LEGISLATIVE COUNCIL

Wednesday 28 October 1998

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

PAPER TABLED

The following paper was laid on the table:

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

Justice Portfolio including the Department of Justice and the Attorney-General's Department—Report, 1997-98.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the first report 1998-99 of the committee.

RIVERLINK

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a ministerial statement on the subject of Riverlink.

Leave granted.

The Hon. R.I. LUCAS: I would like to clarify a number of matters in relation to the proposed South Australian-New South Wales interconnector, known by the acronym SANI, but more commonly referred to as 'Riverlink'. In particular, I want to correct a number of misunderstandings concerning the approval process for this project, in particular, the completely erroneous claim that the South Australian Government is preventing the project from proceeding.

The fact is that the South Australian Government was not responsible for the decision which led to the Riverlink project being placed on hold earlier this year. Furthermore, the Government of South Australia has no power to prevent an interconnection with New South Wales, and in any event has no desire to do so if a project is shown to be clearly in the interests of this State.

When Riverlink was first proposed earlier this year, ETSA Transmission was in joint venture with Transgrid as proponents of the project. This arrangement was entered into prior to the announcement by the Government of its plans to restructure and privatise the State's electricity assets. Having taken further advice from its advisory team and noted some major changes in the national market, especially in New South Wales, the South Australian Government wrote to the National Electricity Market Management Company (NEMMCO) on 11 June, requesting a delay in the decision on Riverlink to allow further consideration of those recent developments.

However, despite our request, NEMMCO decided to proceed, and on 15 June 1998 NEMMCO, not the Government of South Australia, issued a determination based on its own extensive analysis that Riverlink not be granted regulated status. This meant that the project did not in NEMMCO's view meet the tests which would have allowed its owners, the transmission companies in both States, to gain a regulated and guaranteed rate of return which would in turn have been passed on to customers through transmission charges.

This decision does not in itself prevent this project, or a similar project, going forward at some time in the future. An interconnection between New South Wales and South Australia can be constructed at any time as soon as an investor believes that it is an economically viable proposition.

All that has been decided by NEMMCO is that under the current framework as set out by the code the Riverlink proposal does not qualify for what is, in effect, a guaranteed rate of return. Under the proposals which have been put forward, this guaranteed return would almost certainly be paid by South Australian customers.

The details of the regulated interconnector test are currently being reviewed by NEMMCO and the ACCC. A decision as to whether the regulated interconnector test should be changed will be made in the coming months. Whatever the result, it will still fall to NEMMCO and the ACCC, not the Government of South Australia or the Government of New South Wales, to decide whether the proposed interconnector gains the status of a regulated asset.

It is, of course, understandable that Transgrid, as part of increasing its market share and profitability, is anxious that SANI be regulated. However, the New South Wales sales pitch includes some extremely enthusiastic claims for the benefits which might flow from completion of the transmission line. This includes the claim that South Australian customers stand to gain $950 million over 10 years, rising to $1.4 billion over 20 years. These figures, we are told, are based on an analysis by Transgrid's consultants, London Economics.

I would like to make a few comments about these claims. First, despite repeated requests, neither Transgrid, their lobbyist, nor the New South Wales Government has been prepared to make available to us the analysis on which these claims are based. Secondly, I am advised the claim is inconsistent with the analysis done by the same consultants earlier this year when the original proposal was put forward, despite the fact that since June power prices in New South Wales have shown significant increases. Thirdly, I am also advised that it is inconsistent with the analysis done by NEMMCO when the original proposal was considered. Finally, the claim is silent on the issue of prospective losses in energy as it is transmitted over long distances, sharply reducing the cost effectiveness of this type of transmission project. Whilst estimates do vary, I have been advised that these losses are likely to be more than 20 per cent.

Given that we are being prevented from examining the analysis underlying these claims and given that they are so dramatically at odds with earlier claims, members will understand that we have to treat these latest claims with caution verging on scepticism. I would also add that neither Transgrid nor the Government of New South Wales has been prepared to guarantee these benefits. However, I can assure the Council that if Transgrid present us with a contract to supply power to South Australia which locks in the benefits to South Australian customers over 20 years—which they claim exist—we will be very pleased to sign up immediately. I would have to add that I have no great confidence that such a contract exists or will ever be offered. As I have made clear, despite these extravagant claims, the future of the interconnector largely depends on the review which is being conducted by NEMMCO and the ACCC.

However, the Government does believe that it would not be in the best interests of the State if it were granted regulator status and as a result South Australian ratepayers were assessed higher transmission charges for the life of the power line. This is particularly important as the life of the interconnector over which the higher charges would be levied may be as long as 50 years, while depending on market conditions

in New South Wales the offsetting benefits might be as short as a few years; indeed, if the price rises that have occurred since June are maintained, the benefits may have already disappeared.

The critical issue is not these claimed benefits for the proposed interconnect project. If the project meets the requirements to gain regulator status or if it attracts private investment, it can be constructed, regardless of any position which the Government of South Australia might or might not take. The critical issue for our Government is to ensure that South Australia has a secure supply of competitively priced electricity as the State moves towards the period of peak usage expected in the summer of the year 2000. The Government has taken the view that it would not be responsible to leave this critical issue to decisions which are being made by national bodies or Government authorities in other States.

Consequently, on 30 June, shortly after the NEMMCO determination on Riverlink, the Premier announced his ministerial statement on the restructuring of the State's electricity industry. The Premier's ministerial statement said the Government would offer a market based development package for a private sector developer to build a combined cycle gas turbine power station. Originally, this opportunity was to be offered in conjunction with the sale of the peak power stations. However, given the need to act quickly, the Premier announced on 30 September that, as the sale legislation was still before the Parliament, the new power station would go ahead separate from any possible sale.

Given the need to ensure secure supply for the summer of the year 2000, the new power station will be developed in stages, with 150 megawatts targeted for the summer of the year 2000 and the remaining 100 megawatts added for the summer of 2001. Against this, the advice that I have from ElectraNet South Australia, formally ETSA Transmission, is that the SANI interconnect project, even if it was to start immediately, could not meet this timetable. Significantly, the advice from the environmental consultants who studied the original route proposed is that more time is needed to study and mitigate the important environmental issues associated with the project, in particular its likely impact on the Bookmark Biosphere Reserve. Given this requirement and the need for a substantial EIS, it is extremely unlikely that the interconnection could be completed before the summer of the year 2000. Therefore, it is critical that our new power station providing new SA based jobs be fast-tracked and up and operating by the summer of 2000.

As members would be aware, within the market development package being offered to a developer of the new power station are retail or vesting contracts and access to gas. Unfortunately, this has led to the suggestion that these contracts will be offered at a price which is in excess of the market price or which will in some other way be subsidised. I want to absolutely assure the Council that this is not the case. The vesting contracts will be offered on the basis of expected market prices in South Australia. The value of the contracts we are offering rest primarily in the certainty they will provide the developer given the changes which have characterised the electricity industry following the commencement of the national electricity market. Consumers will retain the protection of the pricing order which will tie the price of electricity to the CPI, as well as receiving the increasing benefits of competition as the market becomes contestable. The gas which will be made available to the developer will be part of the existing take or pay contracts with SA Generation or Optima. Those contracts have 4½ years to run. After this time, the developer will be required to make their own commercial arrangements with the gas producers.

I would also remind the Council that we are seeking to sell this opportunity to the private sector so, in addition to that direct financial benefit to the taxpayer, South Australia gains a significant injection of private sector investment, the certainty that its power needs will be secure by the summer of the year 2000 (regardless of the events and decisions in other States) and a new entrant to the local electricity market which will ensure greater competition. Of course, it also means the South Australian taxpayers will not have to pay $40 million to $50 million, which is approximately its share of the construction costs of the proposed interconnector. Against this, the new power station will be built entirely by private sector funds and at no cost to the taxpayer. Unlike the possibility that the interconnector would have a limited economic life, the new power station will provide ongoing benefits as an independent source of commercially priced power.

The Government of South Australia has not stopped Riverlink—nor can it; nor will it. If the project gains the status of a regulated asset it will almost certainly be constructed subject to normal environmental approvals. If it stacks up as a commercial proposition without that status, then it may also be built; again, subject to meeting environmental approvals. However, we have taken a responsible decision to ensure South Australia's security through the development of a gas fired power station using the latest technology and our own source of fuel. It is a cost effective option; it will be mean significant investment in this State; and it will ensure that we have security of supply when we need it.

CRIMINAL LAW (UNDERCOVER OPERATIONS) ACT

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of the Criminal Law (Undercover Operations) Act 1995.

Leave granted.

The Hon. K.T. GRIFFIN: In April 1995, after the High Court decided an appeal called Ridgeway in favour of the accused, the Parliament passed the Criminal Law (Undercover Operations) Act 1995 with the support of all sides of politics. The object of the legislation was to place the law of police undercover operations on a legislative footing and to ensure certainty in the law. It was clear that the High Court ruling on entrapment by police of drug dealers and other criminals had become a source of judicial uncertainty.

As members may be aware, one of the safeguards that was built into legislation which clearly extended police powers was that there should be notification of authorised undercover operations to the Attorney-General and an annual report to the Parliament. I am pleased to assure the House that the system is meticulously adhered to both by police and by my office. The details of these notifications which form the basis of the report which the statute requires me to give to Parliament are on the report which I now seek leave to table.

Leave granted.

The Hon. K.T. GRIFFIN: It is now clear that the legislation is working well. There have been no major judicial decisions on the South Australian Act since I last reported to Parliament, although the Act was mentioned briefly in the decision of the Court of Criminal Appeal in Giaccio and

Edginton (1997) 93 Australian Criminal Reports 462. It played no major part in the decision in that case.

The major judicial development over the past 12 months has been the decision of the High Court in Nicholas (1998) 72 Australian Law Journal Reports 456. In that case the High Court was asked to decide upon the constitutional validity of the Commonwealth Crimes Amendment (Controlled Operations) Act 1996. That was, of course, the Commonwealth Parliament's reaction to the decision in Ridgeway and, while the legislation is similar in intention to South Australia's, it is very different in form. For present purposes it suffices to say that a majority of the court decided that legislation of this kind did not usurp the judicial power of the Commonwealth or improperly undermine the integrity of the judicial process or public confidence in the due administration of justice. For example, in a passage which applies equally to the South Australian legislation, Chief Justice Brennan said:

> [The Act] does not impede or otherwise affect the finding of facts by the jury. Indeed, it removes the barrier which Ridgeway placed against tendering to the jury evidence of an illegal importation of narcotic goods where such an importation had in fact occurred. Far from being inconsistent with the nature of the judicial power to adjudicate and punish criminal guilt, [the Act] facilitates the admission of evidence of material facts in aid of correct fact finding.

I think members would be well assured that the legislation is working smoothly.

INTOXICATION AND THE CRIMINAL LAW

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the subject of intoxication and the criminal law.

Leave granted.

The Hon. K.T. GRIFFIN: I refer to the question without notice asked by the Hon. Paul Holloway MLC on Tuesday 25 August 1998. In it, the honourable member referred to a number of decisions which are cited in order to illustrate the so-called 'drunk's defence'. In my response I gave an undertaking to provide the honourable member with detailed information about the cases he raised. Incidentally, it appears that the cases cited by the honourable member were all (bar one) taken from those cited in the judgment of Justice Nyland in the Simpson case, which is the first decision dealt with as follows.

1. In Simpson (an unreported Court of Criminal Appeal case of 20 August 1998), the appellant was charged with two counts of rape. According to the complainant, the appellant forced his way into her home, raped her twice and left. She said that:

> . . . the appellant appeared to be drunk. He repeated himself frequently, slurring his words, and was swaying a bit. He told her that he had been drinking beer that night and, from what he said, it appeared that he had spent about $40 on alcohol.

According to the appellant, the complainant invited him in and they had consensual intercourse. The contest was therefore about consent or not and was a black and white credibility contest. Intoxication was not an issue in the trial. I suspect that it was in the interests of the appellant not—and I emphasise not—to raise any issue of intoxication, as it might damage his credibility in the contest. As it was, the trial judge gave a good example of why that might be so by directing the jury that alcohol may affect inhibitions, release inclinations and passions normally kept under control when sober, blur perception of events and affect that person's reliability as a witness.

The Court of Criminal Appeal held that, the evidence of intoxication having been raised on the evidence of the complainant, a direction to the jury on O'Connor ought to have been given and it was not. So, there had to be a retrial. The retrial has not yet reached any conclusion. This is not a case of the 'drunk's defence'. The defendant wanted to stay well away from the issue of intoxication. He did not ask for a direction. He was not acquitted. All that will happen is that there will be a retrial.

2. In Bedi (1993) 61 South Australian State Reports 269, the appellant was charged with two counts of threatening the victim with a firearm and two counts of endangering life. The case for the Crown relied almost entirely on the account of the victim. According to the victim, after he and the accused had been to the party, they went to the appellant's house and consumed both alcohol and marijuana. While at the house and in the early hours of the morning, the appellant became aggressive, threatened the victim with a rifle and fired two shots at him. There was physical evidence that shots had been fired. According to the appellant, it was the victim who became irrational and aggressive and the appellant was forced to do what he did to get the victim out of his (the appellant's) house.

In short, it was really another credibility contest. Again, both the appellant and the victim played down the amount of alcohol and marijuana that they had consumed. Again, neither argued the relevance of intoxication in their behaviour or on any legal issue. Again, the trial judge gave no direction on the issue. The Court of Criminal Appeal held that the trial judge ought to have given a direction. It ordered a retrial. On retrial, Bedi was convicted and received a suspended sentence of three months on a $200 bond to be of good behaviour for three years. This is not a case of the 'drunk's defence'. The defendant wanted to stay well away from the issue of intoxication. He did not ask for a direction. He was not acquitted.

3. In Ball Bunce and Calliss (1991) 56 SASR 126, the appellants were jointly charged with 11 counts of rape. The alleged offences all occurred in relation to the one victim on the same evening. It was quite clear that the three appellants and the complainant were all very substantially, perhaps one might say highly, under the influence of alcohol and marijuana. Again, counsel for the accused did not rely on intoxication at the trial but, after conviction, complained about the direction that the trial judge had given on the issue. This case is very much like Bedi. The Court of Criminal Appeal held that the proper direction should have been given. It quoted from an earlier decision in Egan (1985) 15 Australian Criminal Reports 20 in which Justice White explained the realities of intoxication and the criminal trial very clearly:

> . . . the arguments based on partial intoxication were two edged, like a two-edged sword as it were. There is a favourable or helpful edge which assists accused persons in cases like this, at the first stage of the exercise where the jury is considering the question whether the accused realised she might not be consenting. They get the benefit at that stage of any dulling of his perceptions due to partial intoxication. Once the jury decides that he did realise, notwithstanding partial intoxication, that she might not be consenting, the very fact of partial intoxication may then be used by the jury as the explanation why the accused pressed on with sexual intercourse recklessly indifferent to her consent. That is the adverse or unhelpful edge of the direction as to partial intoxication. It may be that counsel realised this difficulty and, for tactical reasons, did not make too much of the issue.

This is not a case of the 'drunk's defence'. Despite the fact that they were grossly intoxicated, the defendants wanted to stay well away from the issue of intoxication. They did not

ask for a direction. They were not acquitted. They were all convicted on retrial. Ball eventually was sentenced to 11 years four months with a non-parole period of seven years; Calliss and Bunce received sentences of 10 years with a six year non-parole period.

4. Perks (1986) 41 SASR 335 is the classic example of not being the 'drunk's defence'. The appellant was charged with the murder of his wife by strangulation in the course of a violent struggle. The appellant argued at trial that he had killed her in self defence after she had hit him on the head with a bottle and cut his face with the broken end of the bottle. According to the appellant, he was sober at the time. All of the evidence of intoxication was introduced by the Crown over the protests of the appellant. The Crown led evidence to show that he was an habitual drunkard, that while intoxicated he frequently inflicted violence on his wife and that his blood alcohol content was over .258 on the night in question.

The point of this from the prosecution point of view was to prove that he killed his wife while inflamed by drink. Clearly, if the appellant was to rely with success on self defence, this evidence was very damaging to him. Moreover, if he wanted to turn to provocation to reduce the charge of murder to manslaughter, any evidence of gross intoxication would work against him because it would make it far more likely that his over-reaction and loss of self control was due to intoxication and not to anything said or done by his victim. In short, the defence position was that he was completely sober at the time. This extreme reversal of positions led the trial judge into a number of errors and omissions in his summing up and the Criminal Court of Appeal ordered a retrial on a number of grounds.

This is the very antithesis of the 'drunk's defence'. The accused denied that he was anything but sober. The prosecution wanted to prove that he was very intoxicated. The trial judge let this draw him into error in directing the jury. He was not acquitted. On retrial, he was convicted of murder and sentenced to life imprisonment with a non-parole period of 18 years. A further appeal against conviction and sentence was dismissed.

5. The honourable member referred also to the 1983 decision in Martin. I can only surmise that he is referring to Martin (1983) 32 SASR 419. In that case, the appellant and another were charged with murder and convicted of manslaughter. The death of the victim arose as a result of a drunken brawl. The knife with which the victim was stabbed was produced by the victim. In the melee it was difficult, if not impossible, to know how and by whom the fatal wound was inflicted.

The jury's verdict was taken to mean that the jury thought that one of the accused restrained the victim while the other voluntarily stabbed the victim and that they acted in excessive self-defence—excessive because their subjective perception of the threat posed by the victim was affected by alcohol.

On appeal, the Court of Criminal Appeal was divided. Justice Mitchell would have dismissed the appeal: hers was the dissenting view. Justices White and Matheson took the view that there should be a new trial because the trial judge had not directed the jury about the necessity to find a 'basic intent', that is, the intention to stab, nor had they been directed about the possibility of manslaughter by an unlawful and dangerous act. The majority judgments are concerned with the jurisprudential distinction between the voluntariness of the act and the intent which accompanies the act.

This decision certainly involves the case in which the accused argued that he should not be convicted because of intoxication. It is also one in which it is highly likely that what might have been murder became a conviction for manslaughter because of the state of intoxication of the accused. However, that would have been the case in England, Queensland, Western Australia, New South Wales and Tasmania—in fact, every common law jurisdiction which takes a legal position contrary to O'Connor. That result is hardly a drunk's charter, however. The accused is convicted of manslaughter. In this case, a retrial was ordered.

As a matter of completeness, Martin was appealed to the High Court (1984) 58 Australian Law Journal Reports 217. The High Court affirmed the decision of the majority of the Court of Criminal Appeal. On retrial he was found not guilty. I am advised by the Director of Public Prosecutions that the acquittal cannot be attributed to intoxication because there were complex issues relating to joint enterprise with a convicted party and other matters involved.

In summary, none of these cases cited resulted in an acquittal on the ground of intoxication. All were cases on appeal from conviction in which the Court of Criminal Appeal decided that the trial judge had made an error in directing the jury and which warranted a retrial. None involved the court making any judgment whether, on the facts, the accused should have been acquitted.

In so far as the Hon. Paul Holloway cites any of them as examples of cases in which the court overturned a conviction, he is technically right. It is what he omits to say that creates a misleading impression. It is also interesting that a number of these cases illustrate quite neatly why it is that many defendants do not rely on intoxication, and in one case at least strenuously deny intoxication.

I dealt with the decision in Gigney in my reply to the honourable member on 25 August. I wish only to add this: this decision, being a decision of a judge sitting alone, should persuade the Opposition to support the Government's Bill giving the Director of Public Prosecutions a right of appeal against an acquittal by a judge sitting without a jury.

EMERGENCY SERVICES

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement made by the Minister for Police, Correctional Services and Emergency Services in another place this day concerning emergency services restructuring.

Leave granted.

QUESTION TIME

SPEED LIMITS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about speed limits.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the Minister to an announcement made by her Party room colleague the member for Stuart that he would be moving to introduce a private member's Bill to allow speed limits of up to 130 kilometres per hour on certain country roads. I recall the recommendation made by the South Australian Road Safety Consultative Council in January this year, as follows:

> The maximum rural speed limit of 100 kph consistently applies except where circumstances indicate 110 kph is appropriate.

The Minister at that stage promptly rejected the recommendation, claiming that it was impractical. Additionally, in a swipe at the Government and the Minister, the member for Stuart also stated that speed cameras were revenue raisers—shock, horror—and recalled how cameras were strategically positioned at the bottom of hills to achieve this objective. My questions to the Minister are:

1. Does the Minister support the moves by the member for Stuart moves to increase the speed limit, and what action will she take in response to it?

2. Does the Minister agree with her colleague that speed cameras are an excuse for revenue raising to the tune of $41 million per year?

The Hon. DIANA LAIDLAW: To the second question, I would say 'No.' The placement of speed cameras has been established by the South Australian police, and it is their responsibility in terms of the positioning of those cameras. The honourable member would be aware of an announcement in recent times that the Government is looking at providing a warning at State borders and at other locations about the placement of speed cameras in certain areas. In addition, other road safety measures or activities are being undertaken by the police—whether it be roadworthiness tests or seat restraints.

I have seen similar signs in New South Wales for some years now, and there has been some interest in South Australia in providing similar warnings and courtesies to motorists. At the moment discussions are taking place between the police, the Minister for Police, Correctional Services and Emergency Services and me in relation to those matters.

With respect to the first question about speed limits, the member for Stuart (Mr Gunn) has not spoken to me about this matter in recent times. He certainly did not alert me to any statement that he was going to make yesterday and I have seen no Bill—and, to my knowledge, he has not advanced a Bill to the Party room at this time.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Maybe. However, I do know that there has been much debate about this matter in Western Australia, where the Upper House has come up with a scheme that it is prepared to trial, with a speed limit of 120 kilometres on certain roads during daylight hours. I believe that it will be a cumbersome scheme to administer.

I also know that no road in South Australia has been constructed to a technical standard for speeds above 130 kilometres an hour. I believe that every responsible Minister for Transport, Minister for Health and member of Parliament would want to see that there is a margin between the setting of a maximum speed limit and the safety factor in terms of the construction of roads. I also know (and I believe that this would be the experience of most members) that the police tolerance is probably up to some 10 kilometres an hour above the set limit. Therefore, on the open roads to the north and south of the metropolitan area, where there is probably an average speed of about 120 km/h now, if we put it up to 120 km/h it would probably rise to 130 km/h, and that is the maximum technical standard to which those roads have been built. As members of Parliament, we definitely must take an attitude in terms of duty of care in these matters. I am very keen to discuss this matter further with Mr Gunn. I know that the Hon. Caroline Schaefer and others have—

The Hon. Carolyn Pickles: He's used to flying; that's his problem—

The Hon. DIANA LAIDLAW: But he is so conscious of driving within the speed limit that he would like the speed limit to be set at the speed at which he would like to drive. I believe that is the argument at the moment. But I know that the Hon. Caroline Schaefer and many people whom she represents have raised this matter from time to time, and I think it is worthy of debate. I would have to say that, in terms of duty of care, I would have great difficulty in supporting the measure.

GOVERNMENT CONTRACTS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General a question about the outsourcing of Government contracts and the Auditor-General's Report.

Leave granted.

The Hon. P. HOLLOWAY: The Auditor-General expresses the view that:

> The issue of confidentiality is of central importance in matters associated with Government contracting.

He says that, while some provisions of a contract might be legitimately confidential, it is his opinion that:

> Confidentiality cannot be permitted when the overall impression created would be misleading to the public and the Parliament and where confidentiality impedes the latter in the discharge of its constitutional role of scrutiny of the Executive Government.

Most importantly, the Auditor-General says:

> In situations where Government contracting results in a long-term transfer of material Government responsibility to the private sector, the right of the people to know the extent and terms of that transfer must take precedence over less persuasive arguments in favour of confidentiality.

In view of those comments, my questions to the Attorney are:

1. Does he agree with that statement?

2. Does the Attorney intend to take seriously the Auditor-General's opinion, and therefore give precedence to the public's right to know, by releasing details of all current outsourcing contracts?

3. Will the Attorney make public updated performance indicators of each contractor?

The Hon. K.T. GRIFFIN: My colleagues and I always take seriously what the Auditor-General reports, but there will be occasions when we do not agree. There will be many occasions where we do agree. And in relation to the issue of contracts, I have not given detailed consideration to the matters to which he refers. I will certainly do so, as will the rest of Government, and when we have reached a conclusion on his observations we will certainly let the Parliament know. However, there is no intention at the moment, until that consideration has been given (and maybe not even then), for us to deviate from the current practice in relation to contracts.

UNEMPLOYMENT

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about rising unemployment in South Australia.

Leave granted.

