defence contained in new section 10C in clause 7. The Essential Services Act currently imposes strict liability for contravention of a direction with no defence available other than that available at common law.

When it was decided that the penalties for contravention of a direction should be raised, it was also considered that it should be necessary for the prosecution to establish a high degree of fault in relation to the offences incurring the significantly increased penalties. At the same time, it was considered important to maintain the general principle that, in times of community crisis, it is not unreasonable to expect citizens to comply with directions given by the authorities. Hence, it was decided to adopt the two-tiered offence structure used in the bill.

Where this bill significantly raises the penalties for contravention of a direction, the bill also introduces a requirement that such contravention be intentional or reckless. However, the bill has also retained the existing strict liability offence, although it has been redrafted to be consistent with modern drafting conventions. While the penalties for this offence have increased, they remain much lower than the penalties for the intentional reckless offence.

In addition, new section 10C (inserted by clause 7 of the bill) will provide a limited defence to a charge of a strict liability offence, while at the same time maintaining the principle that, in situations of community crisis, there is an expectation that members of the community will ensure that they are aware of and comply with any directions which may be given.

New section 10C provides a general defence to a charge of an offence against the act, as follows:

> . . . if it is proved that the alleged offence did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the commission of the offence or offences of the same or similar nature.

This is a defence which is often used in the context of strict liability offences. Discussions have occurred with Parliamentary Counsel as to whether this defence would apply to a person charged under new section 4(5a) who was ignorant of the existence of a direction.

Parliamentary Counsel advises that, if it is reasonable that a person does not know of a direction because there were no reasonable and practicable measures that the person could have taken to be informed of the existence of a direction, the offence did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the commission of the offence. Hence, where there were no reasonable and practicable steps that a person could have taken to be informed of a direction, the person will have a defence. If, however, there were reasonable and practicable steps that the person could have taken to be informed of a direction, then the person will not have a defence.

YOUTH COURT (JUDICIAL TENURE) AMENDMENT BILL

In committee.

Clause 1.

The Hon. CAROLYN PICKLES: The Attorney gave quite a lengthy response in the chamber last night. I was not present at that time but I have read through his contribution and I have given a copy of his contribution to the shadow Attorney-General in another place and I have had a discussion with him. We still prefer to oppose the bill. However, having listened to the contributions from other members, it is clear that the bill will get up so we will not divide.

The Hon. IAN GILFILLAN: Our immediate and wholesale support for the bill was without having had the benefit of the knowledge that the select committee had reported to this parliament and was based on a slight misconception that the five-year term was at some risk of interfering with the independence of the judiciary, so those comments of mine were made in that context. I am interested to hear that the opposition does not feel so determined that it will test this with an amendment. I think in any case that with or without the amendment I would stick to our original position, which is to support the bill as it is drafted.

The Hon. K.T. GRIFFIN: It may not help to put the Leader of the Opposition's mind at rest but hopefully it will give a little comfort if I were to repeat what I have previously said that I intend to review the operation of the fixed term tenure. I have already indicated to the Chief Justice that this is what I wish to do and, because of the issues of principle that it might raise, he has asked to be kept involved in that consideration of the fixed term issue and certainly I will have no difficulty in doing that.

Some important issues are raised by any limited tenure for judicial officers but in the real world one has to try to balance those issues of principles against the reality and also the reality of whether or not there is ever likely to be any infringement of principles of judicial independence. Principles of judicial independence are quoted quite extensively from time to time but rarely is there ever any agreement about what judicial independence means. Members who were here when the Courts Administration Authority was established may remember that the then Chief Justice had some views that might be regarded as being at one end of the spectrum about judicial independence, which required separate appropriation by the parliament to the courts to administer themselves. I certainly reject that proposition.

On the other hand, there is essentially a principle that the executive government will not interfere with the way in which the judicial arm should exercise its decision-making

responsibilities. We may or may not get into those sorts of discussions when the review is taking place, but I flag them merely to indicate that I am sensitive to them and, if this bill should pass, they will be considered in the review of the tenure question that is raised in this bill.

The Hon. R.K. SNEATH: In other agencies, departmental heads make the decisions to move people around the various sections so, if there was an extension of five years rather than a fixed 10-year term, could it not be left up to the Chief Justice to move people from the various courts into other positions, because he or she must surely have better knowledge than the government or the people who work in the judicial system, being there every day? There might be people in the District Court who would relish an opportunity to perform the tasks in the junior court.

The Hon. K.T. GRIFFIN: I doubt whether there are any, with respect. It is more a question of whether they are suitable for the task.

The Hon. R.K. Sneath: The Chief Justice would know whether they would be suitable.

The Hon. K.T. GRIFFIN: In our system, traditionally, all governments have taken the view that it is the government's responsibility and prerogative to appoint judicial officers to particular jurisdictions. Once appointed, they cannot be directed about by government in the way in which they undertake their function. One of the issues of principle is the extent to which judges within their own judicial structure can be directed by the Chief Justice. They certainly cannot be directed by the executive arm of government unless there is a transparent process which can be demonstrated not to impinge in any way upon judicial independence.

Right around Australia, right around the common law world, even in the Supreme Court of the United States, the Chief Justice cannot tell individual judges what they will or will not do. We might think that that is a poor show, but it also raises the question that, if the Chief Justice can do that, what is the sanction if someone does not? Under our system, parliament alone can remove judges, unless they retire or reach the statutory retiring age, and removal by the parliament must be addressed by both houses. That has been done only once since the colony of South Australia —and now the state—was established.

So, it is not an easy thing to do, and it is always highly controversial because, ultimately, the public has a real sensitivity, as it should, to the constitutional separation of the responsibilities of the executive arm of government, on the one hand, and the judiciary, on the other. It is certainly not achievable in the foreseeable future that even a chief justice could give directions as to who should do what task. We get judges to accept responsibility by invitation and cooperation rather than by coercion. The moment that you bring coercion into it, even at the chief justice level, you raise questions about judicial independence.

That debate is controversial, and it will go on forever and a day but, once governments make decisions about who should fill a particular judicial office, those people, once appointed, are no longer subject to any form of direction from the executive arm of government and within their own judicial structure are not formally subject to direction. The only exception is in the magistracy, where the Chief Magistrate, by statute, has been given the authority to move magistrates around to different locations, to appoint supervising magistrates and so on. That is the only exception to the general rule, and even that is not too well received at times.

The Hon. R.K. SNEATH: Yesterday, the Attorney-General mentioned that he had spoken to the judges, but I wonder whether he has spoken to the Chief Justice and what the Chief Justice's views are on extending the term from five to 10 years.

