LEGISLATIVE COUNCIL

Wednesday 26 September 2001

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the 27th report of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I lay on the table the 28th report of the committee.

QUESTION TIME

FESTIVAL OF ARTS

The Hon. CAROLYN PICKLES (Leader of the Opposition: Is the Minister for the Arts satisfied that the state government will not be required to provide any additional funding to the 2002 festival?

The Hon. DIANA LAIDLAW (Minister for the Arts): The honourable member would be aware that, because of the demise of Ansett—and I suspect that she is aware that Ansett was a major sponsor of all the arts across Australia—sponsorship promised to the Adelaide Festival by Ansett is no longer available. I have received a report from the Adelaide Festival on that matter. Certainly, it does put a hole in the budgeting in terms of direct sponsorship but also in terms of the in-kind support that Ansett had offered.

The Australian dollar generally is causing some difficulties, as it is with the Australian economy generally when imports are taken into account. The other issue is the difficulty that the arts and, I suspect, sport and other groups have encountered since the horror of the events at the World Trade Centre and now with the threat of war.

The honourable member may read interstate papers so she may have seen articles over the past week about the dramas that various arts companies are experiencing in Sydney and Melbourne in relation to gaining sponsorship. Those capital cities, in particular, have an enormous advantage over South Australia at any given time, let alone in these difficult times when companies are looking inwards rather than outwards as they seek to take account of the events in New York and Washington over the past two weeks. Melbourne and Sydney have the concentration of head offices of all companies and, when arts companies based in Sydney and Melbourne are having trouble gaining sponsorship, I can assure the honourable member that our job, some distance from those capital cities, is even more difficult, notwithstanding the renown of the Adelaide Festival as the best festival in Australia.

I have asked Arts SA to produce a report for me on the circumstances of all our arts companies in relation to sponsorship because of the imminent sale of Fauldings, the issue of Ansett, and the Australian dollar in terms of performances and programming at the Adelaide Festival Centre Trust and the Adelaide Festival, and I anticipate getting that report shortly.

The Hon. CAROLYN PICKLES: I have a supplementary question. When the minister receives that report, will she indicate to the parliament how much that deficit will be and how it will affect the Adelaide Festival?

The Hon. DIANA LAIDLAW: I will provide the information that will not seek to compromise those companies in terms of their events and I will do so in the knowledge that none of our arts companies will give up on the circumstances in which they find themselves. Sponsorship is a dynamic thing so what happens one day may not be the picture the next. Any report on any given day would not necessarily be the outcome of ongoing discussions with various companies for sponsorship.

The Hon. Carolyn Pickles: It is the magnitude of it and how much the government bailout might have to be.

The Hon. DIANA LAIDLAW: I would not see it as a bailout. If extra support is provided I would see it as an investment in the Adelaide Festival in extraordinary circumstances which are not of the Festival's making. I am not too sure what the honourable member is suggesting.

The Hon. K.T. Griffin: Or of the government's making.

The Hon. DIANA LAIDLAW: Yes, or of the government's making. No-one wanted the Ansett collapse. I ask the honourable member to keep a perspective, rather than creating a beat-up, on this.

Members interjecting:

The Hon. DIANA LAIDLAW: No, but I am just saying keep a perspective—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: Members on my side are well aware of the value of the festival at any time in terms of investment in this state not only in the arts but the wider community, and I would not see a call—and I do not know what it would be and whether it will even arise—to the government as a bail-out but as an investment in the festival and the state as a whole. The honourable member may be aware that today Telstra with the festival has announced that it will again be the principal sponsor of the festival, and it is fantastic to see that vote of confidence confirmed again in the festival. Telstra has been the major sponsor of the festival on the past two occasions and has again confirmed that sponsorship today.

I refer to the honourable member's inference to which I do take exception. No-one wished the Ansett circumstances to arise. My understanding from a telephone call that I received from the Australia Council late last week is that Ansett provided some $110 million annually to the arts alone in terms of sponsorship. Qantas provides nothing—

The Hon. Carolyn Pickles: In Australia.