The Hon. T.G. ROBERTS: In the latest edition of the *Australian Labour Market* are a number of charts and graphs, which I will not have incorporated in *Hansard*, but which show the trends for employment and unemployment in each

State. I know that members on both sides of the House are aware of the difficulties that we in South Australia have, as opposed to those on the eastern seaboard, in attracting large investment programs and that the New South Wales figures are probably exaggerated slightly by the construction of Olympic Games venues. However, they do show an undeniable trend for cementing South Australia's place in the unemployment stakes amongst the highest, certainly in the mainland, and we are now competing with Tasmania for the number one position.

It is most disturbing for any member of Parliament and any South Australian to see our young, well-trained and educated people heading interstate to follow the job market. At page 179 of the *Australian Bulletin of Labour*, in relation to South Australia it is stated:

> It is the only State to see a decrease in employment numbers and the decrease is sizeable (3.4 per cent or 22 800 jobs). For the most part, the fall is due to the loss of part-time jobs, with 15 100 part-time jobs disappearing; yet, nearly 8 000 full-time jobs were also lost. South Australia also stands apart from the other States with regard to its large drop in labour force participants. In total over the past year, 21 600 participants exited the labour force in South Australia, and its labour force participation rate fell from 61.7 per cent to 59.5 per cent.

And, in part, some of that involves people exiting into other States. It goes on to say:

> If South Australia had not been 'blessed' with this large withdrawal from its labour force, the increase in its unemployment rate of 5.4 per cent would have been even larger.

Given that these trends are disturbing and with the understanding that the Government would want to put together a package of programs to arrest these trends—otherwise we will run out of skilled workers because of people leaving the State—my questions are:

1. What approaches will the Government make to the new Federal Government to highlight the difficulties that South Australia is facing in its expanding unemployment base?

2. Will the South Australian Government highlight the need for public works infrastructure financing to be brought forward as a matter of urgency to arrest these trends?

The Hon. R.I. LUCAS: The State Government shares the concern of the honourable member—and I presume the Commonwealth Government—that more needs to be done in terms of the national economy and the State economy and, in particular, the provision of more jobs within the South Australian economy. I have an argument about the statistics quoted by the honourable member. I do not have the clipping with me, but I believe those figures are three or four months out of date. The report to which the honourable member refers, which was recently highlighted in the *Advertiser*, probably relates to a June to June comparison. The advice that I have at the moment is that during the months of August and September in South Australia we have seen some growth in employment, pleasingly.

During September 1998, total employment in South Australia on a seasonally adjusted basis rose strongly by 8 100 following a similarly large rise of 7 600 in August. I hasten to add that I concede that the year to year figures for September as opposed to June still show a significant fall in numbers in employment in South Australia of 16 700. This is largely an argument about the accuracy of statistics—it does not move away from the important point that the honourable member makes—but I want to place on the record that the report to which the honourable member refers, which has received a lot of publicity, paints the bleakest possible picture of the position in South Australia. However, as I said, there has been some improvement in the job market, pleasingly, in August and September.

Regarding approaches to be made to the Commonwealth, the Government hopes that, with the comprehensive tax reform package which the Commonwealth Government, having just won the recent election, now has a mandate to implement in Australia, in the longer term there will be some growth within the national economy and, therefore, the provision of increased numbers of jobs. In the short term—

The Hon. T.G. Roberts: We'll be in a recession by then.

The Hon. R.I. LUCAS: I hope not. If the Government is allowed to implement the national tax reform package—

Members interjecting:

The Hon. R.I. LUCAS: If the honourable member's Federal colleagues seek to stymie the Federal Government's attempts to do something about the employment position, they will have to accept some responsibility for any national economic problems which may well ensue. So, the responsibility, at least in part, rests with the honourable member and the Federal Labor Party under Mr Beazley as to whether they are prepared to be responsible and whether the Coalition, having been elected, is allowed to implement its attempt to institute comprehensive reform over the next three years to see whether its solution to our national economic problems is correct. If it is not, I am sure the people of Australia will express that view at the next election, and Mr Beazley, Mr Evans or Mr Crean with their capital gains taxes or otherwise will be able to suggest their solutions for our national economic problems. I hope they have an opportunity to implement whatever program they might have should they ever be elected at the national level.

Obviously, all the elements of the national tax reform package will not be able to be implemented until the middle of the year 2000 at the earliest. In the interim, with respect to ensuring that capital works expenditure by the State Government and the Commonwealth Government is made early enough to help to assist with boosting employment, I, as Treasurer, and the State Government strongly support that. Again, the honourable member has an opportunity to have an impact on that because, as I reported yesterday, some of the underspending on the capital works program last year was as a result of activities of the honourable member's colleagues in various committees and other parliamentary fora which prevented expenditure on programs such as the Hindmarsh Soccer Stadium redevelopment and other programs. The Government had the money, had allocated it and wanted to proceed with the expenditure but was impeded, at least in part, by the operations and actions of some of the honourable member's colleagues.

In a bipartisan way, if the honourable member wants to assist the Government in the expenditure of its capital works program, on the Government's behalf he might take up cudgels within his own Party and ask his colleagues to allow the Government to proceed apace with its capital works program so that we can fast track this capital works expenditure and see an increase in employment as a result.

The Government has allocated approximately $1.2 billion on capital works this year. We would like to see as much of that as possible spent on capital works programs. The Parliament, Labor members together with Government members, can do what they can to assist the Government in that process. As the honourable member knows, the Government has also announced in the past six months a comprehensive $100 million employment package which covers a range of programs. I will not take up Question Time today to

examine the details of that, but if the honourable member would like another copy—I know that a copy was sent to him at the time—of the $100 million employment package, I would be pleased to provide that to him.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: No, not at all. The honourable member says that most of it has gone on advertising. I assure the honourable member that very little of that $100 million has been spent on advertising. In fact, there was limited recent advertising about the new public sector traineeships which have been supported by the Youth Affairs Council of South Australia, SACOSS and a range of other groups as a very useful job creation program within, in this case, the public sector. Some 70 per cent of young people who go through that 12 month public sector traineeship go on to achieve full-time employment with either a private or public sector employer. So, a number of programs like that are included in the $100 million package.

In conclusion, the honourable member would also be aware that last week the Premier and the Minister for Employment indicated that the Government (through the Minister) will engage in a series of job workshops in both the metropolitan area and regional areas seeking ideas from anyone in the community, over and above the program which they have already outlined and which the Government has put in place in terms of future action by the Government or the private sector, as to what can be done to tackle the unemployment problem.

At the conclusion of that, all members—I hope that also includes members of this Council—will have the opportunity in a bipartisan way, on one particular day, Jobs Day, in Parliament, to put forward their constructive ideas for what can be done to tackle unemployment rather than engaging in destructive debate on this issue.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I will be pleased to hear the Hon. Mr Crothers's ideas. I have no doubt that he will have a number of ideas that will provide some illumination for his colleagues and other members of this Chamber. Of course, we will be interested and we will wait with bated breath not only for the honourable member's contribution but for Mr Rann's contribution on behalf of the Labor Party in terms of what concrete ideas we can look at to help tackle the unemployment issue in South Australia.

STATE DEBT

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

Leave granted.

The Hon. G. Weatherill: A dorothy dixer!

The Hon. L.H. DAVIS: You wouldn't know what a dorothy dixer was, George. I have studied with interest the budget results for 1997-98 presented by the Hon. Rob Lucas MLC for the information of members yesterday and also I have had a preliminary look at the Auditor-General's Report for the year ended 30 June 1998, in particular the audit overview part A.2 dealing with State debt. I ask this question because it is not surprising that these questions have not been asked by the Opposition. On page 1.1 of the Treasurer's introduction to the budget results for 1997-98, one of the highlights is:

> Public sector net debt as at 30 June 1998 reduced to $7.465 billion or 19.9 per cent of gross State product, compared to $7.53 billion or 20.7 per cent a year earlier.

In other words, there was a reduction in public sector net debt for the 12 months of $65 million—a small reduction—which underlines the difficulty and the challenge that exists in reducing public sector net debt. In part A.2 at page 44 the Auditor-General, in what is an interesting approach to analysing State debt, notes in some statistics that South Australia, as a proportion of all States and Territories, has significantly increased its share of net debt and unfunded employee benefits. In other words, he looks at South Australia's net debt and unfunded employee benefits and at the aggregate of all States and Territories and then expresses South Australia's net debt and unfunded employee benefits as a proportion of those of all States and Territories.

The point he makes is that, as at 30 June 1993, South Australia's percentage was 10.2 per cent. That has increased as at 30 June 1997 to 12 per cent. He says that although there has been a decline—

The Hon. P. Holloway interjecting:

The Hon. L.H. DAVIS: The Hon. Paul Holloway may well make glib and smart assumptions but, of course, it is about time he and his colleagues faced up to the reality of what we faced. You would do it if it were your domestic household but you are not prepared to do it for the State—and it is about time you did. The Auditor-General said:

> It will be seen that, although there has been a decline in absolute terms in the level of debt and unfunded superannuation liabilities in South Australia, its position relative to other States and Territories has deteriorated to a significant extent.

The Auditor-General goes on and explains that that, of course, is a result of asset sales and the varying extent of the use of balance sheet transactions, which differ markedly between States, and also privatisation. On the next page, page 45 of part A.2, he also underlines the deterioration in South Australia's position relative to other States when he examines the important matter of interest costs. The Auditor-General looks at net interest as a proportion of total State and Territory Government revenue. He notes that, whereas in 1992-93 South Australia had on average of the total of all States and Territories net interest as a proportion of revenue 14.7 per cent, that figure in 1997-98 declined to 13 per cent.

However, if you look at all the other States, the figure has more than halved, whereas in South Australia from 1992-93 to 1997-98 it went from 14.7 per cent to 13 per cent; in other words, 13 per cent of all Government revenue in South Australia is directed to net interest payments. In other States in that period (1992-93 to 1997-98) that figure has almost halved, from 13.3 per cent to 6.9 per cent. Again, that underlines the relative deterioration in South Australia's position *vis-a-vis* other States.

I am not sure whether the Treasurer has had the opportunity to reflect on the Auditor-General's statement, but I would be interested to know whether the Treasurer has had an opportunity to look at the Auditor-General's observation on debt in South Australia relative to other States and whether he is basically in agreement with the Auditor-General's comments in this regard.

The Hon. R.I. LUCAS: I think all members would thank the Hon. Legh Davis for drawing their attention to this important matter in the Auditor-General's Report. The combination of the Auditor-General's Report and the budget results for 1997-98 show that in the absence of asset sales it is extraordinarily difficult to make progress on paying off your debt. We are making incremental improvement. The honourable member referred to approximately $65 million off a debt of $7 500 million. It is extraordinarily hard to pay off

your debt, your mortgage, in the absence of significant asset sales. Of course, that is one of the reasons for the Government's proposal to sell ETSA and Optima.

The other figures to which the Auditor-General has referred—and I must admit that I had not seen these figures until the Auditor-General's Report was produced yesterday—are indeed very stark. The simple figure, without going through all the detail of the honourable member's question, is that in this last year in South Australia our interest costs were some 13 per cent of our total State revenue; in other States it was about 6.9 per cent, about half. That shows that in those other States they can spend that 6 or 7 per cent of total revenue on schools, hospitals, police services, transport and on a variety of other essential public services, whereas we in South Australia have to spend that 6 or 7 per cent of our total State revenue paying off the debt that, sadly, Mike Rann and the Labor Party left the people of South Australia. That very starkly indicates the size of the problem that confronts us. I am indebted to the honourable member.

My only other point is that there has been some confusion from some sections of the media about one section of the Auditor-General's Report. Yesterday afternoon, I was confronted with eager journalists saying that, according to the Auditor-General, the Government had been in power for four years and yet debt had increased by $400 million. Being a cautious Treasurer, I said, 'I have not seen that section of the report and I will not comment.' They persisted—so did I—and we agreed to leave it until I had a chance to read the report. I want to place on the record what the Auditor-General has actually said, as follows:

> . . . the level of total nominal debt (excluding the effect of the sale of Government businesses) and unfunded superannuation liabilities remained higher at June 1998 than at June 1994 (by about $400 million) and is forecast to continue to grow further in the next two financial years followed by some decline in the next year.

I highlight to some sections of the media that this $400 million figure excludes the effect of the sale of Government businesses. There have been a number of significant asset sales, obviously in the last four years, which have seen a reasonable sized reduction in the total level of the net debt. So, this $400 million figure, I guess, has misled—I am sure unintentionally—some sections of the media to believe that the Auditor-General has been critical that the Government has not been tackling the debt issue strongly enough. I place that comment on the record.

LEIGH CREEK COAL FREIGHT CONTRACT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Leigh Creek coal freight contract.

Leave granted.

The Hon. SANDRA KANCK: When Australian National was sold last year, the freight side of the business was purchased by Australian Southern Railroad. The most important part of the freight business is the haulage of coal from Leigh Creek to Port Augusta, given that coal is required all year round, as opposed to grain which is seasonal. As such, coal haulage provides a steady income for a freight company.

Flinders Power has just shortlisted three tenderers for that coal haulage contract—Silverton Tramway, Freightcorp and Westrail—and none of them is South Australian based. The principals of Australian Southern Railroad, which is South Australian based, have been hauling the coal since they took over the freight business of Australian National and are now understandably miffed. At the time they took over, Australian National was freighting the coal at $9 per tonne and ASR has been doing it since at less than $5 per tonne.

ASR has made a significant investment in rail in South Australia. Withdrawing this constant cash flow will undermine ASR's ability to upgrade South Australia's rail network. It has been suggested to me that the tendering process has been confused and confusing. ASR has indicated that this tendering decision will result in retrenchment of some of its employees at a time when unemployment is creating headlines in this State. Its current contract with Optima Energy expires on 31 January, but ASR has been asked to extend its service until the tender has been finalised. On the basis of its treatment, it has not yet decided whether to accede to this request. If it does not, Optima's coal supplies could be interrupted during peak demand. I recognise that the Minister may have to consult with other ministerial colleagues, but my questions are:

1. Is the Minister aware that South Australian jobs will be lost as a consequence of this tendering process?
2. Does the Minister consider that this decision makes the existence of a rail freight system in this State more marginal?
3. Does the Minister consider that such tenders should give preference to South Australian companies and, if so, will she make inquiries via other appropriate Ministers about the tendering process in this case?
4. If ASR decides that it will not fill the void in the period after 31 January, given that February is our hottest month with great call on electricity resources for airconditioning and given that all units at Port Augusta are likely to be needed for the generation of power at that time, can the provision of coal from Leigh Creek, and hence electricity from Flinders Power, be guaranteed?

The Hon. R.I. LUCAS: I will answer the question because the contract is actually a contract with Flinders Power and I am the Minister responsible for Flinders Power. In relation to question No. 4, I have been assured by Flinders Power that should the set of circumstances that the honourable member has outlined eventuate—and we hope that is not the case—it has in place an alternative proposition that will not see the sort of problems about which the honourable member has expressed concern. I am mindful that Flinders Power is in the middle of a commercial tendering process and I am, therefore, not at liberty to place on the public record too much detail about what is, indeed, a confidential commercial tendering process.

I acknowledge that the honourable member, having received the information, obviously made the judgment that she wanted to raise these issues. I make no comment about that at this stage, but I indicate that it is difficult for me as the Minister responsible to respond in complete detail to a number of issues that she has raised. However, I do place on the record the advice I have been given about the fourth question. If left unanswered, that particular question may well cause alarm in the South Australian community, and I am sure the honourable member would not want alarm to be created—if it was not justified—as a result of her question. I therefore place on the public record the assurance that I have been given in relation to that particular question.

I cannot comment on the commercial negotiations, or confirm or otherwise who has been shortlisted other than to say that, clearly, Flinders Power will be operating in a competitive national market. The honourable member has been somewhat critical in some cases of the decisions the

Government is taking about the potential costs to electricity consumers in South Australia of various decisions. She will, of course, be aware that this particular commercial negotiation will have an impact.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Well, I am raising the fact that the honourable member will be aware that if Flinders Power had to accept a high cost tender—and I do not enter any comment about the individual tenderers at all—the only people who would pay for that are the electricity consumers in South Australia. But also, if we remain the owners of Flinders Power, then the relative competitive position of Flinders Power in the national market, in terms of its bid price, will be affected and, again, the taxpayers of South Australia will be affected and will have to pick up any losses that might be incurred as a result of Flinders Power not being able to bid competitively into the national market.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Well, on both fronts we as individuals, whether we are electricity paying consumers or taxpayers, might have to share the cost of any decision, for whatever reason, to accept a high cost tender. In the end, Flinders Power has to be competitive and has to compete in the national market.

I cannot go into the detail of this and am therefore at a disadvantage, because I take a conscious decision that it is not proper for me to be publicly engaging in a debate about different tenderers and the shortlisting of tenderers when there is a commercial negotiation process going on. As I acknowledged, the honourable member has taken a different view on that. I am therefore at a disadvantage, but, in trying to speak as generally as possible, can I say that I have been assured as a result of questions I have raised, and indeed questions that my colleague the Minister for Transport has raised with me, that the issue of job creation, losses or transfer as a result of this tender process will be a consideration in this process. I cannot give an indication about weighting; I cannot give an indication about a commercial decision that the Flinders Power Board will take.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Well, I have been assured that the issue of job transfer, job creation or job loss will be and has been a factor in the consideration of this process. I therefore cannot say at this stage what the impact of the eventual decision will be because, frankly, I do not know who the successful tenderer ultimately will be. Together with other members, I hope that we will see a sensible commercial decision which, in the end, preserves and creates in South Australia the greatest number of jobs as is possible as a result of the contract.

BLUEBIRD RAIL

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 Bluebird Rail.

Leave granted.

The Hon. J.S.L. DAWKINS: Members may be aware of the success of the Bluebird Rail tourism service to the Barossa which has resulted in the popular Sunday service being extended recently to three days a week. I am also personally aware that the refurbishment of the Bluebird rail cars used in this service was carried out by Bluebird Rail itself. Will the Minister indicate if the expertise gained in completing this refurbishment has led to any further work of this type for Bluebird Rail?

The Hon. DIANA LAIDLAW: The honourable member has been an enthusiastic supporter of the return of passenger rail services to the Barossa. He lives at Gawler and in the Barossa.

The Hon. Carmel Zollo: He doesn't have a vested interest, does he?

The Hon. DIANA LAIDLAW: No, just in representing his constituents and advancing the interests of tourism.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: No, this is just one particular interest; it is not his only interest. Certainly, tourism generally and the rail work force have appreciated the Hon. Mr Dawkins' interest. It is true too that the work force engaged by Bluebird based at the Islington workshops did an outstanding job in refurbishing the Bluebird railcars which used to operate to Mount Gambier and which are now operating twice a week to the Barossa, and these services are expanding. I am thrilled to advise today that that expertise has been recognised in Victoria. The Victorian Minister for Transport has announced today that Bluebird has won a contract worth $1.4 million for the full refurbishment and upgrade of two powered cars and two trailers. These will be leased over a two year period to operate on the Traralgon V-Line passenger country rail service in Victoria. This will involve the creation of 20 new jobs at Islington and it is a fantastic credit to this new Bluebird business operation. It means that the expertise of former Australian Rail workers has also been recognised, and that is excellent also.

I highlight that the Bluebird contract involves training drivers in Adelaide and Traralgon to undertake this service. Also, Bluebird engineers from Adelaide will be located in Melbourne and Traralgon to carry out the day-to-day maintenance of the railcars. I compliment the Bluebird management and work force on the tourism investment they have made to South Australia, the rail investment and the investment in rail worker expertise and congratulate them on winning this important contract.

RAILWAYS, GRANGE

The Hon. G. WEATHERILL: I seek leave to make a brief statement before asking the Minister for Transport and Urban Planning a question regarding train services.

Leave granted.

The Hon. G. WEATHERILL: On 12 March 1998 the *Advertiser* reported that, due to the Holden Australian Open Golf Tournament, the Grange railway line will be closed from Seaton to Grange station for a period of six weeks.

The Hon. T. Crothers: Put the Bluebird on it.

The Hon. G. WEATHERILL: We need the Bluebird. On 19 March 1998 the Hon. Dean Brown issued a reply to a question on notice from Mr Atkinson lodged on 7 March 1998. Mr Brown stated that the report in the *Advertiser* indicated that the rail link would not be closed for six weeks: in fact, it would be less than six weeks. What assurances were given through negotiations with tournament organisers from FEMIMG that the line would be closed for any less than six weeks; and did the Government perceive the need to compromise the stance as outlined by Mr Brown and, if so, why?

The Hon. DIANA LAIDLAW: Compromise?

The Hon. G. Weatherill: It is less than six weeks.

The Hon. DIANA LAIDLAW: I am not sure where the honourable member is coming from: whether he is upset that

the line will be closed for the tournament or whether he wants it closed for the maximum of six weeks for the benefit of the golf.

The PRESIDENT: If the Minister will resume her seat I will allow the Hon. Mr Weatherill to make it clear.

The Hon. G. WEATHERILL: The question was asked whether it was going to be closed for six weeks. The reply from the Hon. Dean Brown said that, no, it would not be closed for six weeks; the *Advertiser* got it wrong. At the railway station this morning a notice states that it will be closed from 4 November to 17 December, which is six weeks. Is it less than six weeks or more than six weeks?

The Hon. DIANA LAIDLAW: I indicate that the advice that has been placed for the passengers' information and benefit is the correct advice. There have been many discussions with the golf organisers and TransAdelaide and consultation with the rail passenger forum that we have in that local area—people who use the Grange line—about the logistics of putting up the grandstands for the Australian Golf Open. It is apparent that the maximum period that will be required will be that six week period. We have a commitment from the organisers that if they can dismantle the stand in a more concentrated period that would certainly be their goal. I can assure the honourable member that TransAdelaide and I have been particularly concerned throughout, not only for the benefit of golf, spectators and television audiences involved in this tournament, but particularly for our regular passengers on the service and others who wish to get to the golf tournament.

At considerable cost to TransAdelaide (and I can get that cost for the honourable member; I do not have it at hand) TransAdelaide will be providing an alternative bus service so the people of the area will not be without a public transport service. Extra buses will also be provided from the city for people who wish to attend the golf match, and TransAdelaide will also be involved in that promotion. At all times throughout, TransAdelaide and I and the Government as a whole have sought to deal with the conflicting interests, keeping passengers' interests in mind but at the same time making it as easy as possible for people to attend this fantastic event at Royal Adelaide Golf Club. It has not always been easy to juggle all those logistics. I think we have got it right, but the benefit to golf has come at some cost to TransAdelaide.

ROYAL DISTRICT NURSING SERVICE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Disability Services a question about the Royal District Nursing Service.

Leave granted.

The Hon. CAROLINE SCHAEFER: Recent reports have stated that the Royal District Nursing Service is examining the introduction of fee-for-service for some of its services. The Chief Executive of RDNS, Mr Bill Taylor, was quoted in a recent Gawler *Bunyip* as saying the RDNS is looking at two fee options, those two fee options being a fee-for-service and a four week subscription. He goes on with some details as to how those services would be introduced. Is the Minister aware of the RDNS proposal, and does our Government support this proposal?

The Hon. R.D. LAWSON: The Royal District Nursing Service provides a very valuable service to the South Australian community and has done so for about 100 years. It is supported primarily by an annual grant through the Home and Community Care Program, which is currently in excess of $12 million. It is a first class service and the organisation is very innovative and progressive. I have previously informed the Council that the 1996 Federal budget contained an announcement that future growth funding from the Commonwealth in the Home and Community Care Program would assume a 20 per cent contribution from user fees, and that assumption was based on a phase-in over a period of four years.

The programs in the Home and Community Care area are vastly varying, and the RDNS has itself made a decision through its board—and I remind members that it is an autonomous organisation—that it would introduce fees. The reason given by the RDNS is that, after extensive consultation within its sector and amongst its clients, RDNS is presently conducting a survey of its clients as to two particular fee options.

The honourable member mentioned a newspaper report in which RDNS suggests that the first fee option to its clients would be $10 per visit or, in the case of health card holders or pensioners, $5 per visit. War veterans eligible for free nursing care and paid by the Department of Veterans Affairs will not pay the fees, nor will workers or accident compensation clients be charged. That is the proposal. There is an alternative fee proposal for a period of four to six weeks of, I think, $60 for non-pension or health card holders and $30 for pension and health card holders. I am informed by RDNS that the survey has been positively received by the vast number of its clients, many of whom are clients who come into the scheme following a particular illness and remain in it for four to six weeks. Of course, some remain somewhat longer.

The service has carefully analysed its client base to ascertain the feasibility, practicability and appropriateness of the level of fees sought to be charged but, as I say, the process of consultation is still under way. When RDNS reached its decision to survey its members on fees, contact was made with Government and, at that time, RDNS was seeking to retain within its organisation the totality of any fees raised. However, bearing in mind that this is a largely publicly funded program—$12 million of public money goes into it each year—it was my view that RDNS or any other organisation under the HACC program ought make some return not to the Government but to the program itself to facilitate further development of HACC services.