The Hon. K.T. GRIFFIN: A letter from the Chief Justice, which I received yesterday, states:

> I have no objection to the proposed extension of the period for which a person can be a member of the principal judiciary of the Youth Court. It should be recognised, however, that if a person is appointed to that court for 10 years, over that period of time the person might well lose skills to sit in a general jurisdiction, and might take some time to acquire those skills again.
>
> I note the government's intention to proceed with a review of fixed terms in the Youth Court. The issue of tenure in specialist courts raises some difficult issues. I ask that I be consulted when the review proceeds, so that I can have an opportunity to express my views on the matter.

I have already indicated in this chamber—and I will indicate to the Chief Justice—that that is certainly what I intend.

Clause passed.

Clause 2 and title passed.

Bill read a third time and passed.

EXPIATION OF OFFENCES (TRIFLING OFFENCES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. K.T. GRIFFIN: In the second reading debate yesterday, further questions were asked to which I was unable to respond fully. It is appropriate that I now put that information on the record. The first question raised was about the number of expiation notices issued. It is not possible without an enormous amount of work to establish how many expiation notices are issued in any given period. There are far too many issuing authorities to make the project a genuine possibility. The majority of expiation notices are issued by local government, mainly for parking offences.

It would be possible, in time, to obtain from the Courts Administration Authority some figures on the number and type of expiation notices that come to it for enforcement, but obviously that is not anything like the number that are issued and paid. According to the SAPOL annual report for the year 1999-2000, it issued 387 595 expiation notices in 1998-99 and 364 127 in 1999-2000.

The second issue relates to advice as to the right of review. If the bill passes, it will be necessary to change the expiation notice forms to give effect to the new provisions. Those expiation notice forms are contained in the expiation of offences regulations. It follows that those regulations will have to be amended. It also follows that the nature and form of the notification of the new rights conferred by this bill will come back for parliamentary scrutiny. Of course, it is not intended that the amendments will be designed so as to hide the new right: it should be given due prominence.

The third issue relates to precedents. There are no precedents for the legislation. As far as I am aware, this is the first time that this has been done formally in Australia. Certainly, the bill is not based on a precedent from anywhere else. The fourth matter relates to genuine applications. Of course, there can be no guarantees that only genuine applications for relief will be made. On the contrary, it is reasonable to expect that some will be genuine and some will certainly, as the new system is phased in, be attempts to try on the new

system. Each application will have to be treated on its merits by the issuing authority.

The fifth matter relates to identifying what are compelling humanitarian or safety reasons. I have already provided an example of a case in which this might be argued. Another similar example might be if a person was bitten by a snake and the driver broke speed limits getting him or her to hospital.

The sixth matter related to the process. It is entirely true that there is no guarantee in the suggested process that the alleged offender will be heard in person, and it is very likely in practice that the application will be dealt with on the papers. If there is conflict between the alleged offender and the issuing authority on the facts, and that is resolved against the alleged offender, the latter can always have his or her day in court. It should be remembered that the alleged offender retains the right under either section 8 or section 14 of the act to take the matter to court and argue that the notice should not have been issued to him or her in the first place either on the ground that the offence is trifling as defined or on any other ground.

The seventh matter related to the rights of review. As I have already pointed out, it is intended that the new rights conferred by the bill should not be another formalisation of court based procedures under the act, of which there are a sufficient number. Clause 7 is intended to utterly preclude any form of judicial review or appeal to a court from this process entirely. As I have already noted, there are currently and will continue to be at least two separate ways in which the issue can be litigated on its merits before a court.

The eighth issue related to the question of what is trifling. The Hon. Ian Gilfillan remarked that the Democrats would argue that the possession of cannabis is itself a trifling offence. That is not what this bill is about: instead, it is about trifling examples of particular offences. Under the bill it is not open to argue that, say, the whole offence of riding a bicycle without a bell is trifling. By contrast the bill is intended to allow a person to argue that in this particular case the allegations involve a trifling example of the breaking of that law.

Clause passed.

Remaining clauses (2 to 7) and title passed.

Bill read a third time and passed.

SANDALWOOD ACT REPEAL BILL

In committee.

Clause 1.

The Hon. M.J. ELLIOTT: In a brief conversation across the floor—not on the *Hansard* record—the minister asked whether I wished to indicate whether I was happy with the answers I received to questions asked at the second reading stage. I am more than delighted to say that the answers were entirely satisfactory.

Clause passed.

Clause 2 and title passed.

Bill read a third time and passed.

LAKE EYRE BASIN (INTERGOVERNMENTAL AGREEMENT) BILL

Adjourned debate on second reading.

(Continued from 28 March. Page 1162.)

The Hon. CAROLINE SCHAEFER: This is an important piece of legislation because it recognises again the sensitivity and importance of the Lake Eyre Basin to the ecology of South Australia and all of Australia. This agreement was signed by the commonwealth, Queensland and South Australia late last year and is now recognised in legislation in South Australia. I believe we are the first of the states to recognise the agreement in legislation. It seeks to recognise the environmental, economic and social values of the basin and to work towards integrated management, but my contribution is to acknowledge the efforts of the people who live in the area in getting to this stage.

When the Lake Eyre Basin and floodways were under threat by a proposed very large cotton development in southern Queensland, the people who lived in the area rallied and sought the assistance of conservationists, hydrologists, the mining community and many others to support them in reaching such an agreement. Others were involved, but the people I knew best were Daryl and Sharon Bell and Sharon and Mary Oldfield, all of whom live and work in the area and are very sensitive to the environment and the need to live in harmony with the country.

I understand that, under the agreement, the ministers have the right to seek scientific and technical advice when required, particularly for monitoring the condition or state of the rivers and catchments in the basin and to second a panel of experts, including scientists and technicians, to provide advice on an on-going basis, but under the legislation they are also expected to consult with the community advisory body made up of nominees of the people I have spoken about, particularly representatives of the Aboriginal community, agriculturalists, conservationists, mining and petroleum industry representatives, pastoral industry representatives and tourism. As I say, the ministers and the ministerial forum need to seek advice and consult with that group at all times.

The thing that is remarkable about this agreement is that we have people coming from such diverse backgrounds and interests but they are all prepared to work together for the eventual sustainability of what is a very old and fragile area.

I commend those community people who were the first to realise the sensitivity of the area and the threat that it was under: they have worked long and hard to see this agreement signed and now ratified in legislation. The Hon. Mike Elliott was somewhat scathing about this and I think he feels that this has not gone far enough quickly enough. He may well be right in that regard but, when you consider the diversity of the people involved and their willingness to cooperate and work together for a greater good, it can only succeed. There will be mistakes made; there often are. But I think this is ground-breaking legislation, particularly for people from such an isolated area, and I recommend them again—

The Hon. T.G. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: Perhaps flood breaking might be a better word. I commend the legislation.