The Hon. DIANA LAIDLAW: In Australia; this was advice from the Australia Council. Ansett has been an exceedingly generous supporter of the arts, so there will now be a hole in the budgets of arts companies across Australia, which is why the articles have been running so strongly in the interstate media. However, its support has been not only in dollars, as I mentioned, but also in kind. In terms of the share market and other things, the honourable member should be aware that companies are playing a very cautious role at the moment. Many of them are retreating as they look at the share market and what is happening globally, and one of the first areas of retreat will often be their outgoings for community activities, and that includes sponsorship.

As I say, I am getting a picture of this from Arts SA because I do view it as an Australia wide concern in terms of sponsorship and what is happening across the board, and I see

it as a particular concern not only for the arts across Australia but also in this state.

ELECTRICITY, SUPPLY

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

Leave granted.

The Hon. P. HOLLOWAY: A NECA issues paper and a NECA submission to the government's electricity task force have both singled out NRG Flinders as an example of a generator that was forcing up power prices at times of great demand. NECA wrote to the electricity task force saying that, on 12 occasions between October last year and May this year, NRG had rebid its prices to above $4 000 per megawatt hour: it was done to improve its profits. I refer to page 315 of the electricity task force report which states:

> NRG Flinders has rebid its prices, typically to above $4 000 (MWh), very close to dispatch on at least 12 occasions since last October mostly when the capacity of the Victoria to South Australia interconnector was reduced as a result of lightning. In all instances, the reasons given for those rebids were financial optimisation or improved profitability.

My questions are:

1. Does the Treasurer concede that NRG has acted unscrupulously to manipulate the market to rip off South Australian electricity consumers?

2. What action did the Treasurer take when he was first informed that NRG Flinders had been one of the power generators named by NECA and his own task force as one of the worst examples of a generator forcing up power prices during times of peak demand in South Australia by rebidding its prices purely to maximise its profits?

3. In particular, has the government raised this issue at any time with NRG?

The Hon. R.I. LUCAS (Treasurer): There has been a series of ongoing discussions between me and officers who represent the government in relation to this issue of rebidding, over a long period on occasions too numerous to catalogue. The important point is that today I issued a statement that the South Australian government welcomes the ban on some generator rebids, which will apply not just to NRG but also to some New South Wales government publicly owned generators that are also engaged in the practice of rebidding. It is not a behaviour solely the province of privately owned generators in South Australia.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, NECA is responsible. The honourable member does not understand how the market operates. I do not have the power over an individual generator in the marketplace. If you want to change it, you go to the regulatory body and you get the rules changed. It is simple.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: Yes, there have been discussions. The government has had discussions with a number of interested parties, but the more important ones are those that have the authority to make the rule change. We have announced today that we welcome the changes that have been announced by NECA. They now require ACCC approval, but I am advised that that process should be concluded by the end of this year in time for action this summer. We believe that some generators have been artificially spiking prices but, on the basis of the legal advice provided to the government and to the regulatory authorities, they have been acting within the laws of the market as they operated.

The honourable member can describe people who are acting in accordance with the laws of the market using the words that he has: it is a judgment call for him as to whether or not he will do that outside the chamber. The issue is: do you want to change the rules or not? The rules have been proposed for change and we are supporting those. We have indicated that there are one or two issues that we are having a look at again, to see what the various options are, particularly in relation to the extent of the penalties that might apply. The South Australian government wants to have a look at that, and we are taking some legal advice on that issue at the moment.

In terms of the concept of the changes—that is, an outright ban on certain rebidding practices and, in particular, on any generator, public or private, who artificially withdraws or withholds capacity from the market to try to artificially spike prices—if they do not make bids or rebids in good faith, that sort of behaviour will be banned and there will be sanctions under the national electricity market.

The other thing we welcome is that NECA has indicated that it is having discussions with the ACCC about the need to have rebidding abuses subject to the provisions of the Trade Practices Act that govern the abuse of market power. That would be a further element to a package of measures which NECA is already in the process of recommending and which we hope to see implemented before the coming summer.