A decision has now been made that RDNS would not be entitled to retain all the funds but would be entitled to retain the bulk of the funds, certainly in the first instance, for the purpose of conducting its survey and the administrative costs of setting up the fee regime. In the fullness of time I envisage that fees collected by RDNS or any other organisation will be retained within the program.

The Hon. Carmel Zollo interjecting:

The Hon. R.D. LAWSON: The Hon. Carmel Zollo interjects that HACC funding is Federal funding, which shows an abysmal ignorance on her part of the nature of the HACC program, which is a joint State-Federal program. Given the Federal decision in 1996 and given the extremely tight headroom in the State budget, it is inevitable that other service providers in this program will be seeking to charge fees.

The Hon. T.G. CAMERON: I desire to ask a supplementary question. What assistance will the Government provide to these pensioners who have been hit with these increases and who cannot afford to pay for the RDNS visits? Will the

Government address the moves by the public health sector to send patients home before the proper duty of care has been finalised, which is what has exacerbated the problem?

The Hon. R.D. LAWSON: The assumption in the last part of the honourable member's question is simply rejected. The health sector is not returning patients home prior to the appropriate time for that return. Discharges are made on the assumption that services will be available, and services have been and are being provided to support people who are discharged from hospital, as appropriate.

The level of fees which RDNS—not the Government—have set have been determined as a result of its careful consideration of fees which are appropriate and which are affordable by the sector. The fee of $5 for pensioners for perhaps the weekly visit which, if costed on a user-pays principle, would be something like $25 to $35, is deemed not only reasonable but also affordable for those people.

RETIREES, SELF FUNDED

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about the concessions available to self funded retirees.

Leave granted.

The Hon. IAN GILFILLAN: I have recently been contacted by the Adelaide branch of the Association of Independent Retirees, in particular, its President, Mr Alan Beaton. The association has been lobbying for quite some time to redress what it sees as a serious inequity in Australian society, that is, policies which discriminate against those who have saved and invested wisely for their own retirement. Independent retirees often live on low incomes yet, because they are not drawing a pension, they are assumed to be well off and are therefore excluded from many of the concessions and discounts which are automatically offered to those on a pension. I am advised by the association that these concessions include car registration, drivers' licences, public transport, rental assistance and electricity and gas discounts.

In March 1998 the Adelaide branch of the Association of Independent Retirees prepared a document for the then Minister for the Ageing, Hon. Dean Brown. I refer to the 'Submission to Government on the Extension of Equitable Benefits to Self Funded Retirees Residing in South Australia', which was prepared with the assistance of the State Government's own Office for the Ageing. However, it apparently made little impact on the State Government. I quote from a recent AIR newsletter, as follows:

> Our. . . submission. . . was passed on to a newly appointed junior Minister who, perhaps inevitably, responded to our nine page submission in three or four short paragraphs that contained no reference to the important comments and suggestions contained in the AIR submission. We were bluntly told, 'There is no money available' and in effect invited to 'go away'. Levels of response that totally ignore the courtesies of commercial business as well as Government responsibility should not be practised on anyone, let alone the ageing population who, in the words of the Prime Minister, 'have contributed so much to this country'.

Seeing that the association could not get an adequate answer from the Government previously, I propose to try again on the Minister directly. My questions are as follows:

1. What discounts and concessions are offered by State Government agencies, instrumentalities, departments and authorities to the aged?
2. What are the criteria for each of these discounts and concessions?
3. From what discounts or concessions are self funded retirees excluded and why?
4. Does the Government recognise that self funded retirees can have incomes as low as or lower than pensioners?
5. Does the Government accept that discrimination against self funded retirees penalises their success, thrift or saving earlier in their life?

The Hon. R.D. LAWSON: The Government understands the position of self funded retirees, but the State Government's concession policy over the years has consistently been based upon the proposition that concessions are extended to those in greatest need. From time to time we have looked at extending particular concessions and widening the criteria for eligibility. Unfortunately, in the current budgetary climate, thanks very much to those opposite, we are not in a position to extend concessions to a wider section.

The honourable member asked precisely what discounts and concessions are available to various sectors of the aged community. I will seek that information and provide it to the honourable member. The Government does recognise the contribution of self funded retirees to the community. It does fully appreciate the needs of that sector. I acknowledge that the Self Funded Retirees Association has been prominent in the past, requesting Governments over the years to extend concessions.

The submission referred to by the honourable member from Mr Alan Beaton and his committee was closely and sympathetically considered by the Government. The fact that we are unable to meet his request does not suggest that the Government is not unmindful of the needs of self funded retirees. As and whenever occasion arises, every effort will be made to extend those concessions.

BETTER HEARING WEEK

In reply to **Hon. M.J. ELLIOTT** (26 August).

The PRESIDENT: I refer to a question asked by the Hon. M.J. Elliott on 26 August concerning the provision of audio loops within the Parliament to enable hearing impaired people to hear the proceedings.

I am advised by the Building Management section of the Department for Administrative and Information Services that as it was not a general requirement under the Commonwealth Disability Discrimination Act, it was considered a matter which should be dealt with only if the need arose. As yet there has been no demand by the general public requiring such a service and therefore has not been seen to be a necessity at this stage.

Under the Commonwealth legislation there is a requirement to provide audio loops should a person need to access information in relation to their employment or education. Therefore, should a Member of Parliament have hearing difficulties there would be a requirement under the Act for this to be addressed.

As the Hon. M.J. Elliott mentioned in his question, entertainment venues such as the Festival Centre and cinemas have installed audio loops, not because of legislative requirements, but, no doubt, to ensure that they attract a wider audience.

AUDITOR-GENERAL'S REPORT

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

> That Standing Orders be so far suspended so as to enable Question Time to be extended by one hour for the purpose of considering the Auditor-General's Report 1997-98.

Motion carried.

The PRESIDENT: There do not seem to be any rules for this part of Question Time. If members asking questions of Ministers would clearly identify in the Auditor-General's Report the area to which they refer, it would make it easier

for the expedient use of the hour. All questions should relate to the Auditor-General's Report only.

NATIONAL COMPETITION POLICY

The Hon. P. HOLLOWAY: My first question, which I direct to the Treasurer, relates to national competition policy and to the Audit Overview, Part A.2, page 98. In his audit overview, the Auditor-General points out that water reform is included for the first time in the second tranche assessment under the national competition policy. This assessment is due prior to 1 July 1999.

On page 98 of the report it is reported that the National Competition Council wrote to the Premier in June 1998 in relation to water reform on matters to do with clarifying elements of the reform package. The Auditor-General notes that it is evident from this correspondence that while there was a consensus on some matters the majority of questions to that time, which covered a broad spectrum of the reform agenda, required further clarification from the NCC. The report states:

> An example of the NCC's views where South Australia considered there was a need for further discussion was the interpretation of community service obligations (CSOs). One relevant comment by the NCC in this area was:
>
> > . . . any CSOs or subsidies would need to be clearly defined, well targeted, and justifiable in terms of departure from the general principle (of full cost recovery) as well as being explicit and transparent. Hence, a situation where a jurisdiction had large undefined CSOs and large subsidies may find it difficult to prove compliance with full cost recovery goal in (3(a)(i) (of the strategic framework). For example, pensioner rebates can be seen to be a defined clearly targeted CSO, whereas price discounts for the entire rural sector would not be a CSO.
>
> The South Australian Government pays a large CSO (the estimate for 1997-98 is $80 million) to the SA Water Corporation with respect to the pricing of country water and wastewater services. This arrangement will be included in the NCC's water reform assessment.

The Auditor-General then refers to the interpretation risk in relation to the NCC. Is the Government concerned that current subsidies for rural water and wastewater services may threaten payments to South Australia under national competition policy, and what action is the Government taking in relation to that issue?

The Hon. R.I. LUCAS: I read with interest the Auditor-General's comments, as I always do, in relation to this issue and noted also the comment of the NCC in relation to this. To my recollection I had not seen the comment of the NCC in relation to water before, and that is probably not surprising. It was, I presume, correspondence either with the Premier or the Minister for Government Enterprises, I would guess. It is not entirely clear there as to whom the letter was addressed.

Clearly this would be an important issue. I think all members would share the view (and I would be very surprised if there was a view different from that which I am about to express) that, if the Government of the day decided that it wanted to continue with some form of cross-subsidy between city and country consumers, as long as we made that explicit and it was not hidden in terms of the costings of the operation of the agency—and without my obviously having had the opportunity of a detailed discussion with the responsible Minister and the Premier—the State of South Australia should not be penalised in those circumstances.

Not having read the rest of the NCC's letter (there is only a one-paragraph quote from the Auditor-General), and being a cautious person, I would wish to see the full letter and the context of that quotation and obviously take some advice from the responsible Minister as to what the South Australian Government has already done or intends to do. From the Treasurer's viewpoint, we will be doing all we can to ensure on behalf of the Government that no penalty is imposed on South Australia for what the Government would seek to continue to do, that is, to ensure that an explicit cross-subsidy is allowable between city and country consumers in terms of the price of water.

AUDITOR-GENERAL, RESPONSIBILITIES

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to directing some questions to the Treasurer emanating from the Auditor-General's Report tabled yesterday in this Council and, in deference to your request, Mr President, I would add particularly as they relate to the Government and the Auditor-General's responsibilities.

Leave granted.

The Hon. T. CROTHERS: The Auditor-General in his annual report to Parliament tabled yesterday in this Chamber was very critical of the way in which the Government had handled several contracted out matters with respect to areas of Government responsibility which in turn placed them under the authority and responsibility of the Auditor-General. The point of his comments on these several issues was that the Government's method of dealing with the contracts almost placed them beyond the reach of the Auditor-General's purview.

The Auditor-General's position is one of total independence from Government, and his responsibilities give him independent oversight of Government expenditure of the revenues of this State. On a number of occasions over the past five or six years I have pointed out to this Council that the selling off or contracting out of Government assets and services would have the effect of diminishing the responsibility of the Auditor-General's capacity to overview the expenditure of this State's revenue, or indeed to remove him altogether from the scene, despite the fact that the expenditure of moneys belonging to the people of this State is still involved.

It appears from the Auditor-General's latest report that my worst fears are being realised. Let me give an example; for instance, let us say that ETSA is sold and that the purchaser is a private overseas company with its head office registered overseas. My questions are as follows:

1. How then could the Auditor-General bring them to heel if they did something wrong and if their headquarters are registered overseas? Even Alan Fels and his department may not be able to deal with them, as his authority extends only up to and including the 200 mile limit around our shores. My other questions to the Treasurer are as follows:

2. Does the Minister believe that, because of what I have outlined in my precis, there is a greater need than ever for the Auditor-General's position, responsibility and authority to be maintained?

3. Will the Government review the present fields of responsibility of the Auditor-General with a view to extending and expanding them, given the Government's drive to sell off the remaining State owned assets and the continuing contracting out of Government services?

4. The Auditor-General's Report has, in part, been critical of the present Government, and the last time we witnessed anything of a similar nature was in Victoria, where that State's Liberal Premier's answer was to try to get rid of his Auditor-General. The public clamour over this move was

such that Mr Kennett had to withdraw his proposition concerning the demise of the Victorian Auditor-General. Therefore, will the Treasurer inform the House of his Government's reaction to Mr MacPherson's criticism of his Government that is contained in this year's Auditor-General's Report?

The Hon. R.I. LUCAS: I thank the honourable member for his very thoughtful question in relation to this most important issue. At the outset, I again place on the public record comments that I believe I made at this time last year. Speaking as Treasurer, and also speaking personally, I have great respect for the position and the authority of the Auditor-General and his staff, and I have great respect for the work that the current Auditor-General, Mr Ken MacPherson, undertakes on behalf of the public in terms of ensuring accountability of public expenditure. As I said in some radio interviews yesterday, that does not, of course, mean that the Government will always agree with comment, or commentary—

The Hon. T. Crothers: Only if it's favourable. Do you agree with his comment on the sale of ETSA?

The Hon. R.I. LUCAS: I will get to that in a minute. The Government will not always agree with the comment, or commentary, of the Auditor-General on a particular issue, but that is part of a healthy and functioning democracy. I am sure that the Auditor-General would accept the fact that he is entitled to a view and that on occasions the Government, through its Ministers, is similarly entitled to have a view which may or may not on all occasions agree with the Auditor-General. I am sure that he would be the last to resile from constructive debate about what are sometimes grey issues rather than being starkly black or white.

So, I want to place on the record my thanks to the Auditor-General for a most comprehensive report. When I was first involved in the Parliament 25 years ago the report was one volume, I believe, and was pretty easy to read in a day. I must admit that, these days, it probably takes us a week or so to get through what is increasingly a complex public administration.

In relation to the role of the Auditor-General—which is a question that the honourable member has raised—I must admit that I do not have the terms of reference of the Auditor-General with me, but my lay person's understanding of the Auditor-General's task is that he is there on behalf of the community to provide oversight over public expenditure and how we spend taxpayers' dollars as a Government and to see that it is done appropriately and, if there are problems in terms of public expenditure, it is his responsibility to provide oversight. In relation to the question that the honourable member has raised—that is, where the Government has sold, for example, to an overseas company—or, indeed, an Australian based company, for that matter—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Sure. But where it has sold, and where you no longer have the expenditure of public moneys, taxpayer moneys, through the budget process or any other process such as that (and, again, this would be an issue I would be interested in discussing with the Auditor-General) and where a service is being delivered by a private sector operator, I believe that it is at least arguable as to what the ongoing role of the Auditor-General might be in that particular circumstance.

That does not, of course, relate to the different circumstances that the Auditor-General has raised, which is the issue of contracting out, or outsourcing, where the Government is still contracting and is spending taxpayers' money for a particular service that is being delivered, whether it be in health services, water or computer services—information technology services. I believe that there are two separate examples. In relation to the example that the honourable member has raised with me, which is in relation to a straight out sale, where there is no ongoing expenditure of public moneys, I believe that one can at least have a sensible argument about what the appropriate role might be.

It is important, therefore, that the Parliament—and certainly the Government—adopts this position: that we do not have private sector companies, whether they are overseas or Australian based, roaming unregulated in our South Australian marketplace, potentially causing distress or lowering standards of the delivery of service. That is why the Government in its legislation has introduced a completely independent South Australian Independent Regulator. The Independent Regulator will, in essence, have similar powers to the Auditor-General, except that, with privately owned industry, that regulator will have the power to insist on the delivery of standards and, I suppose, a bit differently from the Auditor-General, will have the power to financially penalise a company, or will have the power to withdraw a licence, which is a considerable financial penalty for a company that might have paid some billions of dollars for that licence.

The Hon. T. Crothers: But if they are registered overseas will they—

The Hon. R.I. LUCAS: No, not true.

The PRESIDENT: Order! The honourable member can ask another question.

The Hon. R.I. LUCAS: That is not correct in relation to the Independent Regulator. If this company from overseas—or Australia—has spent $1 billion or $2 billion on purchasing a licence, it does not matter where its head office is. If the local regulator, who is independent, takes its licence away, it does not matter whether its headquarters is in New York, Sydney or Adelaide: if a billion dollar investment has resulted in its licence being taken away and it can no longer earn revenues, that is a quite significant power and a quantum leap above the sorts of powers that the Auditor-General has. The Auditor-General reports to the community and to the Parliament. He does not have the power to withdraw a licence or financially penalise a private company, as the Independent Regulator will have. So, the model that the Government is developing and proposing, in terms of the question that the honourable member has put to me, is a much more powerful model in terms of public regulation and protection of standards for consumers. I am sure that the Hon. Mr Crothers could not help but agree with the proposition that I am putting. If he chose to disagree, I encourage him to come back with another question so that we can further explore this issue.

There are a number of other issues that I could raise but, given the time, I do not want to respond in detail, because I know that the honourable member wants to come back on that essential issue. I am happy to discuss with him later some of the more detailed aspects of his question.

The Hon. T. CROTHERS: My supplementary question relates to that area of the Minister's reply where he talked about the Independent Regulator having the capacity here to withdraw the licence. In my original question I referred to a company which had its head office quartered overseas and which was in fact fully funded and owned overseas, and if the independent auditor withdraws the licence—and I recognise the rectitudinality of that part of the answer—then if the overseas owned company challenges that it does not have to

challenge it in an Australian court: it can challenge it in other courts. And then we are involved in massive expensive litigation. That is what concerns me.

We have even had debates with our own Federal Opposition spokesman on Treasury over this matter. It concerns me that that has not been thought out, because you either go to the international court at The Hague and have expensive litigation imposed on you by the company in question, or it takes an action against the Government in the country where its head office is quartered against the injunctive withdrawal of its licence. I know from the Treasurer's answer that my worst fears are realised: the Government has not thought about that. My question is: if the Government has not thought about it, will it please do so in the interests not of Party political partisanship but future litigation costs that could have to be picked up by this State?

The PRESIDENT: If a member indicates that he wants to ask a follow-up question, if members agree, I will not treat such questions like Question Time where members have to go straight to the question. However, it might be helpful to take it as a second question which explains the supplementary question. I will not carry on with that if members do not agree, but that seems to me to be sensible.

The Hon. R.I. LUCAS: Mr President, as always, I am entirely relaxed with your rulings and great wisdom. I disagree with the honourable member. I do not want to waste Question Time on our differing views in relation to this issue. I respect the honourable member's—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Well, we will have another look at it, but it is wrong to suggest that the Government has not considered it. It has considered the issue of how it can ensure that multinational companies deliver a quality service in South Australia, because we know the sort of people who might buy our assets—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Exactly. If we thought that the sort of circumstances that we are setting up would allow them to stymie the standards that we will insist upon through the Independent Regulator in South Australia by running off to the International Court in The Hague or some other court in America, we would have structured our proposition in a different way.

The Government's advice is not consistent with the honourable member's position that these are likely eventualities. I am happy to take further detailed advice from the considerable legal expertise that is available to the Government and me on this issue and correspond in writing with the honourable member, but on behalf of the Government I reject the position that it has not been considered. It has been considered, and the Government believes that it has a comprehensive package which will protect consumers and ensure to an even greater degree than it can at the moment the delivery, it hopes, of quality standards in the electricity industry.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: Why did the Treasurer yesterday misrepresent the report of the Auditor-General by claiming that audit had found that the State would benefit financially from the sale of our power utilities when the Auditor-General has made no such claim and was merely reporting on work done by the Treasurer's own department? I refer to page 53 of part A.2 of the Auditor-General's Report where he states that his comments are not about the merits of the sale but 'to explore the relationships between the possible sale. . . and the State budget. . . ' He continues:

> It is to be emphasised that this analysis is based entirely on the material provided by the Department of Treasury and Finance as to the figures incorporated in the budget estimates. Clearly, the actual amount of. . . premium, if any, will depend on sale proceeds and on interest rates. . . neither of which can be predicted at this stage. It is certainly not the role of the Auditor-General to make such predictions, and the foregoing should not in any way be interpreted as an attempt to do so.

The Hon. R.I. LUCAS: I reject the premise in the honourable member's question: I would never seek to put words into the mouth of the Auditor-General. I have too much respect for that person and his position ever to seek to do so. What I indicated by way of a press statement yesterday was that the Auditor-General in his report confirmed that there is a net benefit to the budget bottom line of somewhere between $35 million and $100 million. Again, as I indicated earlier during Question Time today, the Government takes a different view from the Auditor-General in relation to the net benefit and, for a variety of reasons, takes the view that the net benefit to the budget will be up to $150 million.

The explanation for that, as the honourable member has indicated, is that the Auditor-General has accepted the figures provided by the agencies and Treasury and Finance in relaying the figures from ETSA and Optima about their future business projections. The Government believes that there is significant risk to the projected profit and dividend flows from our electricity businesses over the next four years as a result of the national electricity market. We do not believe that the levels of projected dividend would ever be received by the State Government over the coming four years once the national market starts. Nevertheless, that is just a differing viewpoint that the Government takes.

The Auditor-General's analysis, in the audit report Part 2, confirms a bottom line budget benefit. As I have said, we think it should be higher. If risk is taken into account, if the fact that we cannot assume that we can continue to rip out of our electricity businesses 100 per cent of their profitability for dividends for our revenue in the State budget, we believe in the national market that, if they remain Government owned enterprises, there are significant capital expenditures that these businesses will have to incur so that they can compete.

Having been the Minister for our electricity businesses for only the past few months, I think that some of the sums of money for capital expenditure that are contemplated and considered for the future are considerable. The more competitive the market, the greater the level of expenditure there will have to be as our electricity businesses compete with both private and Government owned businesses in other States. Currently, ETSA does not have available the high technology to provide the information that we believe an independent regulator or the people of South Australia would require in terms of the standard of service that ETSA currently provides. These are just some of the monitoring issues that will require expenditure of $15 million to $20 million just in that particular area of providing greater information on the level of service.

For example, one particular transmission line upgrade that is currently before me is for $20 million in a country area not too far from the Hon. Ron Roberts. There are considerable capital works expenditures. To assume that we can continue to take out of our electricity businesses 100 per cent of their profitability and that their current projected capital expendi-

tures will be sufficient in this cut throat national market we do not think is sensible. As Minister, my view is that the increasing requirements of the national market will mean increasing levels of capital expenditure over and above the existing programs that our electricity businesses have within their forward estimates.

The issue of interest rates is another issue in terms of our net budget benefit. The current assumptions within the four year financial plan are for a very minor level of interest rate increase. If our debt levels are low, then if it is a significant increase it will not have a significant hit on the budget, but if our debt levels remain at $7.5 billion, significant increases in interest rates will mean significant hits to the bottom line of our State budget over the next four years.

So, I reject the honourable member's assertion that we have misquoted the Auditor-General. It is a faithful reflection of the audit chapter which just makes the comment that there is a net benefit or asset sale premium for the sale of ETSA and Optima.

EDS CONTRACT

The Hon. M.J. ELLIOTT: I refer to Audit Overview Part A.3, page 58. In a section titled 'A case in point—the EDS contract', the Auditor-General makes some points about the EDS outsourcing deal. He highlights important areas where he says—and I presume this was as of the end of September when he signed off on this report—that:

> Principal key matters that have not been finally resolved relate to:
> · final assumed costs;
> · revised annual percentage price reductions; and
> · unit pricing arrangements.

He then goes on to say that:

> Other key contract matters that have not reached a satisfactory stage of finalisation have been the subject of comment in my reports over the last few years. As at the time of writing this continues to be the case. These matters include:
> · agency service level agreements and security specification documentation;
> · agency procedure manuals; and
> · Department for Administrative and Information Services (DAIS)/agency contract management manual.

There is some concern that, considering this contract has been operational now for a couple years, these matters, which appear fairly fundamental to the efficiency of the whole operation and the real cost to government, have not been resolved. The Auditor-General also made an observation on page 59 in relation to the EDS contract, saying that there was:

> . . . a 'gap' in the accountability of Executive Government, particularly where the contractor is responsible for the discharge of governmental functions and the amount of public money payable under the contract is material.

Will the Government develop criteria as recommended by the report to identify contracts of public interest? Will the Government inform the Parliament each year in the annual report of the responsible agency on matters of performance with agreed contract service levels? Can the Treasurer give us some indication as to when the key matters indicated will be resolved, if they have not been since September? When will we see a final resolution in relation to service level agreements, procedure manuals and the management manual?

The Hon. R.I. LUCAS: It will not surprise the honourable member that I will need to take some advice from the appropriate Minister. The EDS contract is not my direct ministerial responsibility. I am aware, not through any direct involvement, that resolution of those questions in relation to final assumed costs, etc. in that section of the report is, we hope, imminent.

The Hon. R.D. Lawson: It is.

The Hon. R.I. LUCAS: My colleague the Hon. Robert Lawson indicates that it is. I agree with the honourable member that these are important issues that the Auditor-General has raised. It is fair comment to report that, some period after the resolution of the contract, there are some issues which still are unresolved in relation to the contract detail. I will certainly speak to the Ministers currently responsible for the contract and have a reply brought back to the honourable member. In relation to the other more detailed questions on agency service level agreements, agency procedure manuals, etc., as the honourable member might know—I think we both served on the same select committee—there were varying degrees of compliance with those particular provisions. I am not sure how widespread the Auditor-General's criticism is of this, whether it is widespread or just an isolated procedure manual or two that has caused grief—

The Hon. M.J. Elliott: There have been a lot of complaints about the service level agreements.

The Hon. R.I. LUCAS: If the honourable member has some detail on that I am sure that the responsible Minister would be pleased to receive it and to investigate it. In relation to the issues about service level agreements, the Auditor-General is talking about not having reached a satisfactory stage of finalisation. I am not sure whether the complaints that the honourable member is talking about relate to the finalisation or to the level of the service provided within the agreement. It might have been finalised, and they might just disagree with it.