The Hon. J.S.L. DAWKINS: I would like to start my contribution on this important bill by thanking the Hon. Terry Roberts, the Hon. Terry Cameron and the Hon. Trevor Crothers for their contributions. The agreement under this legislation is an important achievement not only for South Australia but for the people in the neighbouring areas of Queensland, because the management of the basin is a very important issue for them. The Hon. Caroline Schaefer has indicated very carefully and accurately the great merit of this legislation—that it has been driven largely by the people who

live and work in that vast region and who best know the way in which the rivers move through that country, obviously rather intermittently. The Hon. Mike Elliott did describe them as wild rivers and I agree with that. They are not wild rivers as in parts of New Zealand or other areas of high rainfall, but anybody who has been in the pastoral areas after a flash thunderstorm knows that they can be wild rivers, which hold up movements in and impede those communities.

The Hon. T.G. Roberts: Not as much whitewater as New Zealand.

The Hon. J.S.L. DAWKINS: Probably not, but I do know that some people have come to grief trying to muck around on the edges, or even swim through some of these streams when they are flowing at their highest, and I am aware that some of them have been very lucky to get away with their lives. The Lake Eyre Basin is less well-known than the Murray-Darling Basin but it is of great importance to South Australia.

The fact that the bill is the first legislation to be signed in relation to the Heads of Agreement is a great thing for South Australia. As I said earlier, it is something the residents of the area have worked hard towards. They recognise that they need to have some certainty. They were alarmed about the plans for irrigated cotton growing on the Cooper Creek on the Queensland side of the border, and they have worked hard with governments to effect some long-term certainty.

There has been some criticism in this chamber that this is just continuing the talking. I think that we, in this chamber, would realise that communication is very important, particularly in areas as arid and vast as we are talking about. I commend the government for its work in this area. I would also like to highlight the fact that the Arid Areas Catchment Water Management Board will prepare a catchment water management plan for the South Australian portion of the Lake Eyre basin rivers and will play an important role in the basin. The board is also required to advise the South Australian Minister for Water Resources on activities in other states which are likely to affect the water resources in the board's area.

Madam Acting Chair, you covered the reason for the bill and the potential it has to improve the overall situation in that area of South Australia. Those people cannot do anything without having regard to what is happening across the border in Queensland. The fact that we are heading towards this greater communication and agreement is something that is to be applauded. I commend the minister for the legislation.

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

POLICE SUPERANNUATION (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

This bill seeks to amend the *Police Superannuation Act 1990* by consolidating the superannuation arrangements for members of the schemes established under that Act, and the Police Occupational Superannuation Scheme. The bill also seeks to make a number of minor technical amendments to the *Police Superannuation Act*, as well as to bring the structure of the invalidity provisions under the police pension scheme into conformity with the provisions applying to public servants under *the Superannuation Act 1988*.

Currently, police officers who are members of one of the two defined benefit schemes established under the *Police Superannuation Act*, are also members of the Police Occupational Superannuation Scheme. The Police Occupational Superannuation Scheme was established in 1988 to provide a 3% of salary "productivity benefit" in the form of a superannuation benefit to police officers. The requirement for police officers to be members of two schemes creates unnecessary and additional administrative work, and confusion amongst members. This bill therefore seeks to merge the benefits of the Police Occupational Superannuation Scheme into the two defined benefit schemes under the *Police Superannuation Act.* The amalgamation will simplify the superannuation arrangements for police officers, whilst at the same time maintaining the existing overall level of superannuation entitlements. For police pension scheme members, the amalgamation will not result in increased pension entitlements as the merged benefit will be maintained as a lump sum. The amalgamation will also result in no change in the current costs to Government.

This bill will also have no impact on those police officers who are members of the Triple S Scheme.

The *Police Superannuation Act* currently provides that all terminations of service after age 55 are taken to be retirements on account of age. This means that where a member terminates service on the grounds of invalidity after age 55, an age pension rather than an invalidity pension is payable. The current provisions disadvantage those officers who are forced to retire after age 55 due to an unexpected and serious deterioration in health. There is also evidence that some officers are bringing forward their invalidity retirement to gain the higher invalidity pension benefit payable before age 55. The bill therefore seeks to amend the Act to restructure the invalidity provisions in the police pension scheme so that officers can retire on the grounds of invalidity at any age up to age 60. The proposed amendment will make the invalidity provisions of the scheme consistent with the main State Pension Scheme for public servants.

An amendment is also proposed that will introduce a facility to enable members to make additional voluntary contributions. The facility will provide an option under which members may invest money in order to accumulate an additional superannuation benefit. The additional voluntary contributions made by members will not attract any matching employer money or benefit. Such a facility is already available in the main State Scheme for public servants, and the balance of the accumulated contributions and interest will only be available to members on the termination of service.

The other amendments being proposed in the bill deal with technical issues of the same kind recently addressed by amendments to the *Superannuation Act 1988*, in respect of the main State Scheme. For example, the amendments being made to Sections 14 and 15 of the Act relate to the proportions of benefits that the Fund can support. As these proportions are actuarially determined, the Government believes the proportions should be based on the latest actuarial report and set by the Board rather than the Minister. The amendment to Section 40 is of a technical nature and will bring the original intention of the income assessment provision into conformity with actual Board practice. The amendment will enable the Board to assume a person's income from remunerative activities is received over a full financial year, thus providing an incentive for persons in receipt of an invalidity or retrenchment pension to seek part time or short term work. Section 43 is also being amended to provide that where a person becomes entitled to a pension on account of being at least 55 years of age, or a spouse becomes entitled to a pension on account of the death of the member, a guaranteed minimum amount will be paid as a benefit from the scheme. This amendment is the same as a recent amendment made to the *Superannuation Act*, and will provide for the minimum benefit to be equivalent to 4.5 years of pension less the value of any commutation paid as a lump sum. This "term certain" arrangement will enable simplification of the accounting arrangements, and provide greater certainty of entitlements to members, without any cost impact on the Government. The bill also contains a technical amendment to the *Superannuation Act* in relation to this same term certain provision, in order to maintain conformity between the provisions in the two Acts.

The Police Superannuation Board, the Police Association, and the Police Department have been fully consulted in relation to these amendments. All these bodies have indicated their support for the proposed amendments.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement
These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation
This clause inserts new subsection (7a) into section 4 of the principal Act. The new subsection provides that a person whose employment terminates on invalidity in the circumstances referred to in the subsection will only be taken to have retired if he or she had reached the age of 60 years.

Clause 4: Amendment of s. 10—The Fund
This clause makes amendments to section 10 of the principal Act that are consequential on the insertion of new Part 5A by clause 19.

Clause 5: Amendment of s. 14—Payment of benefits
This clause amends section 14 of the principal Act so that a proportion (fixed by the Board) of a pension or lump sum payable under the Act will be charged against the contributor's contribution account. These provisions are similar to section 43A of the *Superannuation Act 1988*.

Clause 6: Amendment of s. 15—Reports
This clause replaces subsection (4)*(b)* of section 15 of the principal Act. A similar amendment was made to the *Superannuation Act 1988* earlier this year.