It is fine to talk about what has occurred in the past, and the government is happy to have that discussion. We have been involved in a series of discussions with the people who make the decisions about changing the laws, principally, but also with other interested parties, and have done so for a number of months now. But the past is the past. We are more interested in resolving the problem, and we welcomed the announced changes late last week.

RIVERLINK

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about Riverlink.

Leave granted.

The Hon. T.G. ROBERTS: On 7 September the Treasurer wrote to the New South Wales Treasurer, Michael Egan, saying that he had only just been made aware of the proposed new route, even though it had been subject to community consultation for the past six months. Yesterday, the Hon. Mr Davis established his green credentials by indicating that the changed new route was brought about because of the increased pressure brought to bear by the environmental groups, and the decision to change the route was brought about by public pressure.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Roberts should not be debating but just giving an explanation.

The Hon. T.G. ROBERTS: The honourable member has put in *Hansard* his personal explanation via an interjection. We were told that your letter objected to the proposed new route. We have been given a copy of Mr Egan's reply to the Treasurer that says that the new route had been made in response to—

An honourable member interjecting:

The Hon. T.G. ROBERTS: —7 September—representation by local community groups and local state politicians who assisted TransGrid to find the new route. The Mayor of Loxton, who has been heavily involved in the discussions on the new route, was a member of the Premier's electricity task force.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Loxton Waikerie; I will correct that. Will the Premier explain what discussions he has had with the member for Chaffey, the federal member for Wakefield (Neil Andrew), the Mayor of Loxton Waikerie (Joan Cass), or anyone else in the Riverland about the proposed new route for the Riverlink transmission corridor, and why is the government objecting to the proposed new route?

The Hon. R.I. LUCAS (Treasurer): I am sometimes confused by the honourable member's questions, but on this one I am thoroughly confused. I will need to read the *Hansard* record more closely.

The Hon. L.H. Davis: He probably will, too.

The Hon. R.I. LUCAS: Yes, and perhaps he can clarify some of the issues he has raised. I will also need to refresh my memory about the letter of 7 September from Michael Egan. Was it addressed to me or to the Premier?

The Hon. T.G. Roberts: From Michael Egan to you.

The Hon. R.I. LUCAS: I must admit that senile dementia is creeping up on me quickly, so I will need to double check the contents of that letter from Michael Egan to me. Part of the explanation from the honourable member seemed to indicate that there had been a concluded route for SNI. That is certainly not the South Australian government's understanding. Is the honourable member indicating that there is a concluded route? They still have not made up their minds.

An honourable member interjecting:

The Hon. R.I. LUCAS: I do understand him, because that is the view that we have been putting to the New South Wales government: 'Can you please make up your mind and tell us which route you are supporting? Are you going north of the river through the Bookmark Biosphere, with your noted sensitivity as you have done in New South Wales?'

An honourable member interjecting:

The Hon. R.I. LUCAS: But we need to know. We are trying to. We are asking, 'What is your route?' We cannot help them until we know what the route is. It is not up to us to decide which route it is. All we have said is, 'You want us to help, and this project is being supported by your sympathisers in South Australia. Tell us which way your proposed powerline will go. Will it go north of the river through the Bookmark Biosphere with the environmental issues, or will it go south of the river through the landowners, or will it go somewhere else?'

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We invite the Deputy Leader of the Opposition to tell us which route he is supporting.

Members interjecting:

The Hon. R.I. LUCAS: The Deputy Leader of the Opposition attacks the government—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —because we are not fast tracking. How can you fast track when they cannot even tell us what route it is that they want to follow? How on earth can you fast track something when you cannot even tell us which route you are supporting?

The Hon. L.H. Davis: Double standards!

The Hon. R.I. LUCAS: Yes. How can you be asked to fast track—

Members interjecting:

The PRESIDENT: Order! Is the Hon. Paul Holloway deaf?

The Hon. R.I. LUCAS: He might not be deaf but he is silly. How can you fast track something when you ask a simple question? You cannot get much simpler than this: which route do you want to go along? It is a pretty simple question, and I would have thought that even the Deputy Leader could understand that.