The Hon. M.J. Elliott: In any case, you do not know the size of them, which is even stranger.

The Hon. R.I. LUCAS: If the honourable member is prepared to provide detail to the Minister responsible, can I ask, on behalf of the responsible Minister, the honourable member to provide me with detail of the particular issues and I will be pleased to take up those issues with the Minister responsible. The Auditor-General does raise a number of other issues in detail in the report which, again, the responsible Minister will need to address. In terms of the broader issue in relation to informing the Parliament and that brief one paragraph under the heading 'Informing the Parliament', which I understand is the quote the honourable member has taken, I would need to discuss that matter not only with the responsible Ministers but with the Attorney-General, who has taken some close interest in this issue over the past 12 months or so. I am sure that between us we will manage to bring back some form of considered Government response.

GOVERNMENT CONTRACTS

The Hon. P. HOLLOWAY: I refer the Attorney-General to the outsourcing of Government contracts. One of the most important warnings given by the Auditor-General in relation to the outsourcing of contracts is that some immunity from prosecution may be available to contracted parties carrying out core Government functions. I refer to the Audit Overview, Part A.1, page 33, where the Auditor-General states:

> As Governments move to contract out what was traditionally regarded as 'core Government' functions such as water management and prisons, the legal and financial consequences to the State of those activities may be determined by the operation of the doctrine of Crown immunity or privilege.

The Auditor-General continues:

> It may be that in certain circumstances the privileges of the Crown including immunity from criminal liability may be unintentionally vested in private contracting parties. Similarly, the South Australian Government may incur liabilities through the contracting out of core Government services which it would not have otherwise had.

The Auditor-General recommends that a precondition to the contracting out of Government services is the carrying out of a legal risks and liability impact statement, which would be an integral part of approval of all major outsourcing projects. Does the Attorney accept that the Government is open to the legal risks expressed by the Auditor-General? If so, can the Attorney provide information as to how many such contracts are open to this legal risk? Can the Attorney-General explain why this is the case? What action does the Government plan to take in relation to the Auditor-General's warning?

The Hon. K.T. GRIFFIN: It is a particularly complex area, and it may well be that lawyers will disagree as to the accuracy of what has been identified by the Auditor-General. All that I will do in relation to that is take it on notice and bring back a reply, which will take some time I expect because a fair bit of background work and research may need to be undertaken. I will endeavour to do that so that we answer those issues once and for all.

The Hon. P. HOLLOWAY: I again refer the Attorney to the outsourcing of Government contracts and to Audit Overview A.1, pages 30 and 31. In relation to the outsourcing of Government contracts and Government control over services, the Auditor-General issues a warning that there is a gap in the accountability of Executive Government to Parliament because there is no established basis to inform Parliament of compliance by a contractor with obligations under that contract. The Auditor-General expresses the view that Parliament should be informed each year in the annual report of the responsible agency of the contractor's performance. He also states that outsourcing contracts must give the Crown appropriate and adequate remedies where the contractor fails to meet the contractor's requirements.

I note by way of digression that in yesterday's *Age* it was reported that the Minister for Police in Victoria had problems with Group Four security in relation to a prison being operated in Victoria and getting that sort of information. My questions to the Attorney-General are:

1. Does he agree with the Auditor-General's opinion that outsourcing causes a gap in legal accountability to Parliament? That perhaps will be covered in his previous answer.

2. Does he intend to recommend that the Government take the Auditor-General's advice to specifically inform Parliament annually of the performance of outsourced services?

3. Can he advise whether all current outsourcing contracts meet the Auditor-General's requirements on appropriate and adequate remedies?

The Hon. K.T. GRIFFIN: In drawing any contract, whether it relates to outsourcing or any other issue, there is always an attempt to ensure that, if there is a breach, the Crown has rights of redress. All the contracts I have seen in Government are very extensively and clearly drafted to focus upon what happens in the event of default. The same applies whether the Government is a party or it is a contract between private corporations or individuals. Everyone tries to stitch up what happens in the event of default. My experience in private practice is that, however much you might try to guess every possible variation in a circumstance of default, there will be occasions when one slips through the net. I do not believe that is the case with Government contracts, because I am not familiar with them all in significant detail, but I will have to take that part of the question on notice.

In terms of matters of performance with agreed contract service levels, it may be possible to provide that information in the annual reports. I would have thought that the Auditor-General has assumed, generally, a responsibility under the Public Finance and Audit Act to monitor the performance of contract service levels. The extent of the Auditor-General's reports this year quite obviously addresses those sorts of issues. I suppose, one could ask, 'How long is a piece of string?', because that ultimately will be, I suppose, in terms of an analogy, the way in which we might ultimately get to deal with that particular issue. I think all I can do in relation to this, which again is a complex matter and not something to which I can give a quick answer, is take it on notice, take some appropriate advice and bring back a reply.

HEALTH COMMISSION, CHIEF EXECUTIVE OFFICER

The Hon. M.J. ELLIOTT: My questions are directed to the Attorney-General. In relation to the report of the Auditor-General beginning at page A4-17, the Auditor-General examines the appointment to the office of Chief Executive Officer of the South Australian Health Commission. He examines the appointment of Ms Christine Charles, who was Chief Executive of the Department of Human Services, as the head of the Health Commission. I will not read it all because it will take some considerable time—it runs over several pages—but on page A4-18 the Auditor-General notes that:

> Prior to the appointments, the Department of Human Services sought legal advice as to the procedures that should be followed to appoint a new CEO and Chairman of the Health Commission. The department received that advice on 26 March 1998. The advice pointed out the need for a public servant who is proposed to be appointed to the position of Chief Executive Officer of the Commission to first resign from the Public Service (i.e. to ensure compliance with section 19A).

At page A4-19, the Auditor-General notes:

> In my 1995-96 report, I raised the issue of the holding of incompatible offices by public employees, that is, two offices where the duties attaching to them are or may be in conflict. I drew attention to the self executing nature of the prohibition at common law on the holding of such offices—the first office is vacated.

Further on at page A4-19, he states:

> For example, it is difficult to see how Ms Charles cannot have a conflict of duty in negotiating the memorandum of understanding in one capacity as Chief Executive of the Department of Human Services and in another capacity as Chief Executive (and for that matter Chairman) of the Health Commission. Other conflicts may arise, for example, at budget time. Indeed, it may be the duties of the various offices are inherently in conflict. The statutory requirement that the Chief Executive Officer of the Commission not be a public servant would suggest that this was considered when Parliament enacted the Health Commission Act.

The Auditor-General continues to follow this over the next couple of pages and on page A4-20 he states:

> In my opinion, a number of aspects of the arrangements set out in the memorandum are, or may be, contrary to law.

On page A4-21, in the second paragraph he states:

> Aside from the issue of its lawfulness, this memorandum raises important issues of public interest concern in the transparency of Government financial transactions. It is, at the very least, an unorthodox arrangement.

Finally, on page A4-22, immediately after the second dot point, he states:

> It is very difficult to see how the memorandum of understanding that was subsequently entered into can be said to properly address the issues to which this advice gives rise.

Has the Attorney-General been involved in discussions about this particular arrangement? Certainly, the legal question has been raised, it appears, within Government. Secondly, what is the Attorney-General's opinion in relation to that potential conflict of interest?

The Hon. K.T. GRIFFIN: I do not venture an opinion on it at this stage. I do not have a recollection of having been directly involved in the advising on this. There are so many things happening in Government which involve advice being sought from the Crown Solicitor that I would normally see the difficult ones or the ones which might raise some contention.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: No, I would not have thought it was—at the time, perhaps. Now, in the light of what the Auditor-General is raising, obviously I will have to take advice from the Crown Solicitor. In fact, that is what he is recommending. With the number of references in his report to the fact that we will have to take Crown Solicitor's advice I think a number of officers will be busy for a long time dealing with the legal issues that have been raised by the Auditor-General.

The Hon. M.J. Elliott interjecting:

The Hon. K.T. GRIFFIN: Without wanting to be drawn into debate on the appropriateness of Ms Charles' appointment or the issues of conflict that we dealt with in terms of principle in the incompatible offices amendments which we made not long ago in consequence of the Auditor-General's raising them, ultimately one has to recognise that the South Australian Health Commission was established to undertake responsibility for the provision of health services as an arm of Government. It had a different structure, but it was essentially part of the corporate Crown.

One of the things we must be careful about is that we do not set up so many different legal issues that might adversely affect the relationship of one part of Government with another part of Government that we get bogged down in drawing fine lines. That is not a criticism. That is just an observation that I think in Government we tend to set up bodies which are instrumentalities of the Crown and we end up with some potentially difficult legal issues which arise. We forget that at the end everything that is done, owned or expended by a body such as the Health Commission is done in the name of the Crown; it is part of Government. That is something of which we might lose sight as we deal with these very technical issues which arise. That is not to say we should not properly deal with relationships between different arms of the Crown.

The Hon. M.J. Elliott: It is a legislative structure.

The Hon. K.T. GRIFFIN: Yes, it is a legislative structure, but in the end it is still the Crown: it is still the Government. I am not saying that we should ignore it; I want to make that clear. I am not trying to gloss over it, because I am one for trying to dot every 'i' and cross every 't'. One has to look at it in the broad perspective that it was undertaking governmental functions, and it was undertaking them holding its property in the name of and for the benefit of the Crown, or the Government and the people of South Australia. Of course, it would be different if it were, say, the Legal Services Commission, where there is a specific provision in the Act that it cannot be directed by Government, and there are some other constraints there. My recollection of the Health Commission Act—and I may be wrong because I have not looked at the Act for a long time—is that it really is holding its assets and undertaking its activities for and on behalf of the Crown.

So, I will have the issues looked at again, as with the issues raised by the Hon. Paul Holloway. They are not easy issues to resolve. The difficulties that were raised in relation to incompatible offices took a long time to resolve, because they were so complex, and there are some very fine questions to resolve. In any event, even in respect of the Ms Christine Charles issue, she may ultimately not have had a conflict of interest. There may have been no incapability, because it was the Crown and the Crown. That was to be distinguished between—

The Hon. M.J. Elliott: One was an office that was not supposed to be a public servant.

The Hon. K.T. GRIFFIN: Yes, that is fair comment. I will get some advice on it, because nothing is ever as simple as it might seem on the face of it.

TRANSPORT, PUBLIC

The Hon. CAROLYN PICKLES: I refer the Minister for Transport and Urban Planning to Part B, Volume 3, which deals with the Passenger Transport Board, and in particular to page 784, and which states that metropolitan public transport ticket sales revenue for 1998 amounted to $45.9 million, compared with $45.7 million for the previous year. The modest increase of only $200 000 must be an indicator of the patronage of public transport in the State. This, coupled with the Minister's latest patronage figures—which I believe she forwarded to me in response to a question I asked in the previous session—demonstrates a decline in journeys for 1997-98 of 1.7 per cent on the previous year. My questions are:

1. Will the Minister confirm the reasons for the very modest increase in revenue from the sale of metropolitan tickets; and is this a reflection of declining patronage?

2. What are our next year's ticket sales projections, especially given the impact of the Government's 7 per cent fare increase announced during the last budget?

3. In relation to the issues identified for action by the Auditor-General as a result of the review of the Passenger Transport Act 1994 (and I am referring now to page 786), what progress has been undertaken by the PTB to implement the required actions, including yet again the review of the fare structure for Adelaide Hills passenger transport services?

The Hon. DIANA LAIDLAW: With respect to the last question, this matter will be addressed by the Government in the budget context. We have about four Cabinet meetings a year about budget issues in addition to the very formal sign-off on the budget in May each year. So, there are set meetings for Cabinet items that relate to adjustments to budget allocations. We have given an undertaking that there will be a fairer and more equitable fare structure, but any movement in the Mount Barker passenger fares requires an additional outlay by taxpayers—the Government—in terms of subsidised fares.

The fares from Aldgate to Mount Barker and the region as a whole covered by Hills Transit are commercial. The bus fare from Aldgate to the city is heavily subsidised by an average of about $4 a ticket for every passenger who travels on our public transport system. So, every time someone uses

the bus service taxpayers are paying about $4 in addition to the fare that the passenger is paying. We must therefore take all those matters into account.

The PTB has done a lot of work, of which I am aware, and it will be considered shortly. I think I gave an undertaking in this place that that work would be finished by the PTB in September, and it was. We now have to fit it into the cycle of the budget considerations of Cabinet.

In answer to the first question asked by the honourable member, I did provide some information to her during the session in answer to a question asked on 3 June, and I provided that answer to be incorporated in *Hansard* yesterday. I indicated in the answer that, in the 1996-97 year, compared with the period 1997-98, there was a total decline in patronage of 1.7 per cent total journeys by mode, that is, by bus, tram and train. That is still not a satisfactory result but, as I have indicated before, we have stemmed the steep decline in public transport patronage. It is fluctuating between modes and also between contract areas. Some contract areas and some modes are certainly performing better than others.

I suspect that the honourable member would be aware of statements made by TransAdelaide yesterday following a blitz by PTB and TransAdelaide, also embracing Serco and Hills Transit, but not to such a great degree as with TransAdelaide, on rail fare evasion. A figure given yesterday indicated that some 11 064 passengers were detected for either not having the right concession ticket or card or not paying at all in terms of validating their ticket. If we take those figures into account, certainly the total journeys and patronage generally on rail would increase quite dramatically if we could encourage those people who are not paying and not validating to do so in the future. That is why, with the new management within the Passenger Transport Board, this whole issue is being taken extraordinarily seriously, with the PTB investing money to help TransAdelaide in particular get more accurate figures of patronage. We can do that only if we get people to pay the correct price for their ticket and also to validate their ticket.

So, I make those comments about the patronage figures I have provided to the honourable member, because fare evasion certainly undermines the patronage figures and I think also the success of the new services in which all our operators have invested on behalf of taxpayers. I will get more advice for the honourable member in terms of the ticket sale projections that she has requested for this year and, hopefully, if we can get more people validating on rail, those projections with the benefit of the latest figures will be much better.

The Hon. Carolyn Pickles: And the other issues.

The Hon. DIANA LAIDLAW: Yes, and the other issues.

SCOPING REVIEWS

The Hon. NICK XENOPHON: I refer my question to the Attorney-General, representing the Minister for Government Enterprises. It relates to the Lotteries Commission and the TAB, which are referred to in Volume A.2, page 70, of the Auditor-General's Report. First, will the Minister release the scoping review reports referred to? Secondly, did the scoping studies consider the social impact of the enterprises in public hands and any potential changes to social impact if the enterprises are sold and privatised? Thirdly, with respect to the TAB, what has been the nature and extent of the required consultation with key stakeholders concerning a possible sale, including the SA racing industry?

The Hon. R.I. LUCAS: I will respond on behalf of the Government as a member of the Asset Sales Cabinet Committee. As the honourable member will know, the Minister for Government Enterprises has prime responsibility for the possible sale of the TAB and the Lotteries Commission. To my knowledge, as a member of that committee, I have not yet seen a final copy of the scoping study reports of the TAB and the Lotteries Commission and, therefore, I am not sure whether the Minister responsible has currently got them or whether or not they are still going through a drafting stage.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Cabinet does not have final copies of the scoping studies.

The Hon. Nick Xenophon: The Auditor-General says that a scoping review has been completed and submitted to Cabinet.

The Hon. R.I. LUCAS: If the Auditor-General says that, he obviously has some justification, so let me hastily take one step backwards. I certainly do not recall that. Perhaps I was asleep at the time, although I am sure that was not the case! If the Auditor-General has reported that these issues have been tabled in or shown to Cabinet, I will certainly check that. I must admit, as I said, that it is certainly not my recollection that the final scoping studies for the TAB or the Lotteries Commission had been concluded and presented to the Parliament. If that is a report from the Auditor-General, it does surprise me.

I will therefore take that on notice and seek an urgent response from the Minister for Government Enterprises about whether or not they have been presented. Even if they have, at this stage there has been no decision by the Government, and certainly there is no decision at this stage in terms of the public release of the scoping study reports.

In relation to the other aspects of the honourable member's question, in part they will be contingent on whether or not there are completed reports. Certainly, if there are completed reports, the Minister might be in a position to provide a more detailed response to the honourable member and I will take up that issue. Of course, if they have not been finally completed, we will not be in a position to provide a definitive response to the honourable member. I will take up the issues with the Minister and provide some sort of response.

The Hon. P. HOLLOWAY: On a point of procedure, is the Treasurer prepared to accept some questions on notice on this matter that the Opposition did not have the opportunity to ask today? Will he undertake to give responses within a reasonable period if we place the questions on notice?

The Hon. R.I. LUCAS: If the honourable member puts the questions on notice in the normal way, I undertake on behalf of the Government to answer them as expeditiously as we can.

MATTERS OF INTEREST

BARKER, MEMBER FOR

The Hon. A.J. REDFORD: I would like to take this opportunity personally and publicly to congratulate Patrick

Secker on his election to the Federal Parliament as the member for Barker. Patrick was a strong candidate and, in the nearly three weeks since his election, has been a hard working member of the Federal Parliament. Indeed, I look forward to working with Patrick over the next three years for the people of Barker and, in particular, the people of Gordon.

The election night results pertaining to Gordon provide interesting reading. For members' benefit, the Independentmember for Gordon won his seat by 52 votes, with the Liberal candidate coming second. If 27 voters change to Liberal at the next election, the current member for Gordon will be a oncer. He received only 22.5 per cent of the vote. Indeed, if the ALP had received 70 more votes it would have come second to the Liberal Party and the current member for Gordon would still be in Mount Gambier lecturing TAFE students instead of us.

The Federal results for Gordon show that the ALP increased its vote by 4.8 per cent and the Liberal Party increased its vote by 1.3 per cent. In that regard, Mr Acting President, I seek leave to have inserted in *Hansard* without my reading it a statistical comparison between the two results.

Leave granted.

1997 State Election	ALP	Lib.	Dem.	Nat.	One Nation	Christ. Dems.	Aust 1st	Jerram	Beck	McEwen	Whelan	Total
No.	3 845	7 247	2 096	N.A.	N.A.	N.A.	N.A	N.A	N.A.	3 889	405	17 482
Per cent	22	41.5	12							22.2	2.3	100
1998 Federal Election												
No.	4 302	6 784	763	143	1 776	331	124	136	1 718	N.A.	N.A.	16 077
Per cent	26.8	42.2	4.8	0.9	11	2.1	0.8	0.8	10.7			100
Variation	4.8	1.3	-7.2									

The Hon. A.J. REDFORD: The campaign itself was most interesting. I spent two weeks down there helping. During the course of the campaign many of Rory's supporters came out and supported the Independent candidate, Tony Beck. Indeed, I spent a lovely morning with a charming man in a wheelchair at the pre-poll handing out 'how to vote' cards—I for Secker; he for Beck. He told me that Mr Beck was being supported by Mr McEwen. He told me that Mr McEwen was assisting Mr Beck with advice on all sorts of things, including issues, brochures and preference negotiation strategies, etc. This gentleman also told me that he had campaigned for Mr Beck at the last State election. I must say that I thought from that conversation and the similarity of the material distributed that Mr McEwen was actively supporting Mr Beck.

Indeed, the preference negotiations with Mr Beck were also very interesting. In discussion with the Liberal Party's Executive Director, Mr Beck indicated that he was going to put the National Party before any other major candidate and that Labor would get his preferences before Liberal. When challenged by the Executive Director, he said that he would give his preferences to the Liberal Party before the Labor Party if John Olsen resigned within 24 hours as Premier and Rory McEwen was installed in his place. I cannot say that Rory put him up to it. However, in the absence of a denial in the next few days, I can only assume that he did.

Four days before the Federal election Rory McEwen was quoted in the *Border Watch* as saying that the Independents 'had changed the political landscape in South Australia for the better'. He went on to say that there was a 'need to slow down the decision making process' and that would 'become a priority'.

On the following day, I responded on behalf of the Liberal Party and indicated that I was concerned that, notwithstanding the considerable resources that had been provided to Mr McEwen because of his Independent status, it appeared that he was unable to deal with the rigours of parliamentary life. I pointed out that he had additional staff and the considerable resources of the Parliamentary Library and that Ministers invariably made themselves available for briefings. Notwithstanding that, he appeared unable to keep up with it. In an extraordinary response Mr McEwen said:

> . . . and he says that voting trends change in Australia away from the two major Parties.

I point out that six out of seven Independents lost their seats at the recent Federal election. He went on and said:

> At the end of the day we are looking for a stable society, not stable democracy, because stable democracy actually does not give you a stable society—the classic example is Germany in the 1930s—which had a very stable Government.

I am not sure whether he was comparing the Liberals with the Hitler Government or the Weimar Republic, but either way his comment was cheap, insulting and churlish. Indeed, at the declaration of the poll, Patrick Secker said the following:

> One of the concerns that I have about politicians is their need to be absolutely truthful and straight with the public. . . and I have no problem with other politicians such as Rory McEwen supporting another candidate; that is his right to do so. But to be publicly reported as saying he was not supporting any candidate does not help the image of politicians.

Indeed, I understand that he went and sought legal advice and, following the receipt of that legal advice, invited Patrick Secker to have a cup of coffee with him. I invite members to consider what that legal advice might have been, particularly when truth is a total defence in this State. My challenge to Rory McEwen is to come out and dissociate himself from this desperate grab for power made on his behalf by Mr Beck. Mr President, just think, in the 2001 election campaign we might see the slogan 'Rory for Premier'. I suppose that beats 'Joh for PM', but not by much!

The PRESIDENT: Order! The honourable member's time has nearly expired.

PORT PIRIE

The Hon. R.R. ROBERTS: I rise to make a contribution about my home town of Port Pirie. Yesterday in this Council the Hon. Trevor Crothers asked a question, which is his right, and I am sure that he was serious about the content of the question that he asked. The debate then deteriorated into a bit of a *tete-a-tete* about Port Pirie. I found it very strange that a Minister in this Council, by way of a weak attempt at humour, sought to embarrass the people of the City of Port Pirie.

The City of Port Pirie has made a major contribution to this State for over 100 years. It has the largest lead smelter in the world. For many years it has been the biggest income earner in this State and has made an enormous contribution to it. The site of the world's largest smelter for over 100 years cannot but encounter some problems with lead. The people of Port Pirie are sick and tired of a junior journalist or any person in the community who wants to get a quick headline denigrating Port Pirie, its citizens and its contribution to the State of South Australia.

I point out that the lead operations in Port Pirie, whilst bringing enormous wealth to the State and a stable community in the northern part of the State, have always been undertaken in conformity with all the laws that operate in South Australia. Not one operation takes place in the production area that is not either under licence or in compliance with the law.

The community, the work force and the company over the past 25 years in particular have worked extremely hard to provide the safest and most comfortable working conditions and the best environmental situation that can be achieved at Port Pirie. I was proud to be a part of the Government that set up the lead decontamination unit. What has been developed in Port Pirie is a wealth of information on the problems of lead pollution in the community, and that information has been sought in Broken Hill and Newcastle. The work being performed at Port Pirie has been recognised world-wide as being at the cutting edge.

The question by the Hon. Trevor Crothers was quite in order. It does not matter how well we do in these industries, we can always do better. The community is trying to do that, and I think it is making vast inroads into it. I understand that you, Mr President, were part of the Liberal caucus that enjoyed the hospitality of the people of Port Pirie in the city of friendly people some couple of weeks ago, and I am sure you would have found the people there friendly, warm and outgoing. I am sure that they would have welcomed you with the respect that members of Parliament generally receive.

Therefore, I was concerned yesterday when the Minister decided to enter into the levity of the situation and cast aspersions on those people who were her hosts a few weeks ago, and especially with the debacle when she could not recognise the difference between the Hon. Terry Roberts and me, which is very easy to do: I am the good looking one and Terry is the one with the beard. It is not hard to work out.

This is the same Minister who has responsibilities for ports and the Ports Corporation. I point out that the port of Port Pirie a few years ago was proved to have the lowest bacterial levels of any waterway in any major port of Australia. This Minister, who seeks to introduce levity into the State at the expense of my constituents, presides over Port Adelaide which at the moment has red water and you cannot eat the fish or go near the wharves. In fact, if you were to go in the water you would come out an awful mess.

This is the Minister for Transport who cannot solve the problems of lead pollution in metropolitan Adelaide. I think it is a disgrace that a senior Minister, having accepted the hospitality of Port Pirie, would stoop to trying to make cheap comments about the people of Port Pirie. In the future I will continue to defend Port Pirie, its lead industry and the contribution made by my home town. I reject any criticisms by any Minister.

SCHOOL TEACHERS

The Hon. M.J. ELLIOTT: Friday is International Teacher's Day when we recognise the contribution of teachers to our community and our education system. South Australia's teachers are undisputedly the most valuable resource that our State's education system has, yet the community is increasingly concerned that our teachers are not being valued enough for the important and increasingly demanding role they play.