Clause 7: Amendment of s. 21—Retirement
This clause amends the formulas in section 21 of the principal Act to take account of the closure of the Police Occupational Superannuation Scheme by new section 46A inserted by clause 23.

Clause 8: Amendment of s. 22—Resignation and preservation
This clause amends the benefits provided on resignation by section 22 of the principal Act to compensate for the closure of the Police Occupational Superannuation Scheme.

Clause 9: Amendment of s. 23—Retrenchment

Clause 10: Amendment of s. 25—Termination of Employment on invalidity

Clause 11: Amendment of s. 26—Death of contributor

Clause 12: Amendment of s. 28—Retirement

Clause 13: Amendment of s. 29—Retrenchment

Clause 14: Amendment of s. 31—Invalidity pension

Clause 15: Amendment of s. 32—Benefits payable on contributor's death

Clause 16: Amendment of s. 33—Benefits payable to contributor's estate

Clause 17: Amendment of s. 34—Resignation and preservation of benefits
These clauses amend the benefits provided by sections 23, 25, 26, 28, 29, 31, 32, 33 and 34 of the principal Act to compensate for the closure of the Police Occupational Superannuation Scheme.

Clause 18: Insertion of s. 38A
This clause inserts new section 38A into the principal Act. This provision enables the saving of administrative costs by the closure of contribution accounts that do not need to be kept open. A similar provision (section 43AA) was inserted in the *Superannuation Act 1988* earlier this year.

Clause 19: Insertion of Part 5A
This clause inserts new Part 5A of the principal Act. This Part will enable an active contributor to the Scheme to invest additional money in superannuation benefits on terms and conditions determined by the Board. New section 38D provides for the keeping of accounts in the names of investors. Section 38E provides for the payment of benefits.

Clause 20: Amendment of s. 40—Effect of workers compensation, etc., on pensions
This clause amends section 40 of the principal Act to streamline the reduction or suspension of pensions because of the impact of workers compensation payments or income from remunerative activities.

Clause 21: Insertion of ss. 42A and 42B
This clause inserts two new sections that are similar to section 47A and 47B of the *Superannuation Act 1988*.

Clause 22: Amendment of s. 43—Repayment of balance in contribution account
This clause amends section 43 of the principal Act. Subsection (2) is replaced with a provision that guarantees the equivalent of at least 4.5 years of pension payments.

Clause 23: Insertion of s. 46A
This clause inserts new section 46A which terminates the Police Occupational Superannuation Scheme. Where a contributor is entitled to preserved benefits under that Scheme when it is terminated by subsection (1), he or she will be entitled to an amount under subsection (2) in place of those benefits.

Clause 24: Insertion of s. 47A
This clause inserts new section 47A which provides for post retirement investment. The section is similar to section 47B of the *Southern State Superannuation Act 1994*.

Clause 25: Amendment of Superannuation Act 1988
This clause amends section 48(2) of the *Superannuation Act 1988*. This subsection and section 43(2) of the principal Act (replaced by clause 22) are similar. Improvements to the subsection in both Acts have been made by this Act.

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

PROSTITUTION (REGULATION) BILL

In committee (resumed on motion).

(Continued from page 1189.)

The ACTING CHAIRMAN (The Hon. J.S.L. DAWKINS): The committee would be aware that, when it last sat, it struck out clause 10 and we are now considering the minister's proposed new clause 10. Both the Leader of the Opposition and the Hon. Terry Cameron have amendments, and I suggest that the Hon. Terry Cameron move his amendment.

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

Clause 10, after paragraph (e)(i)—Leave out '200 metres' and insert 'the prescribed distance'.

I do not think I need to provide any further explanation other than that which I did the last time around.

The Hon. DIANA LAIDLAW: I oppose the amendment for the reasons I gave before the lunch break. This amendment refers to leaving out 200 metres and inserting a prescribed distance, which is then further defined as 100 metres in a central activities district. As I said, depending on the fate of further amendments, I may be prepared to consider this further.

The Hon. P. HOLLOWAY: I indicate that I support this amendment. In supporting the original clause 10, I indicated that I was opposed to having brothels in residential areas. At the beginning of the debate I made the point that, if the bill passed the second reading, I would try to make it as workable as possible, even though I indicated that I would oppose it at the third reading. I have worked on the basis that, if it is the majority view at the second reading that we legalise prostitution, we should at least look at the legislation in that light.

In relation to the city area, it seems to me that if we do not want brothels in residential areas—and that is my position, even though now that the minister's amendments have been carried I understand they can be in residential areas if the Development Assessment Commission so assesses; but, of course, there is something of a hurdle there at least—and if we are to make it difficult for brothels to be in all other areas, it is probably better that at least those areas where we do allow them—

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Yes, but it is probably better for them to be in an area known as the central activity area of the city. I understand there would be very few residents there. If we accept in principle that there will be brothels, then I would prefer them to be in an area such as that rather than in residential areas. If we do not pass this clause and make it so that they can go virtually nowhere and then we end up passing the bill, what will we have? We will have all the illegal brothels about which I expressed concern when I moved some earlier provisions to increase police powers to get rid of illegal brothels in the first place. In those circum-

stances, the best thing I can do is support this amendment. If we are to have brothels, I would have them there rather than in less desirable areas such as residential districts.

The Hon. K.T. GRIFFIN: I am comfortable with the 200 metre limit and I do not intend to support the amendment.

The Hon. CAROLYN PICKLES: I am tending towards supporting the Hon. Mr Cameron's amendment, because I am mindful of the correspondence I have had from the Adelaide City Council in the past indicating that 200 metres would mean they cannot be anywhere in the city of Adelaide, basically. I think that would be a difficulty. I recognise that the minister in moving her amendment allows small brothels in residential areas, which I support. I could be persuaded to think differently, but I think in this instance I will support the Hon. Terry Cameron's amendment and look to the recommittal stage of the bill.

The Hon. CARMEL ZOLLO: I will not be supporting the amendment.

The committee divided on the amendment:

AYES (11)

Cameron, T. G.(teller)	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Elliott, M. J.	Holloway, P.
Kanck, S. M.	Pickles, C. A.
Redford, A. J.	Roberts, T. G.
Sneath, R. K.	

NOES (8)

Griffin, K. T.	Laidlaw, D. V.
Lawson, R. D.	Roberts, R. R.
Schaefer, C. V.	Stefani, J. F.
Xenophon, N.	Zollo, C. (teller)

PAIR(S)

Gilfillan, I.	Redford, A. J.

Majority of 3 for the ayes.

Amendment thus carried.

The CHAIRMAN: The next amendment will be that which has already been moved by the Hon. Carolyn Pickles. Does the committee wish to discuss that amendment any further?

The Hon. CAROLYN PICKLES: I did canvass this amendment before the luncheon adjournment. This amendment reduces the number of rooms to five. I make no apology for the fact that I would prefer to have smaller brothels and that I prefer the home activity variety. I am moving this amendment to test the water to see whether we can get some improvement on it but, if not, I can suss it out. We may not need to divide.