This is evidenced by the Government's approach to negotiations presently under way with the teachers in our public system in relation to a new agreement on wages and conditions with the State Government. This agreement contains a bid for continuation of flexible, early intervention and special education staffing. There is growing concern among school communities about the Government's failure to confirm the continuation of funding for these staffing measures until agreement has been reached on all matters that are presently under negotiation with teachers.

The Australian Education Union tabled comprehensive proposals for a new agreement on 1 July this year but negotiations did not formally start until 15 October. Teachers are concerned that no agreement can be finalised until late this year. This has raised concerns that all schools and kindergartens will have to operate with reduced staffing levels at the start of next year. There is growing concern that as a result students' subject options will decrease, schools will need to change timetables and have to displace teachers, workloads will intensify, students with disabilities will not be guaranteed additional assistance, schools will not know their staffing targets and will be unable to attract suitable teachers to country schools, and temporary and contract staff will not know about future job opportunities.

The AEU would like the issue resolved by 30 October to allow as much time as possible for planning for the new school year. It is crucial because the school staffing exercise is already well under way and if the issue is not resolved in the next couple of days a number of schools and kindergartens will be greatly disadvantaged. The Australian Education Union says that unless schools and kindergartens are given an assurance within a fortnight that the budgeted staffing will be available next year there will be major disruption to educational programs and dislocation of staff is unavoidable.

The AEU President, Janet Giles, has said in a letter to members of Parliament:

> There is no good reason why schools and kindergartens cannot be advised to continue planning for next year on the basis that flexible, early intervention and special education staffing will, at the very least, be similar to the levels of this year. This would require no formal agreement and would be applauded by the AEU and school communities generally

We have yet to hear anyone say that flexible or other special staffing should not continue next year. In fact, I note that the budget allows for it to do so. The refusal to confirm continued staffing until all areas of negotiation are agreed seems designed to turn that staffing into a bargaining chip with which to extract concessions on other matters. I quote again:

> If such an approach was being adopted early in the year it might be accepted as just a tough negotiating stance. To pull this tactic at a time when schools and kindergartens must make crucial decisions for next year shows a reckless disregard for effective planning and an indifference to the needs of students, employees and school communities.

Yesterday I met with a representative of the AEU who was able to provide some feedback from schools about the areas

which they fear may be hurt by the Government's failure to provide the flexible initiatives, resourcing and special education staff.

Schools say that they have used the money, which is now under threat, to provide important support in areas such as special education support; early intervention/literacy support; training and development; early intervention/'at risk' programs; support for computer integration; and speech/language support—all areas that the Government has claimed it is greatly concerned about and has said it wanted extra resources to go into.

Loss of these programs would be appalling in the light of the Government's stated commitment. I understand that today the department met with the union and made an offer to teachers, which I think was a 13 per cent increase over the next three years, but has still refused to release the flexible initiatives resourcing and special education funding for next year until there is a resolution on all matters. In fact, I understand that it wanted a cut in the education budget in return for that increase in wages.

The AEU deserves to be praised for saying that it was not prepared to accept an increase in wages at the expense of quality education. It is greatly disappointing that the Government is behaving in this way. The Government needs to do something to ensure that in future negotiations are not happening at this time of the year; they need to begin early in the year rather than at the end of it. I urge the Government to make the money available to ensure that those initiatives in schools continue.

ITALIAN OF THE YEAR AWARD

The Hon. J.F. STEFANI: On Saturday evening I had the privilege to attend the seventh biannual South Australian Italian of the Year award, which was held at the Hilton International Hotel. This event was organised by the Lions Club of Adelaide Italian. The Lions Club of Adelaide Italian was founded in November 1977 at an inaugural gala evening held at the South Australian Italian Association Centre, where the District Governor of the day, the late Lion Jack Davis, presented a charter to the first President, Lion John Olivier. This ceremony marked the birth of the new club into the International Association of Lions Clubs. Members would be aware that Lions Clubs give voluntary service to humanitarian causes in their local and international communities. The Association of Lions Clubs was founded in Chicago, Illinois, in 1917 by Melvin Jones, who was determined to expand the interests of fellow businessmen during their regular luncheon meetings.

Although Lions International is the youngest major service club organisation, it has grown to be the world's largest. The first Australian Lions Club was founded in 1947 in the town of Lismore in New South Wales by William R. Tresise, MBE. In 1977, Lion Lance Gliddon saw an opportunity for the formation of a club involving members of Adelaide's Italian community. After enlisting Lions Jack Tank and Fred Pozza, they set about turning their vision into reality. This year, the club is celebrating its twenty-first anniversary. During this time the club has established a strong tradition of participation and financial support of community projects such as the Italian Carnevale, the Adelaide Senior Citizens' Village and St Patrick's Special School, to name just a few of the projects supported by the club.

The Lions Club of Adelaide Italian has also been responsible for the presentation of the Italian of the Year award, which is a biannual event, first inaugurated in 1986. The Italian of the Year award is designed to honour and recognise an individual from the South Australian Italian community for his or her achievements in civic service, cultural accomplishments, business enterprise and sporting skills, and provides the opportunity for the community as a whole to recognise their outstanding accomplishments. In promoting this biannual event, the Lions Club of Adelaide Italian not only seeks to recognise the special contributions made by South Australians of Italian background, but also endeavours to raise funds to support many worthy community projects and deserving charities. Since 1986, the event has raised more than $85 000, and the proceeds have been distributed to assist SIDS, $8 000; Queen Victoria Hospital, $12 000; Mary Potter Hospice, $15 000; Phoenix Society, $8 000; Asthma Foundation $10 000; and Telethon Charities, $10 000.

This year, the Italian of the Year award was won by Mr Gino Beltrame, who recently retired as Research Leader, Electronic Countermeasures, at the Department of Defence, Electronic Warfare Division. Mr Beltrame was born in Adelaide of Italian parents and was educated at St Joseph's Primary School, Rostrevor College and the Adelaide University. After obtaining his Bachelor of Engineering degree with honours in mechanical engineering, Mr Beltrame joined the then Weapons Research Establishment. He has since established himself as a foremost expert in the Australian Defence Science and Technology Organisation in the mathematical modelling and simulation of weapons and countermeasures systems, and has represented Australia in international defence science forums. Mr Gino Beltrame is a person of the highest integrity and brilliant intellectual capacity. He has attained international recognition and has achieved outstanding accomplishments in his field of expertise, distinguishing himself as an exceptional Australian scientist and as a leader in international defence sciences. His contribution to the NULKA defence project has been acknowledged at the highest levels of the United States Navy and the Royal Australian Navy.

In offering my congratulations to Mr Beltrame, who is a most worthy recipient of this prestigious award, I would like to congratulate all members of the Lions Club of Adelaide Italian for once again organising a most successful award presentation, and I wish the club and its members continued success for the future.

EMPLOYMENT

The Hon. T.G. ROBERTS: I wish to raise the issue of employment/unemployment opportunities. I believe that both major Parties had their position wrong in the lead-up to the election in relation to their predictions and their strategies to deal with those people who are unemployed and those who are currently in the work force who will be potentially unemployed in the lead-up to the next recession.

I do not believe that the Labor Party's position was much better than that of the Liberal Party. The Commonwealth response to setting up a stabilising program for dealing with unemployed people by switching to Job Network did not give anyone involved in trying to come to terms with unemployment in regional and metropolitan areas any confidence at all that this was a program of support for young people that was any different from the previous CES programs that were run. It appeared that the Job Network was just recycling a lot of the cases that the CES was not able to deal with. The number of unemployed people is estimated by some agencies

involved in the prediction field to be at least 2 million, chasing 78 000 vacancies. This means that there are not enough job vacancies for the number of unemployed. It does not matter what structure is set up: it will not work. The setting up of an organisational structure such as Job Network gives people false confidence that there will be employment for all.

I believe that at this stage we have to realise that structured unemployment is with us. Those people who are in positions of influence and power within the political and economic scene need to realise that there will be a mainstream. There will be people who will be isolated from that mainstream, and those people need to be looked after. I believe that there has to be a system—not in a patronising way—where dignity and a living wage is available to those people without their having to go through the tests and the trauma associated with chasing these jobs that do not exist.

I know that there could be problems with people who might rort a system such as that where it might be seen to be open-ended and easy to manipulate but I believe that there may have to be a small price to be paid, because the system that we have at the moment is certainly causing a lot of depression, isolation and anxiety amongst young people. As we now move into another recession, I believe all of us realise that, with the economy moving at 3.5 to 4 per cent, those growth figures should have been accompanied by more opportunities in the work force. Although there has been some movement, this has not been the case. We have not been able to soak up all the unemployed within the market, and I believe that we have a responsibility to try to develop and service a system that allows people to contribute to society their skills and abilities, so that we can integrate at all levels and not look as though we are isolating people to a third or a fourth citizen class, which is where I believe we are heading at the moment, unless we change the direction that we take.

EYRE PENINSULA IN CONCERT

The Hon. CAROLINE SCHAEFER: I wish to use my time today to speak about EPIC—Eyre Peninsula in Concert—which I was privileged to attend at Tcharkulda Rocks out of Minnipa last Saturday, 24 October.

The Hon. Diana Laidlaw: So did I.

The Hon. CAROLINE SCHAEFER: And, indeed, so did the Minister, and a large number of members of the South Australian Country Arts Trust, together with some 3 500 people from all over Eyre Peninsula. The idea for this event started with a grant from the National Arts Trust which was offered to the Eyre Peninsula Task Force when I was its Chair. The trust specified at that time that its grant was to be used for an event which would significantly lift the morale of the people of Eyre Peninsula. It certainly did that and more.

The task force, as is well known, later became the Eyre Peninsula Regional Strategy Committee, and the original grant was used to employ Phil Thompson who designed the original concept of a seasonal theme, which was designed and performed by an artistic network across Eyre Peninsula. However, from that time on the Artistic Director became Mr Bob Daly, and the South Australian Country Arts Trust became the major group under which this concert was developed.

In late 1996 it began collaboration with the Eyre Peninsula Regional Strategy Committee. Saturday morning was taken up with a visual arts display at the Minnipa Hall and from there we moved to the spectacular Tcharkulda Rock site where we were entertained by various local performers. However, the highlight for most of us was the night performance which was absolutely spectacular. The Tcharkulda Rock, an ancient granite outcrop, was lit with shades of mauve, green and white and formed a breathtaking backdrop for a performance which had as its theme the seasons of the year but which was really about the uniqueness of the people of Eyre Peninsula.

All the works were locally produced and performed. The original musical works with titles such as *Tcharkulda*, *A Song for All Seasons*, *Bushfire*, *Golden Wattles*, *Cold Winter Blues* and *Sacred Land* were really about the core of the community. They were performed by local bands and musicians using instruments ranging from electronic to the didgeridoo with dancing by local groups ranging from primary school children to ballroom dancers to line dancers and everything in between. Perhaps a feature was the mass choir from all over Eyre Peninsula which, whilst they had practised hard and long in their own community groups, had only one practice together prior to the performance.

It is difficult at a time like this to know who to congratulate for fear of missing out some of the people, but in the time allowed I would like to especially congratulate Bob Daly, the Artistic Director; Richard McDonald, the Musical Director; David Lane, the committee chairman; Alex Reid, the Western Regional Arts Development Manager; Terry Krieg, the Production Coordinator; Jenny Manders for her brilliant choreography—

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Yes, your friend—Karren Gillman, the committee, and many others who put so much into what was such a stunning evening. It is perhaps better described in the words of Bob Daly who says:

> For myself, in tapping the creative juices which flow through the region I have seen EPIC act as a magnet for musicians, singers, dancers, puppeteers, story tellers, writers and visual artists from across the peninsula and beyond. I have made new friends and revisited old ones as I move from the hospitality of one group to the generosity of the next gathering ideas, rehearsing production pieces and tutoring workshops. EPIC may well mean Eyre Peninsula in Concert but for me it stands for Eyre Peninsula is Community, and I am honoured to have been a small part of this great event.

Bob Daly was not a small part, he was a large part. I would like to say, 'Thank you, Eyre Peninsula, for the honour of being there.'

GOVERNMENT MANDATES

The Hon. T. CROTHERS: In speaking for the next five minutes, I want to take issue with comments made by the Treasurer yesterday during Question Time in respect of mandates. Whatever one thinks of the Treasurer, he is always a rational, cogent and logical arguer. Whether or not one agrees with his point of view, he always endeavours to use the rationale of cogent logic to advance his point of view.

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: Whether or not one agrees—

The Hon. Carolyn Pickles interjecting:

The Hon. T. CROTHERS: Well, just listen and find out. He argues that, because the Howard Coalition Government of the Liberal and National Parties went to the elections as a Coalition entity and won a majority of seats in the Lower House, it has a mandate. His argument boils down to that. In

fact, the Coalition Government lost considerable ground electorally in both the Lower House and the Senate. When the new Senate is formed in July next year, the Government will have two fewer Senators in their number because Senator Sandy Macdonald lost his seat in Western Australia to a Democrat and Senator Bill O'Chee lost his seat in Queensland to the candidate from One Nation.

If one follows that line of rationale right through, it pays us well to examine the position in South Australia. The position here is very clear. The Liberal Party ran in the last State election as a stand alone Party. It is a minority Government in this State having won in its own right only 23 of the 47 seats and it depends for its occupation of the Treasury benches on the support of two Independents who defeated officially nominated Liberal candidates and one National Country Party member who defeated the official preselected candidate of the Liberal Party in her particular seat.

One must bear in mind that the Liberal Party did not run this State before the election as a Coalition Government. Rather, after the event, when they found that they did not have sufficient number of the 47 seats, when they needed 24 and they fell one short of governing in their own right, they then had to depend on two Independents from the South-East and one National Country Party member from the Riverland area. One must also bear in mind that the Country Party in this State is a different beast from the National Country Party, because recently during the most recent election they issued disavowal notices against following the Federal policies of the National Party.

The Hon. L.H. Davis: Didn't we have a mandate of 36 over 47?

The Hon. T. CROTHERS: Just a minute. We are dealing with now. Your time has passed, so let us stop quoting past history. Let us stop going back to the past. You are a man of yesteryear. Let us leave it there. It is not necessary to keep reminding us of that by quoting past history.

The significant thing about my point of view is that if you accept the rational, cogent logic of the Leader of the Government in the Council (the Treasurer), the facts are that the Olsen Government does not have a mandate in the State of South Australia because it has not got a majority of seats in the Lower House. That is the logic.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: Empty vessels make the most sound: I must be striking home or you wouldn't be trying to upset my discourse with your inane interjections. It follows hard on the logic of the Leader of the Government in this Chamber in his defence of the Howard Government's argument for a mandate that the Olsen Government does not have a mandate in this State for its policies.

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: You should stick to being outside this Chamber and leave us all alone. It means that they have not got a majority because, first, they did not go to the people as a Coalition and, secondly, the support of two Independents and the Country Party member who defeated their candidates is necessary for them to retain the Government benches. Twenty-three seats out of 47 is not a majority. I rest my case. I accept the argument of the Treasurer to some extent, but I say that the Olsen Government has not got a majority or a mandate in this State.

The PRESIDENT: Order! The honourable member's time has expired.

STATUTORY AUTHORITIES REVIEW COMMITTEE: 1997-98 REPORT

The Hon. L.H. DAVIS: I move:

That the report of the Statutory Authorities Review Committee, 1997-98, be noted.

The Statutory Authorities Review Committee had a busy 1997-98. The committee was formed following a commitment by the Liberal Government when it came to office in late 1993. The committee was formed in May 1994. In 1997-98 it reported for the first time on the timeliness of annual reporting by statutory authorities. This was a watershed report, the first time that anyone had seriously examined the totality of reporting by some 160 statutory bodies in this State. The committee, which is made up of three Liberal members of the Legislative Council and two Labor members, has always reported in a bipartisan fashion and was disturbed to find that, in the period 1994-95, 33 per cent of the statutory bodies had not reported within the time required by law.

That report on timeliness highlighted matters of concern to the committee in that, quite clearly, Ministers of the Government were not putting in place proper processes to ensure transparency and accountability of statutory authorities, that in 18 of 159 bodies which were examined no reports had been tabled at all in Parliament as required by law. There were some exceptions to these disappointing statistics. The Treasurer's portfolio had been outstanding as had also the Attorney-General's performance. As a result of that, the committee again referred to its earlier report on statutory authorities, a Survey of Statutory Authorities, released in August 1996, which urged that the Government should establish a comprehensive register of South Australian statutory authorities and bodies. With information technology as it is, it is quite possible to do this, we would have thought simply and in a very efficient fashion with not a great deal of cost involved.

Indeed, in Queensland all statutory authority basic information is available for scrutiny by the public. It is listed in hard form but is also accessible through the Internet. That information contains data on the names of the statutory authority board members, the term of their appointment, the parent Act which establishes the statutory authority and the scope of the statutory authority. Indeed, the South Australian Statutory Authorities Review Committee believes that in addition to that information there should be also be details of the level of fees payable to statutory authority board members.

Inevitably, there was also a finding that there were many different standards applied to reporting time frames for statutory authorities. We believed that there should be a standardisation of those time frames. Also, we suggested that in future Ministers should inform Parliament of delays in annual reporting. We were somewhat bemused to find that statutory authorities, which are very large bodies with significant budgets, the South Australian Health Commission, major hospitals and health centres were not required to table their annual reports in the Parliament, which seemed somewhat bizarre.

As a result of those findings the committee inquired again into timeliness for the 1996-97 year, and subsequent to the end of this last financial year, that is, the period ended 30 June 1998, we tabled a second inquiry into timeliness where we were pleased to advise that there had been a dramatic improvement in the timeliness of statutory authorities in

reporting to the Parliament and that 88 per cent of all annual reports had been tabled in accordance with all legislative requirements. However, the hurdle had been set at a very low level, because the State election of October 1997 meant that Parliament did not meet until very late in 1997—and just briefly at that. So, under the terms of the Public Sector Management Act, the statutory authorities effectively had until mid February to table their reports for the 1996-97 year.

In addition to those two reports on timeliness the committee reported on Commissioners of Charitable Funds and recommended that the Commissioners of Charitable Funds as a statutory body be terminated. This was the first occasion the committee had recommended the termination of a statutory body, that it be wound up. That is one of the specific powers we have under the Parliamentary Committees Act. I am pleased to advise that the relevant Minister has accepted the report of the Statutory Authorities Review Committee, and over the next 12 months the Commissioners of Charitable Funds will be wound up. It is a body dating back well into the nineteenth century—quite an anachronism—which for example required, again somewhat bizarrely, that the Royal Adelaide Hospital should funnel all its funds for management and for investment purposes into the Commissioners of Charitable Funds, whereas the Queen Elizabeth Hospital had elected to establish a foundation outside the purview of the Commissioner of Charitable Funds. Then again, the Flinders Medical Centre, having been established only 30 years ago, was never gazetted as a hospital under the aegis of the Commissioners of Charitable Funds and was not subject to their control and direction.

So, this astonishing conflict and inconsistency in the administration of an Act which had established the Commissioners of Charitable Funds was recognised by the committee, and it was suggested that in this day and age major hospitals, whether they be metropolitan or regional, are well able to manage their own funds. The committee was pleased, again, not only to report unanimously in that finding but to have the satisfaction of seeing the Minister accept that finding.

The committee was pleased also to participate in a trip to Sydney to exchange views on annual reporting obligations of statutory authorities and the monitoring and improving of annual reporting standards with their sister bodies in Sydney in the New South Wales Parliament and to look at the best practice initiatives in annual reporting, which is of particular interest to the Public Bodies Review Committee in New South Wales. We also met with the Public Accounts Committee to discuss the operation of the committee system within government and their committee's role and function there.

More recently, we have commenced an inquiry into the management of the West Terrace Cemetery. We have issued a preliminary report on what is a very important subject. The West Terrace Cemetery, as members may remember, was committed to the management of the Enfield General Cemetery Trust by legislative fiat passed through this Parliament in August 1997. The Enfield General Cemetery Trust was required by that legislation to establish a management plan within 12 months. There was an increase in board membership required for the Enfield General Cemetery Trust to give them the necessary and increased heritage management expertise to take on this new project, given that the West Terrace Cemetery is a significant historic precinct in South Australia; indeed, it was described by one of the witnesses to the committee as one of the 10 most important heritage sites in Adelaide, if not the State. That committee inquiry is ongoing.

We commenced an inquiry into the South Australian Community Housing Authority in March this year and it, too, is proceeding. The committee only last week visited Melbourne and took evidence on community and cooperative housing in that State (where there has been a recent major review by the Victorian Government), and we also took general evidence on public housing trends in that State.

Community housing in South Australia is managed by the South Australian Community Housing Authority (SACHA), and that is streamed into what are regarded as two slightly different styles of public housing, namely, cooperative housing and association housing. We have yet to report, but we have taken a good deal of evidence and will be expecting to report early in 1999.

In noting this 1997-98 annual report, I compliment members of the committee. The Hon. Angus Redford and the Hon. Anne Levy made major contributions to the committee during their term, both of which expired at the last State election. The Hon. Anne Levy has retired and the Hon. Angus Redford has moved to higher office elsewhere. Their places have been taken by the Hon. Carmel Zollo and the Hon. John Dawkins, both newly elected members who are already making valuable contributions to the committee.

Finally, it is worth noting that, of course, the work of the committee is considerably enhanced and aided by the committee staff. Ms Anna McNicol was Secretary for some 20 months and retired late last year, and her place was taken by Ms Helen Hele. Mr Andrew Collins, who served with distinction for over 2½ years as research officer, retired two months ago and his place has been taken by Ms Helen Hele, who transferred from the position of Secretary. Ms Kristina Willis-Arnold has become the new Secretary of the committee. On behalf of all committee members, I thank all staff members for their valuable and professional contribution.

The Hon. CARMEL ZOLLO: As a member of the Statutory Authorities Review Committee, I would like to make a few brief comments concerning the 1997-98 annual report. Along with the Hon. John Dawkins, I joined the committee halfway through its reporting period following the State election, and I am very pleased to be part of a very busy and interesting standing committee of the Parliament.

The committee continued post-election with the review of the Commissioners of Charitable Funds and released its report which unanimously recommended that the Commissioners of Charitable Funds be abolished. It agreed that the responsibility for the administration and investments of donations and bequests be transferred to boards of management of the relevant hospitals and health services. The committee's decision in no way reflected on the ability and integrity of the serving commissioners but related simply to the limitations and changes to the administration of such funds since the inception of the charitable fund in 1875.

The second inquiry into timeliness of annual reporting by statutory authorities was released as a follow-up to its first report tabled in July 1997. It was pleasing to note that by the time the second report was released a significant improvement had occurred in the tabling of reports to Parliament. However, several areas still remain a concern—as the Hon. Legh Davis has already indicated—including the need for a comprehensive publicly accessible electronic register of statutory authorities and the review and strengthening of the reporting provisions.

The inquiry into the management of the West Terrace Cemetery vested in the Enfield General Cemetery Trust

identified many areas of concern, and it was decided to release an interim report, which was tabled in August 1998. Those concerns were also reflected by those members of the community who gave evidence to the committee. They range from the urgent need to address the historical significance of the cemetery to the composition of the board and members of the trust.

The committee is undertaking several inquiries at the moment, including an inquiry into the South Australian Community Housing Authority (SACHA) which commenced in March 1998 and which is proving very challenging. Along with my colleague on this side of the House, the Hon. Trevor Crothers, I look forward to continuing our work on the committee and I thank the staff for their diligence and support.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

AUDITOR-GENERAL'S REPORT

The Hon. Diana Laidlaw, for the **Hon. R.I. LUCAS (Treasurer):** I move:

That the Auditor-General's report 1997-98 be noted.

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

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (RETURNS) BILL

The Hon. T.G. CAMERON obtained leave and introduced a Bill for an Act to amend the Members of Parliament (Register of Interests) Act 1983. Read a first time.

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

That this Bill be now read a second time.

My intention in reintroducing this Bill is to ensure that the South Australian Parliament maintains the highest standards of accountability and integrity. Whilst I do not intend to take up too much time in going over the same ground as in my previous speech, I would like to reiterate a number of important provisions in the Bill.

The guiding principle is that members of Parliament must disclose anything which might result in a conflict between their duty and private business interests when voting in Parliament. The implications of any undeclared conflict of interest are even greater when Ministers are exercising executive powers. It became obvious to me when preparing my own annual declaration of interests that the existing law was inadequate to deal with a range of what would be quite widely used investment vehicles and business arrangements. I believe that the existing law is inadequate to deal with the range of widely used investment vehicles and business arrangements that are available today. When I introduced this Bill in late 1996, it received short shift from the Government. I guess we will have to wait and see what attention it receives this time.