The Hon. T.G. CAMERON: I indicate that I am withdrawing my amendment.

Members interjecting:

The CHAIRMAN: Order!

Members interjecting:

The CHAIRMAN: Order! I have called for order. The Hon. Mr Cameron has not yet moved an amendment.

The Hon. T.G. CAMERON: I stood up about 10 minutes ago and moved them.

The CHAIRMAN: We have gone past that point. You have inserted a new amendment, the third one. The honourable member indicates that he does not intend to move it. Is the committee prepared now to vote on the amendment moved by the Hon. Carolyn Pickles to new clause 10 as proposed to be inserted by the Minister for Transport?

Amendment carried.

The CHAIRMAN: I clarify with the Hon. Mr Cameron whether he wants to move an amendment to clause 10.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: It is the honourable member's amendment; if he does not want to proceed with it I will put the question.

The Hon. K.T. GRIFFIN: I think that people are at odds. I understood that the Hon. Terry Cameron was talking about his amendment to increase the number of rooms from eight to 10, and that is not the issue which is about to be put. As I understand, the chair is now going to put—

The CHAIRMAN: The new clause as amended.

The Hon. K.T. GRIFFIN: I am just trying to help so that there is no misunderstanding. I understood that the Hon. Mr Cameron was talking about rooms. His next amendment is really a follow-on from the one that was moved earlier about 'prescribed area' in the city of Adelaide.

The CHAIRMAN: I will try to clarify the position. The Hon. Mr Cameron indicated and moved an amendment to a clause which is now not in the bill. We have now got the proposition of a new clause, and I am giving the Hon. Mr Cameron an opportunity to move an amendment to the new clause if he so desires. If he does not want to, I will go on and put the new clause as amended.

The Hon. K.T. Griffin interjecting:

The CHAIRMAN: It is quite a long one. 'Prescribed area' and 'prescribed distance' are all there; that is part of his first amendment, I should have thought.

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

After paragraph (i)—Insert:

(2) In this section—

'prescribed area' in the City of Adelaide means—

(a) the area within the 'Central Activities District' or the 'Frame District' as defined in the Adelaide (City) Development Plan under the Development Act 1993 (as in force from time to time); or

(b) if regulations are made prescribing an area in the City of Adelaide for the purposes of this section—the area so prescribed (to the exclusion of the area referred to in paragraph (a));

'prescribed distance', in relation to the site of a development, means—

(a) in the case of a site within the prescribed area in the City of Adelaide—100 metres;

(b) in any other case—200 metres.

Amendment carried.

The committee divided on the new clause as amended:

AYES (13)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Elliott, M. J.
Griffin, K. T.	Holloway, P.
Kanck, S. M.	Laidlaw, D. V. (teller)
Pickles, C. A.	Redford, A. J.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	

NOES (6)

Dawkins, J. S. L.	Lawson, R. D.
Roberts, R. R.	Schaefer, C. V. (teller)
Stefani, J. F.	Zollo, C.

Majority of 7 for the ayes.

New clause as amended thus inserted.

New clause 10A.

The Hon. DIANA LAIDLAW: I move:

After clause 10—Insert:

Small brothels

10A. (1) The establishment of a small brothel or use of premises as a small brothel is excluded from the definition of 'development' for the purposes of the Development Act 1993.

(2) For the purposes of this section, a brothel is a small brothel if—

(a) the total number of prostitutes employed or engaged in the sex business or the sex businesses carried on at or from the brothel does not exceed 2; and

(b) the total floor area of the room or rooms used for the provision of sexual services does not exceed 30 square metres.

When this bill was before the House of Assembly a loophole was established enabling small brothels to be established anywhere as a home activity. The Legislative Council addressed this issue the other night by removing this exemption, meaning that there is now no exemption for small brothels, and the bill currently before us bans all small brothels from residential areas. My proposed new clause defines 'small brothels', as follows:

the total number of prostitutes employed or engaged in the sex business or the sex business carried on or from the sex business does not exceed two and that the total floor area of the room or rooms used for the provision of sexual services does not exceed 30 square metres.

Under those terms I argue that a small brothel should be exempt from planning approval, as is 'home activity' on a similar small scale. I have not moved to insert the home activity provisions which are currently in the Development Act regulations because, as I indicated the other night, those provisions require that a person must work at their place of residence. There will be instances where a prostitute may not wish, if children are present or if there are other circumstances, to work in their place of residence but, in my view, they should still be entitled to work from a small brothel.

I am concerned that application of the detriment to activity provisions under the current home activity standards for a small brothel would lead to excessive attention being given for 'matter of purposes to a small brothel', which would not generally apply to any other legal small business. That is so because 'detriment' has not been defined by the courts under the Home Activity Development Act. It is subjective in terms of defining what is personally or subjectively to the detriment, when in fact this is a legal business.

I believe very strongly that, for the reasons I have outlined, rather than having the home activity reference, we should have the definition I propose for a small brothel, and I think this should be considered in terms of the banning orders that were already quite strong in the bill and which we have made stronger through amendment in this place. Those issues should govern the way in which a small brothel undertakes its business in the community.

The Hon. CARMEL ZOLLO: Will the minister advise the chamber which development applications apply to small brothels, if any?

The Hon. DIANA LAIDLAW: This amendment provides that, like a home activity but not in the same terms of the Development Act home activity regulations, it would be exempt. That has been my consistent view. As I have said before, and I will not elaborate at length tonight, I am concerned that, if one looks at the combination of factors contained in the bill from the other place and inserted in the bill in this place in terms of a 200 metre limit everywhere other than in the central core district of Adelaide, those who argue that brothels should not be in a residential area will see that that would establish red-light districts. The House of Assembly indicated that DAC should not be party to establishing red-light districts. I agree: I do not wish to see red-light districts in Adelaide.

I share a view similar to that of the Hon. Carolyn Pickles, who mentioned earlier that she would prefer smaller brothels operating discreetly and safely on behalf of those who are conducting the business and who provide the service for those who want it with the benefit of banning orders, strict planning considerations and, as has just been pointed out to me, other laws which every other business, occupation or resident must abide by, such as noise legislation and the whole range of laws. They will all apply to small brothels as they do to any other home activity.

Like any other home activity, I am arguing that, in these defined circumstances, small brothels should not be subject to development application and approval, but that does not mean that they would be removed from any other law that any other business or resident across the community must abide by. Those laws would apply equally and they would have the tougher banning provisions that we have provided for in this bill.

The Hon. CARMEL ZOLLO: I indicate for the reasons I gave the other day when I moved my amendment to clause 9, which referenced home activities, that I will not support new clause 10A.

The Hon. P. HOLLOWAY: I do not support the new clause.