Specific provisions in the Bill include a general anti-avoidance provision with a $5 000 fine for any MP or MLC who enters into an arrangement with the intention of evading the disclosure provisions of the Act; a reduction from 50 per cent to 15 per cent in an MP's shareholding in a family company before full disclosure of the company's investments is required to ensure that substantial interests of a MP are not overlooked just because extended family or close associates are involved in a business; a requirement to declare the assets contributed by another party to a joint venture business arrangement with an MP to ensure that all assets from which an MP derives financial benefit are disclosed; a requirement to disclose all investments for a superannuation scheme established wholly or substantially for the benefit of a member of Parliament, their family, a family company, a family trust or some joint venture in which the member has an interest because the same risks of conflicts of interest arise with investments through superannuation schemes as through other business arrangements; and removal of the present exemption for declarations in relation to testamentary trusts because conflicts of interest may arise where an MP or a member of their family is a beneficiary.

I promised to be brief and I will. As I previously said (and I mean this), I am not aware of any MP who is currently in breach of any of the provisions that I propose. I believe, however, that tough provisions are required to ensure that members of Parliament do not evade the requirement to declare potential conflicts between their duty and private business interests. I urge all members to give this Bill their serious and sincere attention. I commend the Bill to the House.

The Hon. NICK XENOPHON secured the adjournment of the debate.

NON-METROPOLITAN RAILWAYS (TRANSFER) (NATIONAL RAIL) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Non-Metropolitan Railways (Transfer) Act 1997. Read a first time.

The Hon. DIANA LAIDLAW: 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 is the same as a Bill that was introduced to Parliament in August 1998 and lapsed at the close of the last session of Parliament. It provides a referral of powers to the Commonwealth under the Australian Constitution with a view to allowing National Rail to operate rail freight services in South Australia.

National Rail (NR) is the national rail freight company established by the Commonwealth Government five years ago, with equity also provided by the New South Wales and Victorian governments. NR has a major presence in South Australia through its operations headquarters and Islington freight terminal.

Under its Memorandum of Association, NR is prohibited from operating intra-State services in its own right, in the absence of a referral of powers to the Commonwealth and a letter of authorisation from the State Government.

NR has been advised that the State would consider granting it this right if it were successful in winning a contract for intra-State services. NR has now advised that it has entered into a contract with BHP to carry steel products from Whyalla to Adelaide, subject to receiving the State's approval. NR already carries BHP products on its interstate services and has carried this traffic as a subcontractor to AN in the past.

Both New South Wales and Victoria have passed the necessary legislation to refer power to the Commonwealth. NR has been granted the right to operate as it wishes within Victoria. However, in NSW the Minister has placed conditions on the NR's operations in that State. The Bill provides a referral of power to the Commonwealth. Control over the extent of NR's activities in the State will be exercised by the Minister only authorising specific services. Initially this will be for haulage of steel products for BHP from Whyalla to Adelaide. Future approaches from NR will be considered on their merits.

In addition, the Bill provides that the referral pursuant to this amendment will cease to have effect if the Commonwealth legislation is amended so as to remove the requirement that the authorisation of the State Minister must be obtained in relation to any intra-State services. The requirement for State authorisation (contained in NR's Memorandum of Association) could be amended or deleted by Commonwealth legislation. The provision proposed by this Bill will therefore guarantee that the referral of power to the Commonwealth will cease to have effect if the State cannot continue to have some control over whether or not NR can operate on an intra-State basis (for so long as NR continues to rely on the current Commonwealth legislative scheme).

In this regard, it is worth noting that these restrictions on NR's activities in South Australia apply only while the Commonwealth is a shareholder. The Commonwealth has stated its intention to sell its share in NR. When this happens, NR will not need the State's approval to provide intra-State rail services.

Granting approval to NR to operate within the State would provide increased rail competition. Limiting this to the current contract will enable BHP to obtain services from its preferred carrier. In future, competition for this contract will ensure pressure on all operators to perform at best practice service levels and prices, to the benefit of South Australian businesses.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Insertion of s. 11B

The matter of the Commonwealth holding or dealing with shares in National Rail Corporation Limited when the Company engages in intra-State rail services in the State is referred to the Parliament of the Commonwealth under the Australian Constitution. However, the referral will cease to have effect if the Commonwealth legislation establishing the Memorandum of Association for the Company is amended so as to remove the requirement for prior State approval before the Company begins to carry on intra-state services.

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

ROAD TRAFFIC (ROAD EVENTS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961; and to make a related amendment to the Motor Vehicles Act 1959. Read a first time.

The Hon. DIANA LAIDLAW: 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 will enable authorised persons to exhibit a stop sign for the purpose of requiring motorists to stop when sporting events are in progress on public roads.

South Australia is endeavouring to host future major sporting events. Some will involve competitions such as car rallies, cycle races and marathons which will require the use of public streets and roads.

If events are of significant national or international profile, a considerable number of personnel will be necessary for traffic control duties, such as preventing vehicles on side roads from entering onto the road being used by the race participants and support vehicles. While police would normally perform these duties, the possible size of some of the events is likely to result in the number of personnel being well beyond reasonable police resource capabilities.

By way of an example, a road cycle race commencing in the city and extending into the country for 150 kilometres could involve at least 100 intersections and junctions. Police could control the major intersections for the 15 to 30 minutes that it may take the event to pass, but may not have the resources to stop the traffic from the many minor side roads. In order for these events to proceed safely, additional assistance will be essential.

The Bill will enable traffic marshals to be temporarily appointed to assist police to control traffic during such events. During the event, the marshals would be required to stop traffic approaching the main sporting route from side streets by displaying a hand held stop sign. Existing powers to control traffic under the *Road Traffic Act* were considered too broad for this duty, as were the powers of special constables under the *Police Act 1952*.

The powers conferred by the Bill are similar to those currently applicable at pedestrian crossings and road works, where manually operated stop signs are used by authorised persons.

The Bill provides for the Minister to authorise the traffic marshals and to impose conditions such as to wear personal identification and/or uniforms, thereby allowing clear identification of marshals. The Bill makes it an offence to disobey a stop signal given by an authorised traffic marshal. Depending on circumstances, traffic marshals may advise traffic to wait or to take an alternative route.

The Bill also rectifies an inconsistency in offences for which demerit points are incurred. Offences for a driver failing to comply with the directions of a member of the police force under the *Road Traffic Act* sections 41 (directions for regulation of traffic) and 79 (duty to obey police instructions notwithstanding the existence of traffic control device) incur 3 demerit points. The Bill amends schedule 3 of the *Motor Vehicles Act 1959* to include similar offences under sections 33 (road closing and exemptions for road events) and 34 (road closing for emergency use by aircraft) of the *Road Traffic Act*. This is consistent with the National Demerit Points Scheme.

Explanation of Clauses

Clause 1: Short title

Clause 2: Amendment of s. 23—Stop signs exhibited by authorised persons

The amendment enables persons authorised by the Minister to exhibit stop signs for the purpose of requiring drivers to stop before entering a part of a road closed to traffic under section 33 of the principal Act (which deals with road events). The amendment specifically contemplates conditions requiring authorised persons to wear identification or a uniform or both.

Clause 3: Amendment of s. 78—Duties at stop signs

The amendment creates the offence of failing to stop at a stop sign exhibited in the circumstances described above.

SCHEDULE Amendment of Motor Vehicles Act 1959

The Schedule amends the *Motor Vehicles Act* so as to impose demerit points in respect of the offences of failing to comply with directions of a police officer where a road is closed for a road event (s.33) or emergency use by aircraft (s.34). Demerit points will also be applicable for the offence of failing to stop at a stop sign under new section 78(2c) of the *Road Traffic Act*.

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

PASSENGER TRANSPORT (SERVICE CONTRACTS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Passenger Transport Act 1994. Read a first time.

The Hon. DIANA LAIDLAW: 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.

With the passage of the Passenger Transport Act 1994, the Government introduced fundamental reform in the delivery of public transport services in South Australia. As required by the Act, an external review of the operations of the Passenger Transport Board was tabled on 13 August 1998. The Review, conducted by consultants, Ms Bronwyn Halliday and Mr Mark Coleman, made a number of recommendations, which are now in various stages of implementation. One recommendation, which relates to using an improved means to control the size of contracts, necessitates an amendment to Section 39 of the Act.

Currently, the Act provides that service contracts for the provision of public transport services should not require the use of more than 100 buses. This limit has been a critical factor in determining the size and delineation of contract areas, and by placing an

absolute limit on the size of contract areas has given rise to a number of unintended negative consequences:

1. The 100 vehicle limit takes no account of the different size of public transport vehicles. The capacity of buses varies between 13 and 75 seats. Trains have about 100 seats. Hence, the bus limit constrains innovation as it requires operators to use larger rather than smaller buses to keep within the 100 vehicle limit.
2. The limit does not make it clear which vehicles are to be taken into account for the purpose of the limit-for example, whether to include some or all of the buses that operators hold to allow for buses that are undergoing maintenance, and to replace or complement in-service buses when required for operational reasons?
3. Advice indicates that if a bus service should operate between two contract areas, buses used on the service should be counted as part of the fleet in respect of each of the contract areas. Therefore, a single bus may be counted in two contract areas. This is an artificial impediment to the provision of effective public transport services to the community.
4. TransAdelaide is exempt from the constraint. Accordingly, TransAdelaide is provided with an advantage that is not consistent with the principle of competitive neutrality, and is at odds with the broader principles of Competition Policy.
5. The limit applies only at the time of awarding the contract. These is no sanction if the limit should be breached in the course of the contract.
6. Finally, the contract areas required to meet the 100 vehicle limit have led to the elimination of through-linking of bus services that had previously occurred for some bus services within the central part of Adelaide—generating the cost and operational efficiencies.

The 100 vehicle limit was introduced following amendments moved by both Hon. S. Kanck and Hon. B. Weise—which were supported. In good faith, our intention was to provide opportunities for small local operators, and to ensure that a public monopoly was not replaced by a private one. The 100 vehicle limit has not proven to be an effective means of achieving these objectives. In particular, it is noted that:

1. Contracts requiring in the vicinity of 100 vehicles are very large by comparison with the scale of most private bus companies in Adelaide. There are only a few companies in South Australia that have more than 10 buses. Most companies have less than 10 buses. Even the small contracts (e.g., Circle Line, Womma Rd) have not attracted interest from local operators.
2. The 100 vehicle limit per contract area does not prevent a single operator from dominating the market in Adelaide. For example, a single operator could bid for, and potentially win, every contract that was put to tender.

Against this background, the Government has considered a range of measures to overcome the limitations I have highlighted, whilst still meeting the original objectives intended of the 100 vehicle limit.

One option considered was the use of a larger number of smaller contract areas. The current system involves 11 contract areas for buses, four route contracts for individual bus services, and separate contracts for tram and train services. However, smaller contract areas would reduce the efficiency of service provision, make service integration more difficult, require more central planning of services, increase Government administration costs, increase industry tendering costs, and increase the risk of contract areas that are incompatible with depots, logical route structures and geographical communities of interest.

Other options considered, but dismissed as too prescriptive, were:

1. Establishing a maximum market share for any individual contractor. This could be accomplished by introducing a limit of, say, 40 percent of the share of the market that could be held by a single contractor. This approach has been adopted in Western Australia and Victoria.
2. Replacing the 100 vehicle limit with some other constraint such as a share of patronage.

In the final analysis, the Government's preferred approach is to strengthen the intent of Section 39 by providing more explicit guidance to the Passenger Transport Board regarding the contracting system.

Accordingly, this Bill amends the Act to provide that the Board, in awarding service contracts, must take into account the following principles:

- that service contracts should not be awarded so as to allow a single operator to obtain a monopoly, or a market share that is close to a monopoly;
- that sustainable competition in the provision of public transport services should be developed and maintained;
- that the integration of public transport services should be encouraged and enhanced; and that service contracts should support the efficient operation of passenger transport services and promote innovation in the provision of services to meet the needs of customers.

Overall, this approach allows Parliament to set the principles for establishing contracts, and enables the Passenger Transport Board to tailor contracts to meet clearly enunciated objectives, rather than relying on simple indirect, prescriptive measures such as the present limit which has not achieved the desired outcome.

As a final matter, Section 39(3)(a)(ii) requires that TransAdelaide be given the opportunity to provide not less than half of the public transport services in Adelaide until 1 March 1997. This condition was designed to allow TransAdelaide sufficient time to make the transition from being a monopoly provider of public transport services in Adelaide to a provider of services in a competitive environment. The transitional period is now over, and so the subparagraph now has no effect.

In the meantime, the staff and management of TransAdelaide have made a considerable effort in the four years since proclamation of the Act in transforming the agency. Their success in adapting to the new contracting environment is reflected in the Government's proposal to corporatise TransAdelaide. TransAdelaide has not been subject to the protection of the subclause for the last 20 months, nor is there a need to re-establish the protection. Accordingly, it is proposed that the subclause be deleted as a principle which is to guide the Passenger Transport Board in awarding service contracts.

I commend the Bill to Honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 39—Service contracts

This clause replaces subsection (3) of section 39 of the Act with new provisions that state certain principles that must be taken into account by the Passenger Transport Board when awarding contracts for services that form part of the public transport system within Metropolitan Adelaide, and state that the new subsection (3) is an expression of policy that does not give rise to rights or liabilities.

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

TRANSADELAIDE (CORPORATE STRUCTURE) BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to provide for the continuation of TransAdelaide as a statutory corporation; to make a consequential amendment to the Passenger Transport Act 1994; and for other purposes. Read a first time.

The Hon. DIANA LAIDLAW: 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 progresses the Government's bold plans to achieve the highest standards of public transport service and safety for South Australians into the 21st century.

Over the past five years our single minded goal has been to provide more South Australians with greater access to more transport services for every dollar spent by passengers and tax payers. Savings have been realised without compromising existing services, new services have been introduced such as the free City Loop and accessible buses and we have arrested the decline in patronage that has plagued public transport since 1982.

The Passenger Transport Act 1994 has been the vehicle for the major changes that the Government has implemented in the delivery of public transport services. The Act created the Passenger Transport Board, which is responsible for policy development, service design and the contracting of service delivery.

The Act also repealed the State Transport Authority (a monopoly operation) and created TransAdelaide, a Government owned public transport service provider, pursuant to Schedule 2 of the Act.

TransAdelaide has secured 75 per cent of the total bus market, as well as the train and tram operations, through participating in the tendering process and by direct negotiations with the Passenger Transport Board.

The process of competitive tendering for service delivery will recommence early in 1999. As a business owned by the Government, it is now most important that the Government and TransAdelaide employees generally are confident that the business is so structured to be in the best position to present competitive bids for future contracts, as and when called by the Passenger Transport Board.

To this end, the Government recently reconfirmed the continued public ownership of TransAdelaide as an operator of public transport. The Government also supported the appointment of an Advisory Board, reporting to the Minister, to oversee the implementation of TransAdelaide's Strategic Plan and to prepare for the next round of competitive tendering.

The Bill seeks to maximise TransAdelaide's business opportunities by providing a commercial framework for its future. The Bill establishes TransAdelaide as a public corporation under its own legislation, separate from the Passenger Transport Act 1994. The move is designed:

- to ensure TransAdelaide is seen as an independent operator in a competitive market;
- to reinforce the separation between the policy development and contracting role of the PTB and the service delivery role of TransAdelaide; and
- to assist in developing a more commercially focussed, robust performance culture within TransAdelaide.

The Bill extends the current functions of TransAdelaide to include the capacity: 'to initiate or develop business opportunities associated with the provision of passenger transport and other services within its fields of expertise, and to undertake other activities that may contribute to the economic benefit of the State or otherwise involve an appropriate use of its resources.'

The Bill also complements all the work that TransAdelaide has undertaken in the past year to prepare and implement a Strategic Plan which provides for TransAdelaide;

- to develop a commercial business framework and approach for bus, train, tram and infrastructure management;
- to improve the delivery of public transport services to better meet the needs of customers;
- to pursue business alliances which enhance TransAdelaide's position in the market;
- to create an organisational culture in which employees believe in and actively contribute to TransAdelaide's success; and
- to reduce overheads.

In conclusion, I acknowledge the energy, enthusiasm and contributions of all TransAdelaide staff to the future of TransAdelaide as a robust operator committed to customer service. The Government, in line with TransAdelaide's Strategic Plan, firmly believes that the corporatisation of TransAdelaide is an essential next step in the progressive path that TransAdelaide has taken in recent years to be a best practice provider of public transport services—and ultimately will give TransAdelaide the best opportunity to compete successfully for business in the future.

I commend the Bill to all honourable members.

Explanation of Clauses

Clause 1: Short title
This clause is formal.

Clause 2: Commencement
The measure will be brought into operation by proclamation.

Clause 3: Interpretation
This clause sets out the definitions required for the purposes of the measure.

Clause 4: Continuation of TransAdelaide
TransAdelaide is to continue in existence as a body corporate with perpetual succession and a common seal.

Clause 5: Application of Public Corporations Act 1993
TransAdelaide is now to be a statutory corporation to which the provisions of the *Public Corporations Act 1993* will apply.

Clause 6: Ministerial control
This clause restates that TransAdelaide is subject to control and direction by the Minister.

Clause 7: Functions
This clause sets out the functions of TransAdelaide, which include to operate passenger transport services, to engage in related activities, and to initiate or develop appropriate business opportunities.

Clause 8: Powers
As is now normally the case, it will be stated that TransAdelaide has all the powers of a natural person together with any powers conferred by statute. Various powers currently contained in schedule 2 of the *Passenger Transport Act 1994* are to be restated.

Clause 9: Common seal and execution of documents
Specific provision will be made for the affixing of TransAdelaide's common seal in a manner consistent with the proposal to establish a board for TransAdelaide.

Clause 10: Establishment of board
It is intended to establish a board of directors of not more than five persons as the governing body of TransAdelaide. Directors will be appointed by the Governor. The Governor will be able to appoint deputies.

Clause 11: Conditions of membership
A director will be appointed for a term not exceeding three years.

Clause 12: Vacancies or defects in appointment of directors
An act of the board will not be invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

Clause 13: Remuneration
A director will be entitled to remuneration, allowances and expenses determined by the Minister and payable from the funds of TransAdelaide.

Clause 14: Board proceedings
A majority number of directors will form a quorum of the board. A decision carried by a majority of votes cast by directors present at a meeting of the board will be a decision of the board. The directors will be able to conduct telephone conferences. The board will be required to ensure that accurate minutes are kept of its proceedings.

Clause 15: Staffing and operational arrangements
TransAdelaide will continue to have a chief executive known as the "General Manager". As is currently the case, a member of the staff of TransAdelaide will not be a public service employee.

Clause 16: Acquisition of land
TransAdelaide will be able to acquire land under the *Land Acquisition Act 1969*, with the approval of the Minister, in order to secure or manage infrastructure reasonably required or warranted for the provision of passenger transport services.

Clause 17: Use and protection of name
The board may conduct its operations under various names after consultation with the Minister. The Crown will continue to have a proprietary interest in the name *TransAdelaide*, and will also have such an interest in any name adopted by the board. It will be an offence to use these names in the course of any trade or business without the consent of the Minister.

Clause 18: Regulations
The Governor will have the power to make regulations for the purposes of the Act.

Schedule

TransAdelaide will no longer be constituted under schedule 2 of the *Passenger Transport Act 1994*, and will no longer be a corporation sole.

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

EVIDENCE (CONFIDENTIAL COMMUNICATIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Evidence Act 1929. Read a first time.

The Hon. K.T. GRIFFIN: 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.

In recent years, the law of sexual assault, be it substantive, procedural or evidentiary, has been changed by Parliaments and, to a lesser degree, the judiciary, to provide more protections for the complainants of sexual assault. Statutory provisions have precluded the use of evidence of general sexual reputation and restricted greatly the use of evidence of prior sexual history in particular, extended the notion of consent, protected complainants from extended and

exploratory cross-examination in preliminary hearings, abolished the legal requirement of corroboration of the complainant's story, and modified the strict common law on the doctrine of recent complaint. In addition, in the area of law dealing with child complainant, the Parliament has substantially widened the ability of children to give sworn evidence, provided for the ability of children to give evidence while screened from the accused or via closed circuit television and created a wholly new offence of maintaining a sexual relationship with a child.

These reforms have, in many ways, changed the face and the balance of the criminal trial for sexual offences. Of course, they were designed to do that, but these charges are invariably serious and most often highly contentious. They go to the heart of the gender debate in this society, as well as to individual justice to the complainant and the accused. There are some who doubt the fairness and justice of them taken as a whole. Often, the trial will come down to the word of the complainant against the word of the accused and the presumption of innocence, and that is a highly subjective balance in any individual case. Nevertheless, Parliaments across the common law world, including the South Australian Parliament, have decided, in effect, to enact a wide range of measures, many of which are designed to greatly restrict the traditional ways in which the defence can seek to undermine the credibility of the complainant in cases of sexual assault allegations. Not surprisingly, defence counsel have sought ways in which to circumvent these restrictions. One of the main ways in which that has been done in recent times is for the defence to seek to undermine the credibility of the complainant by gaining access to the psychiatric or treatment history rather than the sexual history of the complainant. The point is to get hold of material which may be used to undermine the credibility of the complainant as a witness. These may be records made either before or after the alleged incident which is the subject of the charge.

The general legal technique involved in the defence attempt to gain access to the counselling or medical records of the complainant is the use of the legal order known as the *subpoena*. The *subpoena* is an order of the court directing the person or persons named in the *subpoena* to deliver the documents or things named in the *subpoena* to the court. It is issued on application by a party to an action or criminal matter, but it is vital to note at this point that the *subpoena* does not authorise the delivery of the documents or things named in the *subpoena* to the party who is the applicant for the *subpoena*. The *subpoena* is an order of the court and failure to comply with it is a contempt of the court. It is therefore an order with a sanction, disobeyed at peril.

The test for the issue of a *subpoena* is relatively clear in law. In order to justify this legal intrusion on the rights of a third party, the applicant for the *subpoena* has the onus of showing that they have a legitimate forensic purpose in the production of the documents or things which includes the notion that the applicant must show that access would materially assist the accused in his or her defence. The applicant does not have access to inspect the documents or things in order to get the *subpoena*. It follows, therefore, that the applicant must have some external information demonstrating the worth of the *subpoena*. Otherwise the application will be dismissed as what is technically known, in graphic terms, as a "fishing expedition". It is, therefore, usually necessary for the applicant to disclose, at least to some extent, its case to the court in order to get the order.

The documents produced in compliance with the *subpoena* are produced to the judge. The judge then examines them. Under South Australian law, the court must then rule whether the documents produced are "relevant'. It is clear that does not mean that they are admissible in evidence. It does mean that there must be an assessment by the court that the documents in question must be capable of assisting in the proof or denial of some issue relevant in the proceedings. The test of relevance is evidentiary value not admissibility. For example, the documents may well be inadmissible of themselves but provide a basis on which a witness may be cross-examined as to credit. If the documents are relevant in that sense, or any part of them is, the court will release the whole or that part to the party for that purpose.

The specific problem in question is that some of those accused of sexual offences are employing the device of the *subpoena* to try to obtain copies of notes made during the counselling or treatment of the complainant or another person related in some way to the trial. This practice is causing serious concerns among the sexual assault counselling services and their staff and other concerned members of the community.

Their argument is to the effect that access to these records should be very tightly controlled. Some would have it prevented altogether. The substance of the arguments in favour of this general direction in the law are as follows. First, breach of the confidential relationship between client and counsellor would be detrimental to the effectiveness of counselling because the client would be likely to be less than full and frank in dealing with the counselling process Second, if the counselling records are made available to defendants, and that fact was known, there would be a substantial disincentive for victims to use counselling services or to report the assault at all. Third, disclosure of the records to the accused may lead to the granting of access to information which may place the complainant at risk or in fear of being at risk from retributive action, or may contain personal information, irrelevant to the case, which would lead to that result. Fourth, knowledge that the records could be disclosed will inhibit the rehabilitation of the victim and the effectiveness of the healing process generally.

In short, it is argued that if complainants are not guaranteed confidentiality within the counselling relationship, they will be inhibited in their discussions and unable to receive the full benefit of the counselling. Indeed, they may be deterred from seeking counselling at all. These are powerful arguments. But they do not stand alone or without contrary forces.

On the other hand, considerations of fundamental fairness and the right to a fair trial will sometimes dictate that any just system of law should grant access to counselling notes. The treatment to which the complainant has been exposed before trial may have had the effect of contaminating her memory to such a degree that her evidence, while genuine to her, is utterly unreliable. For example, the recollections that the complainant recounts and in which she firmly believes may have been obtained by hypnosis. There is a considerable body of very cautionary law about the admissibility of such evidence and the use to which it can be put. But there may be even more doubtful procedures. In, for example, *Cooper* (1995) 14 WAR 416, the complainant based her account on "recovered memory" retrieved by Eye Movement Desensitisation and Reprocessing Treatment (EMDR). There was a wealth of expert evidence that this treatment was "in an enthusiastic period of evaluation" and was not only unreliable, but could not be described as an established scientific body of knowledge. This information would be crucial to the case for the defence.

This is not a simple policy issue. Nor is it a simple legal issue. So far as policy is concerned, the general existing law designed by judges for ensuring a right to a fair trial for an accused charged with very serious offences collides with the equally compelling public interest in protecting victims from undue harassment and further victimisation and the public interest in the effective minimisation of harm to those who have suffered a traumatising experience. So far as the law is concerned, if action is to be taken, it must traverse with the most technical areas of law dealing with exclusionary rules of evidence, relevance, privilege and immunity and procedural laws such as those governing *subpoenas* in a specific area.

In the current environment, it is clear that action by Parliament is needed in order to make the rules clear for everyone—but the parameters of change require careful management as do the policy values in conflict—and the options for dealing with them.

In general terms, there are five alternatives that could be adopted. They are:

- Do nothing and rely on existing common law;
- Enact a complete and total prohibition on the release of counselling records;
- Enact a privilege in the counselling records similar to legal professional privilege;
- Enact an unstructured judicial discretion whether to admit the records or not; or
- Enact a structured judicial discretion whether to admit the records or not.

It seems clear that the first option is not tenable. The proponents of various possible positions are in conflict and it is up to parliament to resolve the conflict and clarify the position. The second option is equally untenable, despite the fact that it has some strong advocates. Not only will the taking of this position lead to unjust convictions and stayed trials, but also it ignores the fact that there is no established counselling profession with disciplinary procedures and an enforceable code of ethics. No-one wants an increased number of convictions overturned as unsafe and unsatisfactory because of a legal technicality, but that is precisely what has happened a number of times when the tabling of victim impact statements at sentence have revealed sufficient information about the counselling process to lead to a finding that the verdict is unsafe and unsatisfactory and warrants a new trial.

Equally, the unstructured judicial discretion is not tenable. This is not all that much different from the status quo, which is not satisfactory. It will not go far enough to satisfy those who desire change, and experience in jurisdictions across Australia shows that it leaves too much discretion in a highly sensitive area to the individual views and proclivities of the judge who happens to be presiding at the trial.

The analogy with legal professional privilege is not sustainable on a number of grounds. Legal professional privilege is based on two vital factors. First, lawyers are "officers of the court" and second, they are bound by complex and strict rules of professional practice. Sexual assault counsellors have neither characteristic. Indeed, the lack of any recognisable professional body capable of setting and enforcing professional standards in the industry was a matter of adverse comment by the Wood Royal Commission in New South Wales. In addition, it should be noted that the lack of *both* characteristics has been the basis for the refusal to grant an analogous privilege to the priest/penitent, doctor/patient and journalist/source relationship. Any or all of these people would feel rightly aggrieved if an exception was made in this case. More importantly, the fundamental moral basis for legal professional privilege is that, in its absence, the operation of the rule of law itself is jeopardised. That is not so if the client/counsellor privilege does not exist—indeed the converse may be true—albeit that some negative consequences may flow to the relationship itself. Further yet, the notion of a privilege goes too far. It would not allow discretionary admissibility in cases in which gross injustice would result.

The only appropriate way to proceed is via structured judicial discretion. This is the path that has been taken in Victoria and New South Wales. The legal form which this should follow is public interest immunity. Public interest immunity protects information from being disclosed if, in the opinion of the court, the disclosure would injure an identifiable public interest. The immunity is most often used in cases involving confidential government documents when it can be shown that it is in the public interest for the information not to be disclosed, but there are instances where it can be invoked by private citizens. In such cases, the court is required to balance the public interest in the administration of justice in the particular proceedings against whatever public interest may be injured by the disclosure of the material. The fundamental principle is that the material may be withheld from disclosure only to the extent that the public interest renders it necessary.

The Bill before the House seeks to enact a specific public interest immunity model appropriate to the category of information with which it deals. The Bill enacts a two stage process for considering applications by anyone in litigation, civil or criminal, for access to what the Bill calls a "protected communication". In the first stage, the person making the application must seek leave of the court and show that the he or she has a legitimate forensic purpose for seeking access and that there is an arguable case that the evidence will materially assist the presentation or furtherance of the applicant's case. This test is very similar to the more familiar and colloquial judicial test for a *subpoena* where the court assesses whether or not it is "on the cards" that the evidence sought will materially assist the applicant in his or her case. If that first stage of the test is not passed by the applicant, the matter should rest there.

If the test is passed, however, the court then has a discretion about what to do next, according to the case for leave made out by the applicant. The court can require the holder of the information to answer questions, produce the records to the court, or as a last resort, appear before the court to give evidence. At this stage, the question for the court is whether, despite the success of the argument for the applicant on the first stage, whether the evidence should be produced. The answer to that question depends upon a balancing test, and that is the second stage. At this point, there must be an assessment of the conflicting aims of public interest in the light of the particular circumstances of the case which will, of course, vary in individual cases.

The general balancing test is set out in what is proposed to be s 67f(5) and the balance is to be informed by the explicit listing of relevant factors in what is proposed to be s 67f(6). The general test is the balancing of the public interest in preserving the confidentiality of protected communications against the public interest in preventing a miscarriage of justice in the circumstances of the case. The list of relevant factors informs one side or the other of that balance. The onus to show the need to access the protected communication is to be placed on the party seeking access to that communication.

It is clear, therefore, that the definition of protected communication is important. Honourable Members will note that it extends to oral as well as written communication and that it extends beyond professional relationships to volunteers who work as counsellors. It should also be noted that the protection does not extend to a communication made for the purposes of or in the course of a physical examination of the victim or alleged victim by a registered medical practitioner, communications made for the purposes of legal proceedings and, importantly, communications as to which reasonable grounds exist to suspect that the communication will provide evidence of a criminal offence, such as fraud, perjury or an attempt to pervert the course of justice. This last is significant. It cannot be the case that the law of public interest immunity will operate in order to shield a person who is reasonably suspected of having committed a criminal offence from investigation and, if thought desirable, prosecution.

The Bill as a whole represents a reasoned attempt to reconcile what may seem to some irreconcilable forces and positions. It sets out a comprehensible middle ground, and articulates the policies which must be argued, contemplated and decided. It sets out the rules so that all who are involved know where they stand.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Insertion of headings

Clause 3 divides Part 7 into separate divisions in view of the proposed insertion of a new division dealing with protected communications.

Clause 4: Insertion of Division 9

Clause 4 inserts new division 9 dealing with protected communications.

67d. Interpretation

New section 67d contains definitions required for the purposes of the new division.

67e. Certain communications to be protected by public interest immunity

New section 67e provides that a communication relating to a victim or alleged victim of a sexual offence is, if made in a therapeutic context, protected from disclosure in legal proceedings by public interest immunity. However, the public interest immunity will not extend to a communication made for the purposes of, or in the course of, a physical examination of the alleged victim of a sexual offence by a registered medical practitioner or registered nurse, a communication made for the purposes of legal proceedings or a communication as to which reasonable grounds exist to suspect that it evidences a criminal fraud, an attempt to pervert the administration of justice, perjury or another offence. New subsection (3) provides that the public interest immunity cannot be waived.

67f. Evidence of protected communications

New section 67f provides that evidence of a protected communication cannot be admitted in committal proceedings for an indictable offence and can only be admitted in other legal proceedings if the court gives leave to a party to adduce the evidence and the admission of the evidence is consistent with any limitations or restrictions fixed by the court. Subsections (2), (3) and (4) provide for a preliminary examination of evidence of protected communications by the court. The new section goes on to provide that the court can authorise the admission of the evidence if satisfied that, in the circumstances of the case, the public interest in preserving the confidentiality of protected communications is outweighed by the public interest in preventing a miscarriage of justice that might arise from suppression of relevant evidence.

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

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

The Hon. K.T. GRIFFIN: 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.

In 1995 the Government introduced the *Criminal Law Consolidation (Appeals) Amendment Bill* to give the Director of Public Prosecutions a right of appeal against a decision by a Judge to acquit a person charged with a serious offence. The reform was aimed at ensuring that serious errors by a Judge do not allow an alleged offender to escape justice.

It was a blow to victims of serious offences when the Opposition and the Democrats refused to pass the legislation. There is increasing concern about judgments made and directions given by Courts. The fact that a Judge has made a mistake does not mean that the mistake should not be rectified. Accordingly the Government again introduced a Bill to give the Director of Public Prosecutions the right of appeal against a decision by a Judge to acquit a person charged with a serious offence at the beginning of the year. The Bill had not progressed past the second reading stage when Parliament was prorogued.

In Magistrates Courts where the decision to acquit is made by one person, the Magistrate, the Crown has a right of appeal. Where a person elects to be tried by Judge alone, no matter how wrong an acquittal may on the evidence, a decision by one person means that an accused person goes free. To provide the Crown with a right of appeal against a decision by a Judge to acquit an offender will provide an important check on the Judge's decision.

There were 7 acquittals by a Judge sitting alone in the 1995 calendar year and 6 in the 1996 calendar year. In the 1997 calendar year there were, again, 7 acquittals by a Judge sitting alone.

The Bill provides that the court, on hearing an appeal against an acquittal by judge alone, can dismiss the appeal or allow the appeal an order a new trial. The new provisions will only apply to proceedings in relation to an offence allegedly committed after the amendments have come into operation.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 352—Right of appeal in criminal cases

This clause proposes to amend section 352 of the principal Act to allow the DPP (with the leave of the Full Court of the Supreme Court) to appeal against the acquittal of a person tried on information by a judge sitting alone.

Clause 3: Amendment of s. 353—Determination of appeals in ordinary cases

This clause amends section 353 of the principal Act to deal with an appeal against acquittal.

Proposed subsection (2a) provides that, on an appeal against acquittal, the Full Court may dismiss the appeal or allow the appeal and direct a new trial and may make any consequential or ancillary orders.

Clause 4: Transitional provision

This clause provides that the proposed amendments only apply to proceedings relating to offences committed after the commencement of the measure.

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

JUDGES' PENSIONS (PRESERVED PENSIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Judges' Pensions Act 1971. Read a first time.

The Hon. K.T. GRIFFIN: 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 *Judges' Pensions Act 1971*, to provide for the preservation of a pension entitlement where a Judge resigns before attaining the age of 60 years.

The *Judges' Pensions Act* provides that a Judge is entitled to a pension upon retirement, or having attained the age of 60 years and having not less than 10 years judicial service, resigns. The maximum pension payable under the Act is 60 per cent of the judicial salary at the date of ceasing to hold office. Where a Judge resigns before attaining the age of 60 years, no entitlement is payable under the Act.

The general aim of the Bill is to provide a Judge under the age of 60 years with greater flexibility in respect of his or her future options.

The Bill specifically seeks to provide for the preservation of a pension entitlement where a Judge resigns before attaining the age of 60 years, having had not less than 15 years judicial service. The preserved pension entitlement is 60 per cent of the judicial salary payable at the date of resignation, indexed by the Consumer Price Index, and commences to be payable upon the attainment of age 60 years. The Bill also provides that where death or total and permanent invalidity occurs before the attainment of age 60 years, a benefit becomes payable to a spouse and any eligible children, or the former Judge as the case requires.

The Chief Justice has been consulted in relation to these amendments and fully supports the provisions contained in the Bill.

I commend this Bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 4—Interpretation

Clause 2 amends section 4 which is the interpretive provision of the principal Act. The change made by paragraph *(c)* to the definition of 'notional pension' is required to ensure that the spouse or eligible child of a deceased Judge who had a preserved pension receives a pension or child benefit under the principal Act.

The amount of the notional pension is 60 per cent of the Judge's salary before resignation adjusted for CPI increases to the date of payment of the spouse pension or child benefit. This amount is then subject to adjustment under section 14A in relation to child benefits to ensure that those benefits receive cost of living increases.

Clause 3: Insertion of s. 6A

Clause 3 inserts new section 6A into the principal Act which provides for the preservation of a pension for a Judge who resigns before reaching 60 and who has 15 years service.

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

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. Griffin, for the **Hon. R.I. LUCAS (Treasurer)**, obtained leave and introduced a Bill for an Act to amend the National Electricity (South Australia) Act 1996. Read a first time.

The Hon. K.T. GRIFFIN: 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.

Two years ago Parliament passed the National Electricity (South Australia) Act, which applies the National Electricity Law as a law of South Australia. This legislation (which will come into operation soon) implements certain regulatory arrangements for the national electricity grid which were agreed on 9 May 1996 by Ministers representing South Australia, New South Wales, Victoria, Queensland and the Australian Capital Territory. As honourable members may recall, South Australia undertook the role of lead legislator for the national electricity legislation and so is responsible for enacting the National Electricity Law, which will be applied in each of the other participating jurisdictions through application of laws legislation in each of those jurisdictions. The national electricity market is expected to commence on 15 November.

In the course of preparing for the commencement of the national electricity market it has become evident that a number of amendments are required to the National Electricity Law. The proposed amendments, which are the result of considerable consultation between the participating jurisdictions, NEMMCO and network service providers (such as ETSA Transmission, VPX and GPU), are contained in this Bill.

The most important amendments relate to the immunity to be granted to NEMMCO, network service providers and their officers and employees.

In so far as NEMMCO and its officers and employees are concerned, this immunity is an immunity from liability to pay damages or compensation to third parties for any act or omission in the performance or exercise of a function or power of NEMMCO under the National Electricity Law or the National Electricity Code. For an initial period of 12 months (or such other period as the participating jurisdictions unanimously agree) the immunity will extend to all such acts or omissions except those done or made in bad faith. On the expiry of that period, the immunity will cease to apply in respect of negligent acts or omissions. However, the maximum liability of NEMMCO and its officers and employees for negligence will be capped. This cap, which is to be prescribed by regulation, can be expressed on a 'per event' or 'per annum' basis and may vary in its application or amount depending on (among other things) the nature of the loss.

Network service providers and their officers and employees will be entitled to a similar immunity except that their immunity will only apply in relation to the performance or exercise of certain functions and powers called system operations functions and powers. These functions and powers will be prescribed by regulations which will be laid before this House shortly. Broadly speaking, these system operations functions and powers encompass functions and powers that the network service providers are required by the National Electricity Code to perform or exercise to facilitate the security of the electricity system and to assist NEMMCO in the performance of its functions. They do not extend to functions or powers performed or exercised by the network service providers in the course of their 'core' (or 'wires') businesses.

The reason for granting some degree of immunity to NEMMCO is that NEMMCO is a non-profit organisation, without a substantial capital base, which will be exposed to substantial risk in relation to the operation of the electricity system. The reason for granting some degree of immunity to network service providers in respect of their system operations functions and powers is that they are being required, under the National Electricity Code, to perform these functions and exercise these powers for a non-commercial rate of return. A possible alternative to granting these immunities is for NEMMCO and the network service providers to take out insurance for claims that may be made against them. However, the fairly novel nature of the national electricity market and the complexities in obtaining such insurance has meant that this is not likely to be possible prior to the start of the national electricity market.

It is expected that options for insurance will be fully explored over the next 12 months, during which the participating jurisdictions, NEMMCO and the network service providers will review the National Electricity Law and the National Electricity Code for the purpose of agreeing on more satisfactory arrangements relating to the liability of NEMMCO and the network service providers for performing the various market and system operations functions that are required to be performed by them under the Law and the Code. The establishment of the cap to apply to liability for negligence following the expiry of this period will also be a matter that is to be addressed by the review. While these matters are being resolved (namely, during the initial 12 month period to which I have referred), it is considered appropriate to give NEMMCO and the network service providers the benefit of the immunity for negligence that I have described. Following the expiry of this period, and assuming there to be no change to the legislation as a result of the review, this immunity for negligence will be removed and replaced by a cap on the liability of NEMMCO, the network service providers and their officers and employees for negligence.

Certain consequential amendments will be made to section 78 of the National Electricity Law so as to ensure consistency between it and the new provisions which I have described. Section 78 is an existing provision of the Law which provides a Code participant with a limited immunity from liability for any partial or total failure to supply electricity.

Section 76 of the National Electricity Law will also be amended. Section 76 empowers NEMMCO to authorise a person to take, or to require a Code participant to take, certain actions where those actions are necessary for reasons of public safety or the security of the electricity system. Typically these actions will be undertaken in an emergency situation. Accordingly, it is considered appropriate to grant an immunity to such authorised persons and Code participants from liability to pay damages or compensation as a result of these actions except where they act in bad faith.

The Bill will also amend the National Electricity Law so as to enable the National Electricity Tribunal to exercise functions and powers conferred on it under Tasmania's Electricity Supply Industry Act in relation to the review of decisions by the Tasmanian regulator and proceedings for breaches of that Act or the Tasmanian Electricity Code. Tasmania will not be an initial participant in the national electricity market. However it may be that, in the foreseeable future, it will become connected to the national grid and will therefore participate in that market. For this reason, and to avoid the need for Tasmania to set up its own Tribunal, it has been agreed to extend the jurisdiction of the National Electricity Tribunal in the manner which I have described. In so far as proceedings under Tasmania's Electricity Supply Industry Act are concerned, the Tribunal will generally be required to include, as one of its members, a person who has been appointed to the Tribunal on the recommendation of both the Minister responsible for that Act and a majority of the Ministers of the participating jurisdictions. The Tasmanian Regulator will be required to fund the Tribunal in the performance of its functions under this extended jurisdiction.

The remaining amendments to the National Electricity Law are of a more technical nature and I will only mention three of them.

First, section 43 will be amended to enable the Minister of a participating jurisdiction to apply to the National Electricity Tribunal for the review of a reviewable decision.

Secondly, section 60 will be amended to provide that there need only be a Registrar or Deputy Registrar of the National Electricity Tribunal in each participating jurisdiction rather than a Registrar and a Deputy Registrar in each jurisdiction. This will reduce NECA's costs of administration.

Finally, sections 71, 74 and 75, which deal with the issue of search warrants in relation to suspected breaches of the National Electricity Code, will be amended by reducing the term of such warrants and by removing some of the powers that would otherwise have been exercisable by a person acting under such a warrant. These amendments are intended to make the provisions relating to search warrants more consistent with those applying to search warrants in other participating jurisdictions.

I commend the Bill to the House.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

This clause provides for commencement of Part 3 (relating to functions of the Tribunal under the Tasmanian Act) on a day to be fixed by proclamation made on the unanimous recommendation of the national electricity scheme Ministers. As with the principal Act, the operation of section 7(5) of the *Acts Interpretation Act* (providing for automatic commencement after 2 years) is excluded. Amendments need to be made to the Tasmanian Act before the provisions are brought into operation.

The remainder of the measure is to commence on assent. Commencement of the provisions of the principal Act amended by this measure will continue to be governed by proclamation made under the principal Act.

PART 2 GENERAL AMENDMENTS

Clause 3: Amendment of s. 10 of Sched.—Proceedings in respect of Code

This amendment makes it clear that Code participants may rely in proceedings on alleged contraventions of the Code by NECA.

Clause 4: Amendment of s. 25 of Sched.—Arrangement of business

This is a technical correction to achieve consistency of expression in the section.

Clause 5: Amendment of s. 43 of Sched.—Reviewable decisions

These amendments extend the right to apply to the Tribunal for review of a reviewable decision to the Minister. They also fix the period within which an application for review must be made—within 28 days of the giving of individual notice of the reviewable decision or of publication of notice of the reviewable decision in accordance with the regulations.

Clause 6: Amendment of s. 44 of Sched.—Tribunal may make certain orders

Section 44 of the Schedule is amended to expressly contemplate Tribunal orders for physical disconnection of a Code participant's market loads as contemplated by the Code and to allow further types of orders to be expressly contemplated by the regulations.

Clause 7: Amendment of s. 60 of Sched.—Staff of Tribunal

The amendment enables there to be a Registrar or Deputy Registrar (or both) in each of the jurisdictions participating in the national electricity scheme.

Clause 8: Amendment of s. 71 of Sched.—Search warrant

These amendments reduce the maximum period for which a search warrant issued under the section may have effect from 28 days to 7 days.

Clause 9: Amendment of s. 74 of Sched.—Powers under right of entry

The amendment removes paragraph *(e)* which provides that a search warrant includes the power to require the occupier or any person in the place to give to the person reasonable assistance in relation to the exercise of the person's powers under the section.

Clause 10: Repeal of s. 75 of Sched.

The section proposed to be repealed allows a person executing a warrant to seize property connected with breaches of the Code not mentioned in the warrant in certain circumstances.

Clause 11: Amendment of s. 76 of Sched.—Safety and security of electricity system

The amendments provide immunity from civil monetary liability for authorised persons and Code participants acting in accordance with the section. The immunity does not extend to acts or omissions done or made in bad faith.

Clause 12: Substitution of s. 78 of Sched.

The substituted provisions provide certain immunities from civil monetary liability.

77A. Immunity of NEMMCO and network service providers

The section provides for different levels of immunity from civil monetary liability before and after a prescribed day (1 year after commencement of the section or such other day as is fixed by regulation). The immunity is provided to—

- NEMMCO and its officers and employees in respect of the functions and powers of NEMMCO under the Law and the Code; and
- network service providers (registered under the Code as such) and their officers and employees in respect of system operations functions (an expression to be defined by regulation).

Before the prescribed day the immunity applies unless the relevant act or omission is done or made in bad faith. After the prescribed day the immunity applies unless the relevant act or omission is done or made in bad faith or through negligence.

In addition, civil monetary liability for an act or omission done or made through negligence will be subject to a cap fixed by regulation.

The immunity provided by the section is subject to variation by agreement with NEMMCO or a network service provider.

78. Immunity in relation to failure to supply electricity

The section provides for immunity from civil monetary liability for a Code participant and its officers and employees for any partial or total failure to supply electricity unless the failure is due to an act or omission done or made in bad faith or through negligence.

The immunity provided by the section is subject to variation by agreement with the Code participant.

The section makes it clear that it only applies where section 77A does not apply.

PART 3 AMENDMENTS RELATING TO FUNCTIONS OF TRIBUNAL UNDER TASMANIAN ACT

Clause 13: Insertion of Div. 4 of Part 5 of Sched.—DIVISION 4—FUNCTIONS OF TRIBUNAL UNDER TASMANIAN ACT

This clause inserts a new Division providing for the National Electricity Tribunal to undertake functions under the Tasmanian *Electricity Supply Industry Act 1995*. It contains provisions similar to those in the national scheme about the composition and proceedings of the Tribunal. It also provides for the appointment of an additional member to hear Tasmanian proceedings. Other matters necessary for the functioning of the Tribunal in Tasmania will appear in the Tasmanian Act.

64A. Definitions

This section contains definitions for the purposes of the Division.

64B. Functions under Tasmanian Act and exclusion of Divisions 1, 2 and 3

This section contemplates the Tasmanian Act conferring functions and powers on the National Electricity Tribunal (established under Part 5 of the principal Act) enabling it to review certain decisions made under the Tasmanian Act and to hear and determine proceedings relating to breaches under the Tasmanian Act.

The section also provides that the Division applies in relation to those functions and powers to the exclusion of Divisions 1 to 3 of Part 5 of the Schedule of the principal Act.

64C. Composition

In relation to Tasmanian proceedings the Tribunal is to consist of the chairperson, deputy chairpersons and other members appointed under the national scheme and a further Tasmanian member.

64D. Appointment of further member

This section provides for the appointment of the Tasmanian member by the Governor of South Australia on the recommendation of both a majority of the national scheme Ministers and the Tasmanian Minister. Like the national scheme members, the Tasmanian member is to be appointed on a part-time basis.

64E. Terms and conditions of appointment of Tasmanian member

The appointment is to be for a maximum of 5 years at a time and the terms and conditions of appointment are to be determined by a majority of the national scheme Ministers and the Tasmanian Minister.

64F. Resignation and termination of Tasmanian member

This section provides for the resignation of the Tasmanian member and provides for termination of appointment on certain grounds by a majority decision of the national scheme Ministers and the Tasmanian Minister.

64G. Arrangement of business

As in the national scheme, the chairperson may give directions as to the arrangement of the business of the Tribunal.

64H. Constitution of Tribunal

For the purposes of Tasmanian proceedings, the Tribunal is to be constituted of 2 or 3 members of whom at least one is the chairperson or a deputy chairperson and, whenever practicable, one is the Tasmanian member.

64I. Member ceasing to be available

This section contains administrative provisions facilitating the continuance of proceedings where a member ceases to be able to hear the proceedings.

64J. Sitting places

The Tribunal is to sit in Tasmania to hear Tasmanian proceedings.

64K. Management of administrative affairs of Tribunal

The chairperson is given the responsibility of managing the administrative affairs of the Tribunal in relation to Tasmanian proceedings.