The Hon. R.R. ROBERTS: I do not believe that this proposition put by the minister is supportable. We have just changed the arrangements for the development of brothels: we have changed the size, etc. and talked about what needs to happen within the metropolitan area. We have said that people will be able to set up brothels in the metropolitan area. We have lowered the bar to actually allow them to be established. We are now talking about small brothels. We have talked about them from the point of view of home activities, in the first instance, but we are now saying that they can be set up away from home if they are of a certain size.

One of the problems is not residents living outside the metropolitan area in residential areas—we are trying to protect them—but the fact of life is that, with urban renewal, more and more people are able to reside in the metropolitan area. I believe the minister is trying to do the right thing by designating the size, but if someone were to lease a strata title block of flats and set up small brothels in each flat, it seems to me that they could do that without any planning approval. When we were talking about setting up large or small brothels in residential areas, there was no question: everyone in the Council would have agreed that it had to go to DAC and receive planning approval.

Saying that we are just taking them out of the outer suburbs and putting them in the metropolitan area will not insulate those residents who choose to live in the metropolitan in suitably established accommodation for families, as well as singles and couples, from exposure to the very same sorts of problems that may well have become established out in the suburbs. If it is good enough to provide for home based activity in residential areas—and, for all the reasons we have stated, we would have to know where they were actually established—it is good enough if we establish these businesses. We are talking about people who have been defying the laws of the land to run prostitution businesses in the past and who will be looking at any legislation that we can provide with the sole purpose of getting their way, and it will not be with the same incentives as this Council has in trying to protect the community and, among those who support the bill, to provide a service.

My belief is that this amendment is premised on the fact that the metropolitan area is not a residential area but is a mixture of all things. There is no law that provides that people cannot have a residence within metropolitan Adelaide. If they want to send their children to one of the churches in the City of Churches, they do not have the same protection as those people who are smart enough to live in places such as Port Pirie, Mount Gambier or Port Augusta. In my view, the bill is becoming nonsensical in that all the things we started out trying to protect are gradually being eroded, not by the people in the prostitution business but by the legislative actions of this chamber.

I think that this ought to be opposed and that we ought to proceed on that basis that, whether it is a large or small brothel in metropolitan Adelaide, it ought to be registered in some way. The best way to get a record of a registration is to have it done through the Development Act so that there is a complete record. If there is a problem in any one of those brothels, large or small, it would be very handy for the police to have a register so they can say, 'Yes, that's a legal, registered brothel and we know what we're doing.' Then we would not have situations where people are crashing through walls or hanging around for four or five hours waiting to find out whether or not it is a legal brothel, when there may be reasonable suspicions of a crime taking place within those premises. This amendment ought to be rejected. It is not necessary, and these small brothels should have the same constraints as a larger brothel. A large brothel now is one with five rooms. Stipulating one, two or five rooms is just being pedantic.

The Hon. K.T. GRIFFIN: I think we face something of a dilemma in relation to this—certainly, I do. My understanding of what we have done so far is that we have ruled out the prospect of a home activity being validated under an area of the law where other home activities are lawfully conducted. So, what is being proposed in the legislation as a matter of principle is that brothels become lawful businesses, and there is a provision for a large brothel which is now five rooms and which will have to have development approval. If this clause is not passed the home activity will need development approval, so you might have the one person who owns or occupies a house—

The Hon. R.R. Roberts: It could be two rooms.

The Hon. K.T. GRIFFIN: It might be one room. The amendments are corrupting the principle that applies to every other lawful business, namely, that if it is a home activity it is lawful. A lot of us find prostitution distasteful, but the choice surely has to be made quite starkly: either it is legal or it is illegal. If it is going to be legal the fewer deviations from existing law that apply to lawful businesses the truer one is to the principle. What the Hon. Diana Laidlaw is proposing is true to the principle, although a variation of the home activity exemption.

The Hon. R.R. Roberts: She has already said that we don't want home activity exemption.

The Hon. K.T. GRIFFIN: She said that because she wants two people rather than one person to be able to occupy those premises.

The Hon. Diana Laidlaw: Or I want them to be able to operate other than at their premises.

The Hon. K.T. GRIFFIN: That is right. What I am saying is still correct, though: in principle it is consistent with the home activity principle, but if it is defeated everything will have to have development approval. Parliament can do anything it likes, but I make the point that it is changing the concept of a lawful business and, if prostitution is going to be lawful in all the circumstances set out in the bill, you have to say as a matter of logic that the home activity exemption ought to apply. Whilst I do not support the whole concept of making it a lawful business, I still think that this clause is an appropriate clause to be in the bill in respect of the sorts of direction in which we seem to be going, namely, that the business will be lawful.

The Hon. T.G. CAMERON: I have a question for the minister, and I am wondering whether she can help me out. I cannot find what would be the penalty if somebody was caught operating a small brothel in either contravention of the number of people they had working there or the total floor area of the room or rooms being used for the provision of sexual services.

The Hon. DIANA LAIDLAW: If they breached these provisions, they would no longer be deemed to be a small brothel and would have to go through the planning procedure, that is, the application through council to DAC, with public consultation and all the other measures. There is a penalty under the Development Act. What I would like to highlight is that, in addition to the answer I gave earlier, if they wanted to be considered a legal operation, they would have to put in their application through the council. But, if they chose not to do that, there is a penalty regime in the Development Act. Section 44 states that a person must not undertake development contrary to this provision. The penalty is a division 3 fine; that is, you cannot go to prison but there is a maximum fine of $30 000.

The Hon. CAROLINE SCHAEFER: I wish to indicate that I will not be supporting this clause. I am becoming more confused as this debate goes on, but we listened at some length the other night to a discussion leading up to this clause. I was convinced at that time by the Hon. Terry Cameron—who pointed out that you could have a whole street full of brothels which would not be required to have any planning applications whatsoever, provided they stayed within the under five bedroom limit—that a whole block of flats could be involved. If we are to regard—

The Hon. T.G. Cameron interjecting:

The Hon. CAROLINE SCHAEFER: It is not.

The Hon. T.G. Cameron interjecting:

The Hon. CAROLINE SCHAEFER: You could have a block of strata titled units. If we are to follow the logic that we will legalise prostitution and this will be a legitimate business, then perhaps these people would have a loophole under which they could minimise their overheads and compete unfairly with those who have large brothels. They would not be subject to the same sets of regulations as are people who may not be running a larger business but simply operating in a larger building. Even if I was quite happy to have a brothel in every street in every suburb, I believe that this would be uncompetitive for those who had a larger brothel.

The Hon. T. CROTHERS: To some extent, the Hon. Mr Cameron pre-empted my question, but as we do not have an answer I will officially ask him to put it in *Hansard*. If one looks at blocks of flats—and I know of a few—with 30 or 40 units in them, and one strata titles all the units so that there are about 30 or 40 different owners, do you not think that the penalty that you have made a numeration on becomes almost unworkable under that situation? That is just a bumbag lawyers thing, and I have no doubt that a good lawyer looking at our legislation—

The Hon. R.R. Roberts: They are all working for brothel owners.