64L. Staff of Tribunal

This section requires the Tasmanian Act to provide for the appointment of a Registrar or Deputy Registrar (or both) of the Tribunal in Tasmania.

64M. Annual budget and funds

The chairperson is to submit to the Tasmanian Regulator a budget for each financial year. Two months are set aside for discussion and agreement about any changes to the budget.

The Tribunal may only authorise expenditure for the performance of its functions under the Tasmanian Act in accordance with the budget or with the agreement of the Tasmanian Regulator.

The Tribunal is not required to perform functions for which funds have not been provided.

64N. Annual report

The annual report of the Tribunal is required to include a report on the operations of the Tribunal in relation to Tasmanian proceedings.

64O. Delegation

As in the national scheme, the chairperson of the Tribunal is authorised to delegate powers under the Division to a deputy chairperson or member of the Tribunal.

Clause 14: Amendment of s. 66 of Sched.—Civil penalties fund

This clause contains consequential amendments to section 66 to ensure that the civil penalties fund cannot be used for administrative costs related to Tasmanian proceedings.

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

LOTTERY AND GAMING (TRADE PROMOTION LOTTERY LICENCE FEES) AMENDMENT BILL

The Hon. K.T. Griffin, for the **Hon. R.I. LUCAS (Treasurer)** obtained leave and introduced a Bill for an Act to amend the Lottery and Gaming Act 1936. Read a first time.

The Hon. K.T. GRIFFIN: 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 Lottery and Gaming Act to allow for the Lottery and Gaming Regulations to be amended to cater for a new fee structure in respect of trade promotion lotteries.

In September 1995, the Lottery and Gaming Regulations were amended to allow proof of purchase for entry to a trade promotion lottery and a licence system was introduced with an application fee of $10. No fee was imposed in respect of granting a licence.

In 1995 the States were actively cooperating to achieve more uniformity including simplifying the application process for promoters seeking to conduct lotteries in more than one State. The arrangements introduced in September 1995 were generally consistent with the approach of other jurisdictions at that time. Since 1995 other States have implemented changes relating to trade promotion lotteries and, with the constantly changing business environment, there are now sound reasons to reconsider the application fee approach and arrangements that apply in this State. It is proposed that the fee structure applicable in New South Wales be implemented and that the following apply:

- imposition (by regulation) of a gradated licence fee to be based on the total retail face value of the prizes in the lottery;
- where the licence application states the value of prizes that are to be allocated within this State, then the fee to be based on that value, otherwise the fee is to be based on the total value of all prizes;
- abolition of the current $10 application fee.

The following matters are relevant in considering the proposed changes to the fee structure.

Non-profit organisations, i.e., clubs and associations, currently pay a 2 per cent licence fee on the gross proceeds of instant lotteries and 4 per cent on major lotteries. These organisations are generally experiencing strong competition from the Casino and poker machines, together with the pressure on overall funds because of the flat economy over recent years and declining support for such community based volunteer organisations. A licence fee structure for trade promotions at levels comparable with those applying to non-profit organisations would be more equitable and would be supported by non-profit organisations.

The $10 application fee has not been increased since its introduction and given the nature and increased complexity of trade promotion lotteries it is now not considered to be an appropriate amount.

While the regulations require entry by participants to trade promotion lotteries to be free, the cost of a stamp or telephone call is permitted and, with respect to telephone calls, it is understood that revenue is derived from this method of entry and is shared between the promoter and the business being promoted (a third each). The entry volumes for national lotteries are potentially large and, with multiple entries encouraged, they have the capacity to generate significant contributions towards the cost of prizes. The cost of telephone entry is currently capped at 50 cents, the approximate cost of a stamp, but, to put this into context, assuming 4 million entries, a third share would be of the order of $0.7 million.

Over recent years the emerging trend has been for large multinational companies to promote their businesses/products with high value prizes of $1 million or more. These lotteries have the potential to be in competition with non-profit organisations.

Trade promotion lotteries often have complex arrangements, and are time consuming in that they require greater assessment to ensure conformity to regulations and detailed communication with other jurisdictions to ensure uniformity of treatment. With the trend to gain an edge over competitors, there appears to be an increasing emphasis on publicity and promotional efforts. New promotions are emerging on a regular basis; for example, there appears to be a move towards conducting more trade promotions in order to increase business turnover. These innovations require greater resource input from Government to vet, clarify and process applications for licences.

Some applications are presented 8 to 10 months before the draw and it seems that, with such a lead time, and no cost penalties involved, promoters often seek to revise the terms and conditions of the proposed promotion prior to actually conducting the lottery. In some circumstances a number of separate applications are made to change the terms and conditions prior to the draw. It is proposed to restrict (in the regulations) the period within which an application for a licence can be made to 3 months before the proposed commencement date of the lottery and to impose a fee for variation of a licence.

While the more traditional lotteries conducted by non-profit organisations have been declining over recent years, the number of applications for trade promotion lotteries has increased. Currently, there are about 3 400 applications per year and indications are that they will continue to increase.

New South Wales, Victoria and the ACT have a licence/permit fee structure based on the value of the prizes. The Northern Territory is also considering the introduction of fees, based on the NSW structure.

On balance, it is considered easier to apply and administer a fee structure based on a set range rather than on a percentage arrangement. Therefore, consistent with seeking uniformity in trade promotion lotteries across jurisdictions, it is proposed that a licence fee be introduced, based on the fee structure applicable in New South Wales.

On the basis of the above approach and the current level of applications, the revenue from the new fee structure is estimated at $0.5 million per annum. This compares with revenue of about $20 000 to $30 000 collected under the current flat application fee structure.

It is considered to be unlikely that the larger promoters of trade promotion lotteries will increase the selling price of their products to cater for the change in the fee structure.

The main industry representative groups have been consulted. No group has raised any objection to the proposed fee structure.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 14B—Regulations

This clause does three things. First, it provides that fees may be prescribed by the regulations for the making of any application under the regulations. This would enable a fee to be imposed for an application to amend a licence. Second, it enables licence fees to be fixed on the basis of prize values. Third, it enables regulations to be made that vary in their application according to specified factors, thus enabling the setting of gradated fees.

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

ADDRESS IN REPLY

The Hon. K.T. Griffin, for the **Hon. R.I. LUCAS (Treasurer)** brought up the following report of the committee appointed to prepare the draft Address in Reply to His Excellency's the Governor's speech:

1. We, the members of the Legislative Council, thank Your Excellency for the speech with which you have been pleased to open Parliament.
2. We assure Your Excellency that we will give our best attention to all matters placed before us.
3. We earnestly join in Your Excellency's prayer for the Divine blessing on the proceedings of the session.

The Hon. A.J. REDFORD: I move:

That the Address in Reply as read be adopted.

I thank His Excellency the Governor for the speech with which he opened the second session of the forty-ninth Parliament. I reaffirm my loyalty to Her Majesty Queen Elizabeth II, Queen of Australia. I am delighted to have the honour of moving that the Address in Reply be adopted as it gives me the opportunity of thanking His Excellency Sir Eric Neal and Lady Neal for their devoted and untiring service to the people of South Australia. The former Premier, Dean Brown, and his then Cabinet, were very wise in their choice of Governor. Sir Eric has been well received by the people of South Australia. Indeed, he has provided a strong emphasis on business and I know from comments of various people I have spoken to—who have had the opportunity of meeting and speaking with him—that he has had a positive influence on them and their attitude towards business and other social issues.

I am also delighted to note that he has spent a considerable amount of his untiring effort in regional South Australia. I know that in the past month he has visited the South-East on two occasions, and indeed I will have the opportunity of being with him on a third occasion in two weeks' time at a civic reception to be held in Millicent.

It would be remiss of me if I did not note the passing of a former Deputy Premier, the Hon. Jack Wright. I extend my sympathy to his family and I note and adopt the tributes made in this place on a previous occasion and I also commend all members to read the eloquent speech made by his son, Michael Wright, in another place yesterday.

In His Excellency's speech delivered yesterday, he spoke on a number of issues. He called for a just and bipartisan approach and an approach of goodwill, willing negotiations and compromise to enable this Parliament to take the State where it needs to be. I hope that all of us in this place will take that on board. Indeed, I would be happy to accept any constructive criticism from members opposite or those on the cross benches if they see me departing from this stricture, although that is not an invitation from me to agree with members opposite or on the cross benches.

His Excellency covered a number of important issues including employment, debt reduction, health, education and training, transport, native title, shop trading hours and the forthcoming Premiers' Conference on taxation reform, industrial relations, regional development and Internet gambling. In relation to that speech there are four issues that I want to specifically refer to: the Premiers' Conference; regional development; health—country doctors; and Internet gambling. At the recent Federal election John Howard campaigned directly on the issue of taxation reform and outlined in considerable detail his proposed reforms in that regard. The election campaign was fought entirely on the issue of taxation reform and the Federal Liberal Government was returned with a very healthy majority. There is no doubt that Mr Howard not only has a mandate but also a duty and a responsibility to the Australian people to implement reforms outlined prior to and during the campaign.

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: (In response to the Hon. Michael Elliott's interjection, the Hon. Michael Elliott has never achieved 40 per cent in any election in which he has been involved.) Anything else would be a breach of trust on Mr Howard's part and on the part of the political process in so far as the Australian people are concerned. Indeed, it is my view that Governments ought to be allowed to govern and ultimately be judged by the people at a subsequent election. Too often Governments have not been allowed to govern and consequently the ability of the Australian people to judge Governments at election time is that much more difficult.

The forthcoming Premiers' Conference is, in my view, the most important Premiers' Conference since the Second World War. Yesterday, the Governor said:

> In the area of Treasury and Finance, my Government is entering a period of considerable change in the relationship between the Commonwealth Government and the States in relation to Federal taxation reform and Federal State relations.

Indeed, the very future of the Australian Federation will depend much upon the results of this conference. Increasingly, the States are becoming subservient to the Commonwealth and, if the trend continues, the very nature of our Federal system of government will disappear. I know that some commentators might welcome that eventuality, although I think those same commentators will rue their views should that scenario eventuate. Government from Canberra is frightening.

Increasingly, various States have attempted to deal with this issue by the appointment of specific parliamentary committees. In that regard, Western Australia has provided strong leadership, followed by Victoria. It is of significance that the Victorian Parliament has established a Federal-State Relations Standing Committee. In its first report tabled in October 1997, the Chairman, Hon. Michael John MP, said:

> Questions of intergovernmental relations have become some of the most pressing facing government in Australia. There is increasing recognition of the need to restore balance and efficiency in the Australian Federation; to redress what might be called Australia's 'Federal democratic deficit'.

For too long the Federation has been dysfunctional in that the Commonwealth has been expected to raise the bulk of the revenue and the States have been largely responsible for delivering most of the services, with the exception of social security and defence of the realm. That has led to the rather bizarre behaviour of the Commonwealth endeavouring to interfere in the legitimate role of the States and, at the same time, the States in the 1980s particularly have been largely unaccountable and in some cases irresponsible in relation to financial issues and, in particular, the generation of revenue.

Putting aside for the moment the gross incompetence of the State Labor Governments in Victoria, Western Australia and South Australia and the management of their financial institutions, including their banks, the cause of the financial disasters was largely due to the States' inability to raise revenue to meet the increasing demand of their respective communities.

For the first time in living memory the States are being given a real and tangible opportunity to raise their own revenue from the goods and services tax system, and through this Premiers' Conference they will have a substantial say in how that system will be implemented. I would not be surprised if the Commonwealth took the view that any major concessions in relation to the proposed GST will fall largely on the States, and that may well impinge on their ability to provide essential services including health, education and public safety into the twenty-first century.

It is for that reason I say that the forthcoming Premiers' Conference is so important. I hope that members opposite can put aside their opposition to the goods and services tax and acknowledge the judgment of the Australian people. Whilst I am not optimistic in that regard I believe it is vital that we all move on and engage in a debate as to how a goods and services tax is to be imposed and the level of that goods and services tax and other issues, for it is through a goods and services tax system that the States will be able to provide essential services into the future.

I would urge everybody to make submissions to the Premier, the Hon. John Olsen MP, prior to this conference. The Premier has a substantial responsibility in protecting the interests of South Australians, particularly having regard to our manufacturing base and our important export growth industries, including the wine industry. I have urged many interest groups in recent days to raise issues concerning the goods and services tax with the Premier for this important conference. I would wish the Premier all the best, and I suspect that South Australia and Victoria with goods based economies will combine to ensure that we are best served by this new tax system.

Indeed, I believe it is no coincidence that there has been a drift in economic activity to places such as Queensland and

Western Australia whose economies are more service based and therefore relatively free of any taxation impositions, which is to the detriment of States that concentrate on the manufacture of goods. I am surprised that the State Labor Party has not understood that the current taxation system favours Queensland over South Australia and favours the provision of services over the production of goods. Speaking parochially, this may redress the imbalance between the so-called southern rust belt States and the rest of Australia.

I now address regional development. I think one of the most important issues confronting all Governments in Australia are the issues of regional development, regional infrastructure and regional services. I think that the Pauline Hanson One Nation phenomenon has been a by-product of the neglect of successive Governments. I recently had cause to read my maiden speech which I gave in February 1994 and which touched upon regional and rural Australia. In my contribution I said:

> However, despite that rhetoric, can we not ask whether it is not social justice to ensure the very essence of rural Australia is allowed to survive? Is it not social justice to ensure that the post office remains open? Is it not social justice to allow country transport services, such as rail and telecommunications, to be retained? Is it not social justice to have a separate office for the Electricity Trust and the EWS in towns? Is it not social justice to continue small schools which will prevent parents sending their children many miles away to boarding schools at very young ages? Is it not social justice to stop business after business moving out of this State?. . . What I am saying is that social justice for many people within the Federal Labor Party is a concept that applies only to Labor held areas or swinging seats. . . At the same time, it has turned its back on the very heart of this country and watched in silence as rural communities have declined and in many cases collapsed. It has done so without any concern, without any compassion, and without any sympathy.

I think it is timely that I return to that contribution at this stage. Rural and regional communities quite rightly welcome the election of Liberal Governments throughout Australia and have high expectations of them. In many areas those expectations have not been met. I believe the result of the last State election, the recent Federal election and the rise in One Nation support reflect that expectation and impatience. It is for this Government and the newly re-elected Federal Government to respond quickly and assertively to those demands if we are to confront regional voter dissatisfaction. It certainly cannot be left to future Labor Governments, as their record has been abysmal.

I know that in this session I will spend as much time as I can dealing with issues confronting regional South Australia. Indeed, I am heartened to see that the Government proposes to address some of these issues through its regional task force. His Excellency in his speech said:

> Regional development has been boosted by the current success of our viticultural and food industries to the point where my Government is now tackling a unique problem of dealing with labour housing shortages in significant areas of the mid and upper South-East.

I have had a number of meetings with people in the mid South-East in conjunction with the newly elected member for Barker, Mr Patrick Secker, concerning housing shortages in the mid and upper South-East. Indeed, I am grateful for your assistance and support, Mr President, in approaching various Cabinet Ministers about this unique and difficult problem. I know there are housing shortages in Naracoorte, Keith, Padthaway and Bordertown. This is a unique problem and one which the Government must address with an eye to the twenty-first century.

I am concerned that there is an attitude that this is only a temporary aberration and so far most of the suggested solutions have tended towards short-term low standard accommodation such as the extended use of caravan parks and temporary accommodation. It is my view that we have a unique opportunity to establish an environment of sustained growth and development in that area with the provision of high standard long-term accommodation and the consequential employment that that will generate. It is my view that we need to look at what might be a critical population mass in that area to ensure long-term and stable growth.

If we do not do that, in 20 years we will look back and see this as a missed opportunity. I have spoken to the Deputy Premier about this issue and I am optimistic that the Cabinet will consider this not only as a simple housing issue but a long-term regional development issue. I know that the Hon. Dean Brown (the Minister for Human Services) is meeting this Thursday with members of the Tatiara council, and I look forward to the Minister reporting to me the results of that meeting. I also intend to have discussions with those members of that council following that meeting to ensure that these issues are followed up.

On the issue of health, there are many problems confronting this Government. One of the most significant of those problems is the delivery of appropriate health services to our rural and regional constituents. One of the most significant issues in Mount Gambier is the shortage of general practitioners and specialists. It amazes me that South Australia's largest regional centre would have difficulties in attracting doctors, particularly when one considers that other major regional centres do not face similar difficulties to anywhere near the same degree.

I will be attending a meeting next Thursday week in Mount Gambier called by the Soroptimist International Club of Mount Gambier. In that regard, I congratulate it as a community service club and on its initiative, and I hope that following a positive and constructive discussion we can quickly resolve some of those issues. I suspect, however, that there will be no simple solution.

Regarding Internet gambling, I note that His Excellency indicated that the Government proposes to introduce legislation to regulate and control gambling offered via the Internet. I well remember my preselection speech and questioning in 1992 when I was asked a question on my views about poker machines. At that stage legislation was either before the Parliament or it had just been passed by the Parliament. I responded by saying that the then Bannon Government had gambled its way into trouble via the State Bank and that now it was seeking to gamble its way out of it.

I go on record as saying that if I had been a member of this place at the time the legislation was introduced I would have opposed the introduction of poker machines. However, once legislation was passed, small business people in the guise of hotel proprietors and others, including clubs and their committees, were entitled to take advantage of that legislation and they have done so.

I have some concern about the numerous taxation changes made since their introduction. Indeed, I am very concerned about the scare campaign that is currently being run by the Hon. Nick Xenophon and the effect that it has had on their businesses, their ability to employ people and their future plans for investment. Notwithstanding that view, I am implacably opposed to the concept of Internet gambling and will support any legislative measure to prohibit it.

I know there is an argument that a State Parliament does not have the capacity to prohibit Internet gambling, and so the argument goes we ought to regulate it and take advantage of the tax revenue that would be generated. I disagree strongly with that sentiment. Parliament often passes prohibition laws knowing that prohibition will not eliminate the prohibited conduct. One only has to look at drug laws—or, indeed, murder laws—to see that these laws have not eliminated drug taking or murders. I must say that I am disappointed that the Government, in 1996, through a meeting of gaming Ministers, developed a proposal for the control of interactive home gambling without bringing it to this Parliament.

I am aware of the paper produced by the Australian Institute of Criminology. It has looked at the issue of strict prohibition and indicated its view that such laws would be unenforceable and would create a black market in on-line gambling services. One might wonder, if previous legislators had adopted that rationale, whether we would have any drug or other criminal laws at all, given that they are not guaranteed to be 100 per cent effective.

I know that Senator Grant Chapman has come out strongly against interactive gambling and has highlighted a number of options for its prohibition. At a speech given in May this year, he called upon the Federal Government to ban home gambling. He advocated that the Commonwealth legislate to make Internet gambling illegal, and I wholeheartedly support his position. I believe that it is incumbent on this State Government to do everything in its power to support that position. Indeed, as Senator Chapman pointed out, in March 1997 US Republican Senator John Kyle introduced the Internet Gambling Prohibition Bill 1997, which Bill was unanimously approved by the Senate Judiciary Committee. That committee went further in recommending that State legislators be prohibited from permitting Internet gambling from their respective States. In other countries, such as Austria, home gambling has been banned.

Before we as members of the State Parliament roll over and get tickled by the Internet gambling industry I think we should seriously explore its prohibition. I am horrified at the thought of children gaining access to their parents' credit cards and the Internet and going on a gambling spree. Apart from prohibiting people from being involved in Internet gambling, I believe that we should seriously look at other ways in which we can inhibit that activity. There are two ways that we can go. First, we can prohibit any financial institution from honouring any credit card or debit card transactions which involve Internet gambling. I believe that, if this is adopted, the sanctions should be significant. I know that it would not be totally effective, in that people might gain access to financial institutions beyond the jurisdiction of this country, but it certainly would be a major inhibitor in relation to this activity.

The second way was identified by Senator Chapman when he considered the approach that Singapore uses in dealing with pornography on the Internet. Singapore uses proxy servers to block sites that contravene its legislation regarding pornography. It may be more appropriate for the Commonwealth to deal with this. However, I believe that we have a duty at State level to at least explore this. Indeed, in Singapore there is a code of conduct that is applicable to proxy servers, and compliance has been strong.

I well remember Premier John Olsen's comments to the South Australian Parliament last December, when he said:

> We made a mistake with poker machines in South Australia and I think it is time we admitted it. Five years ago the Gaming Machines Bill. . . was a mistake. . . It was ill-conceived and ill-considered. . . it is fact that easy access to gaming machines has led to a level of gambling in this State that no-one foresaw; it is fact that easy access to the machines has led to a level of compulsive gambling that was not and could not have been foreseen and that has certainly shocked me.
>
> Even those who rail against the concept of the nanny State which legislates to protect people from themselves must be shocked at what this gambling freedom has in fact created.

While some might say that he overstated the problem in so far as poker machines in South Australia are concerned, there is no doubt that we will all have similar statements to make in the future if home gambling is allowed to flourish in Australia, and South Australia.

The Internet does not distinguish between the young and the old, the feeble minded and the intellectually retarded. It does not close between the hours of midnight and 10 a.m. It operates 24 hours a day, seven days a week, 365 days a year—Christmas Day, Good Friday, Mother's Day and Father's Day.

Given the platform that the Hon. Nick Xenophon stood on in the last State election, I offer him, in the politest way possible, a challenge. The challenge is that a select committee be established to deal specifically with the means available to this Parliament to prohibit Internet, interactive or home gambling, and that the select committee be required to report back to this Parliament as a matter of urgency. I also urge Senator Grant Chapman to continue his campaign, and I strongly urge him to introduce a private member's Bill into the Federal Parliament. I do not see any good purpose in awaiting the results of the Federal Productivity Commission's inquiry into the social and economic impact into gambling. In this area even a poor effort is better than no effort at all.

I also would like to touch on an issue that His Excellency did not cover, and that is the issue of voluntary service. It is an issue that has concerned me for many years. There is no doubt that existing service clubs, including Rotary, Lions and Apex, face their most significant challenge since their inception. There is no doubt that bodies such as Meals On Wheels and other voluntary agencies are struggling to obtain volunteers. I believe that part of the problem has been the expectation on the part of the community that the State will be solely responsible for the provision of social welfare. Indeed, the 1970s and 1980s have been marked, in some respects, by an attitude that charity is offensive. It has been an attitude that welfare is solely the responsibility of Government rather than voluntary charities.

In an article entitled 'Reconnecting Compassion and Charity' by Roger Kerr, Executive Director of the New Zealand Business Roundtable, he discusses the relationship of charity, governments and communities in some detail. He refers to the fact that charities in a modern State have been relegated to a minor role. He quite correctly draws attention to the perverse nature of the provision of welfare services by the State and the rise in welfare dependency, despite the rise in employment and fall in unemployment in modern times. He quite rightly points out:

> . . . that State welfare has created perverse incentives to become dependent on welfare—to become 'pauperised', in the unsqueamish terminology of previous centuries—and that voluntary associations are more likely to dispense welfare in a way that encourages its beneficiaries to become self-supporting.

I agree that that is what is needed. I agree that what is needed is a new division of labour between the State and the wider civil society. Indeed, I believe that that is what Mark Latham, the ALP Federal member, is driving at when he says that he

wishes to bring Labor Party philosophy into the twenty-first century. Having read his book, I was sorely tempted to invite him to become a member of the Modest Members Society, which is a group of thinking conservative politicians, and a group to which I am proud to belong. Much of what he has said acknowledges the important economic reforms made by successive Governments over the past 15 years.

It is clear that State sponsored charities undermine true compassion and creates humiliating dependency. The reason that it does so is that it has failed to move substantial groups of people out of the welfare dependency system into a situation where they are financially and socially independent. It is that which distinguishes the State sponsored welfare system from the charitable system. That is not to say that a modern society should dispense with State welfare. However, I believe that we should take a leaf out of the private charities' book in insisting that there is an obligation on the part of welfare recipients to use their best endeavours to move out of the welfare system. It is that issue that has driven President Clinton and Prime Minister Blair to adopt and accept the economic reforms of the 1980s.

In my view, it is not until the Labor Party moves on that it will be fit to govern—and, unfortunately, it seems to be hell-bent on a process of returning to the 1970s and the early 1980s. I believe that the public has clearly demanded that the people they are willing to help through their taxes make an effort to become self-supportive. In that regard the voluntary structure, in my view, is generally in a good position to administer assistance in a way that helps recipients regain independence and self-respect with State institutions. I urge the Labor Party to take up some of the issues raised by Mr Latham. In closing, I thank His Excellency for his contribution and commend the motion.

The Hon. J.F. STEFANI: It is with great pleasure that I second the motion for the adoption of the Address in Reply. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

ADJOURNMENT

At 6.31 p.m. the Council adjourned until Thursday 29 October at 2.15 p.m.