The Hon. T. CROTHERS: I know a lawyer who operates for most of the madams in the brothels and he rang me up congratulating me on the stand I had taken. I do not know what is going on—I will not name him—

The Hon. T.G. Cameron: He wants to keep working for the madams, that's why. He doesn't want to see it legalised.

The Hon. T. CROTHERS: That is the question, minister. Once you answer the question about a single entity, what is the penalty and how do you enforce it if, in the same building, there are 30 different flats such as the blocks of flats near the Trades Hall building, where there are 30 or 40 different units in each building, and some smart operator buys it and then strata titles them all and every one is operating as a two person brothel?

The Hon. DIANA LAIDLAW: It is important to recognise that this would apply only if the parliament determined that it was a legal business and the Attorney has made—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: No, only if we determine it is a legal business would it happen. It may well happen today. We have, as we know, an illegal business—and it could easily be next-door to the honourable member in Campbelltown and he might have a bigger worry than his trees; I do not know. I am just—

Members interjecting:

The Hon. DIANA LAIDLAW: I have left messages with the mayor today on your behalf. I am just letting you know that that fear of the block of flats could be there today as an illegal activity. This provision, in those circumstances, would not be introducing anything new, but it does provide some greater controls—the same as anybody has with any legal business. Members should remember that, if it is a legal business, you could have a whole boarding house full of lawyers or real estate agents with all their clients coming and going; and you could have dressmakers and people coming in every half an hour for fittings. There is a whole range of things that, today, you could fill a block of flats with—and all the associated comings and goings—but we are talking about a situation where this parliament determines that it is legal, and I am reminding members that it could happen in the illegal environment right now. The possibility of this happening does not seem to be an issue that worries the honourable member.

The fact that a whole set of strata or non strata units or flats could be there today does not seem to worry the honourable member. I do not hear the honourable member getting up in parliament and saying, 'Hey, this is a real worry. This could happen today.' It is only because it may be legal and the fact that you have brought up a whole lot of issues of fear that you now seem to have been scared off. What we are talking about is a situation that this parliament has deemed is a legal activity.

The Hon. T.G. CAMERON: I refer to clause 10A. If it is a breach of the Development Act, who would be responsible for ensuring that two or fewer prostitutes worked in a brothel, or that the total floor area of the room or rooms being used did not exceed 30 square metres? What role would the police have to play in all this? Are we going to have the police checking on planning matters? How on earth do you think that the planning commission will determine whether there are two or more prostitutes working in a house?

If people are concerned about it, they will ring the police first, the police will then direct them to the Development Assessment Commission, which will have to send an inspector out there to conduct a surveillance operation. Would they be able to use listening devices or what have you to find out whether or not the law is being broken? If that is the case, you have just lost me. I do not want the Development Assessment Commission running around trying to find out whether or not residential homes throughout the suburbs are being used as brothels; and, if they are being used as brothels, whether they are breaching clauses 10A(2)(a) and 10A(2)(b). It is a ludicrous situation. And I have five more problems with the clause.

The Hon. T. CROTHERS: Just to add to that, I will ask two questions at the one hit. If you have a flat with three bedrooms and only two of them are being used by working prostitutes and the third bedroom is occupied by a non prostitute, how will you prove that? You either prosecute an innocent person or you let them all go.

The Hon. DIANA LAIDLAW: Just cool down. Home activity exemptions have been around since 1910.

An honourable member: No; 1966.

The Hon. DIANA LAIDLAW: Yes, 1966, and prostitution has been around for longer. I have never had a question in this place (that I can recall in the 18 years that I have been here) from anybody who was excited about how we police home activity exemptions—never. Notwithstanding the fact that it is illegal now and that we are seeking the protection of the women and a number of other things, there is the possibility that it may be legal, and I have indicated that I believe that such a legal activity should be exempt from the planning law, just as other small home-based businesses are. Because of the exemptions already provided in the planning law—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I am trying to explain the situation to you.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I just want to highlight that this is nothing new. If an activity is legal and has these exemptions under the Development Act, since 1966 section 19 has provided for the appointment of officers who are authorised to inspect and obtain information. They are set out in section 19—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: How would they know whether there is an illegal activity to date? They are alerted, and you go out and see. That is how it works today with every other home activity. It is no different. This would be a legal activity and no different from any other legal activity if this parliament determines—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: —wait a moment—first that it is legal and, secondly, that they want the exemption. You may decide that you do not want the exemption I am seeking.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Oppose it. I am saying that, in the circumstances where the parliament made it legal, as with any other legal business activity in this state, there should be a provision for small business to get on with it as long as they do not breach a whole range of other laws that apply to any other small business operating from home. However, if they do that, we in this parliament have provided clause 19 with very defined powers. We have about 30

inspectors who inspect development matters today. I am not sure that you will find, unless men are particularly active, that we are going to have a particularly big industry: it may not be any bigger than it is today.

The Hon. A.J. REDFORD: I have been listening to this debate with some interest, in particular the comments made by the Hon. Terry Cameron. At first brush, it would seem that they have some merit. I will just explain a little bit of background in relation to why I supported the second reading and why I am participating in this debate.

An honourable member interjecting:

The Hon. A.J. REDFORD: Yes, I am, and I will explain why.

An honourable member interjecting:

The Hon. A.J. REDFORD: Do you want to say something?

The CHAIRMAN: Order! The Hon. Angus Redford has the call.

The Hon. A.J. REDFORD: That is the situation where women are engaging in this sort of activity quietly in the suburbs today, in great fear that they will be exposed, dragged or herded into court, blackmailed or stood over without any protection. That is what concerns me. The second thing that concerns me is that, if we are to do this, we do not set up a regime that herds these women into large brothels owned and controlled by shadowy figures who seek to profit at the expense of human suffering. They are two important things to keep in mind. The Hon. Terry Cameron in this respect points to some difficulties he sees in relation to small brothels—and the concept of small brothels is, to my mind, absolutely vital if we are to have any sort of reasoned response to the community evils that we are currently facing.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: You put your point of view.

The CHAIRMAN: Order! The honourable member has the floor.

The Hon. A.J. REDFORD: The Hon. Trevor Crothers is a great one for smacking people down when they are interjecting, and I am trying to make an important contribution here.

The Hon. T. Crothers interjecting:

The Hon. A.J. REDFORD: If the honourable member wants to engage in debate, I am happy to do so. The Hon. Terry Cameron asked who will police this, and there has been a discussion backwards and forwards about the policing of this by planning officers and the like. If we look at clause 10A (and I will take honourable members through it), the question is: what is it that we will be seeking to police? The first thing that we might be seeking to police is the total number of prostitutes that might be employed or engaged in relation to those premises. The second—

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! There should be only one member of the committee speaking.

The Hon. A.J. REDFORD: This is a very difficult issue. I expect some courtesy, and I will try to deliver some courtesy. The second issue is the area of 30 square metres that needs to be policed. As I said, this is a very difficult issue, in terms of policing. Having regard to the fact that certain amendments have been carried earlier in this debate, they will generally be community policed and they will be simply policed. If a small brothel operates in a suburban area and does not attract any attention, they will not be the subject of an application by their neighbour, someone down the road, a nearby church or a nearby school for a banning order.

If there is a suspicion because a substantial number of cars are coming and going, or a substantial number of people are wandering in and out of the premises, those concerned will make an application for a banning order. That will be very simply dealt with. The applicant will stand up and say, 'I am seeing cars here all night. I am seeing at least four or five people going out of the premises on these periodic occasions, and I suspect that there are more than two prostitutes employed or engaged in the sex business on those premises.' The owner, the proprietor or the operator of that business will then have to show that no more than two people have been involved. It does not involve in any significant way the 30 inspectors who are currently employed by the public sector. Nor does it involve, as the Hon. Terry Cameron might suggest, engaging another 20 inspectors to run around knocking on doors looking for brothels. To suggest that is absolutely fanciful.

The other issue relates to the size of the area, which is 30 square metres. If a neighbour, a school principal or someone else suspects that the area involved exceeds 30 square metres, they make an application for a banning order. It is then up to the owner to come along with a surveyor or a surveyed map and plonk it down in front of the court and say, 'Here is the surveyed area. It is certified by my surveyor and it does not exceed 30 square metres.' I fail to see, in that regime, the sorts of fears to which the Hon. Terry Cameron has alluded. We do not need heavy police surveillance; we do not need a huge number of inspectors wandering around looking in the bedrooms of various premises around Adelaide.

All you need are premises that operate unobtrusively without attracting attention in the local area because, if they do, they run the risk of someone making an application for a banning order. It is very simple and very straightforward, and it is certainly a more acceptable face of an unacceptable practice in my mind than the sort of regime that the Hon. Terry Cameron seems to want to push this legislation into. He wants red light districts or substantial sized brothels with proprietors and all the trappings associated with that. That is not what this legislation is all about.

In response to what the Hon. Terry Cameron is saying, I think they can be dealt with by community observation. At no stage have I been a supporter of having substantial brothels existing anywhere in this state. The Stormy Summers style of operation is not what I want. Under the current law, they exist and, on the face of the publicity they receive, they thrive. On the face of it, there are a number of enterprises, if one looks at the daily advertisements in the *Advertiser*, which thrive under the current regime.

If in fact the Hon. Terry Cameron wants to push this legislation in that direction and exclude the participation of people in this sort of enterprise, he will create an environment precisely the same as that which exists in Victoria. We will have these home operations irrespective of what law we pass, and as a consequence we will have a legal industry and an illegal industry.

The Hon. Sandra Kanck: Isn't that what they actually want?

The Hon. A.J. REDFORD: What, the Victorians?

The Hon. Sandra Kanck interjecting:

The Hon. A.J. REDFORD: That might well be the case and, if that is what they want, they should say so. It is very hard to follow the Hon. Terry Cameron's argument from time to time, because he does not appear to want to listen to what others are saying and gets extraordinarily upset if other

people do not listen to him. If this does not get up, it is highly unlikely that I will vote for this on the third reading.

The Hon. R.R. ROBERTS: I hear what the Hon. Angus Redford says and I have heard what the minister has said, but the minister is caught with this dilemma. When we discussed the home activity exemption for prostitution in residential areas, she was opposed to the home exemption. It was her amendment which provided that there would be no exemption. Having won that exemption, she then moved on to the size of the large brothel, and we have now determined what a large brothel is.

We now go back to a small brothel in a non-residential area. I have some problems with that, because as our two colleagues who have left have pointed out, you could have a block of flats with a strata title and you could have one contiguous operation of small brothels run essentially by individuals. But we have all seen the example in the marijuana legislation, where you can have 10 plants and the king pin would get 10 growers to grow one plant if you were allowed only one. It opens up that sort of scenario. The minister has established that, and she has established the fact that different laws apply in a metropolitan area.

If the minister would listen to the proposition I put to her, she would realise that within metropolitan Adelaide, not even worrying about areas outside the metropolitan area, there are situations where you can have a block of flats partly owned by people living in a residential situation with their children, whilst the other half could be taken over, under her proposition, with no planning approvals required, on a strata title basis.

I know that this bill is premised on its being a legal industry, but even as a legal industry you still have the same odium of that industry as perceived by some people. If we have the planning approval—and the number of inspectors is really irrelevant—whether it be a five-room brothel or a two-room brothel, if there is an argument about whether banning ought to be applied, when one goes to DAC, they will look up their register and say, 'Yes, that is a legal business; it complies in every way', and the situation is quite clear.

The minister's dilemma is this: she has agreed that the small home-based activity exemption ought to be taken out in the residential area. When we come back to her, the minister uses the same example, that is, there have been exemptions for home-based industries since 1966. Well, the minister cannot have it both ways: it cannot be a case of no application of exemption on site A and a different form on site B. Clearly, this amendment ought to be opposed, and I suggest that we ought to oppose it right now.

The Hon. M.J. ELLIOTT: I want to respond to the suggestion that a person might buy a block of strata title flats and try to run them as a series of businesses.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: Well, it will not. I invite the Hon. Ron Roberts to look at clause 3(2)(c), which refers to 'a person who is in a position to influence or control the conduct of the business'. In those circumstances, a series of adjoining businesses, which are working in cooperation with each other or which have shared ownership, whether it be within a family or whatever else, will clearly be caught under 'influence'. There is no question about that. The concern being raised by the Hon. Ron Roberts was an issue that concerned me, and I had a word with Parliamentary Counsel about it. I would certainly want to do what I could to limit it if it were a real risk.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: 'Influence' is the word; 'influence or control the conduct of the business'. In those circumstances, collocated businesses which have been set up for that express purpose would certainly be captured by that clause. In fact, the drafting of the bill has already anticipated that potentiality.

The Hon. R.D. LAWSON: With the greatest respect to the Hon. Michael Elliott, the Hon. Ron Roberts is correct in pointing out the possibility of a number of small businesses being collocated. There are a number of examples—whether it involve landlord and tenant legislation, residential tenancies and the like—where people do collocate businesses. They so organise themselves that they jump through the hoops of clause 3(2) of the current bill. They ensure there is not one manager. They have all sorts of informal arrangements which ensure that control is exercised even though no authority can prove the control.

Progress reported; committee to sit again.

STATE DISASTER (STATE DISASTER COMMITTEE) AMENDMENT BILL

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

ESSENTIAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

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

ADJOURNMENT

At 5.25 p.m. the Council adjourned until Tuesday 3 April at 2.15 p.m.