Which route do you want to go along? When they tell us which route they want to go along, then the government, if it gets approval, can do something to assist them. I would have thought that the Deputy Leader of the Opposition, even with his paucity of knowledge about the national electricity market and about planning, environment and development issues, at least would understand that, if someone asked you to fast-track a project, they would tell you where it was going to be. It is a bit like saying to the minister for planning, 'I want to build a 20-storey building somewhere in Adelaide: will you please fast-track it? But I am not going to tell you where it is. I will not tell you whether it is in the north, south, east or west of Adelaide, but somewhere in Adelaide I am going to build a 20-storey building. Please fast-track it for me.'

The Hon. L.H. Davis: 'And give me the answer quickly.'

The Hon. R.I. LUCAS: 'And give me the answer quickly. And if you don't give me the answer, you are guilty of double standards.'

An honourable member interjecting:

The Hon. R.I. LUCAS: We know exactly what we are doing. We are saying that the New South Wales Labor government and its sympathisers in this parliament do not know what route the SNI project is taking, yet at the same time they have the gross hypocrisy to attack the government for delaying SNI, when they cannot even tell us what route they are supporting. Your party is going to build this thing. Where are you going to build it? You are going to take taxpayers' money out of hospitals for building—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Exactly! Kevin will be protesting about it. Where are you going to build Riverlink? Which route are you going to build? You are going to take money out of hospitals to put into it: which route are you going to use?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Mr President, that is a pretty simple question. That is their policy. All the rest of their electricity policy—their 15-point plan—was a photocopy of the government's policy. The one distinction is that they said that they will build this project even if it does not get NEMMCO approval. They will take $20 million out of hospitals and schools to build an unregulated interconnector. Which route will the Hon. Mr Holloway be supporting? Which route will Kevin Foley be supporting? Which route will—

Members interjecting:

The PRESIDENT: Order! The Treasurer will please desist from asking his own questions. Question time is for members' questions.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. Holloway: I am sure that the people in the Riverland will be pleased that you are looking after their interests. That is what you think about the people in the Riverland.

The Hon. R.I. LUCAS: I thank the shadow minister for the environment for his assistance in asking a most worthy question which has certainly rooted out the lack of understanding of the opposition and a Labor government on this issue.

The Hon. P. Holloway interjecting:

The PRESIDENT: I am close to warning the member.

BUSINESS DEVELOPMENT SCHEME

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the business development scheme administered by the Department of Industry and Trade.

Leave granted.

The Hon. J.F. STEFANI: Over a period of time, various companies have been encouraged to establish their operations in South Australia and have sought financial assistance from the state government. I am aware that some of the companies that have established their operations in South Australia have received government grants which were allocated on the basis of a specific number of employees to be engaged by the enterprise. I am equally aware that some of the conditions of the government funding provided for clawback provisions which applied to the company which received the grant and which did not achieve the targeted number of employees. By way of example, I am advised that $10 000 would be repayable to the state government by a company for each full-time equivalent employee below the targeted agreed number of employees. My questions are:

1. Will the minister advise whether the Department of Industry and Trade has conducted a complete audit of all the companies that have received government funding to establish whether they comply with the conditions of the grant? If so, will the minister advise the result of the audit and how many companies have received government assistance which was tied to targeted employment figures?

2. What is the total amount of money, if any, repaid to the government as a result of the clawback provisions applicable under the funding agreements?

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his questions which, as he would understand, I will need to take on notice and bring back replies—and I am happy to do so. The honourable member quite rightly points out that virtually all the agreements—as I am told, and certainly in my time (16 or 17 months)—contain clawback provisions of different sorts. They are not necessarily exactly of the particular nature which the honourable member highlights, but the agreements certainly do contain them. The advice from my department is that there is ongoing compliance monitoring, which is the point raised by the honourable member. I will see what information I can share with the honourable member and bring back a reply as soon as I can.

ABORIGINAL HERITAGE SITE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the minister representing the Minister for Aboriginal Affairs a question about the destruction of an Aboriginal heritage site near the Port Augusta Airport.

Leave granted.

The Hon. SANDRA KANCK: The August edition of the Journal of Australian Archaeology carries a report by Dr Keryn Walshe, an archaeologist from the Flinders University Department of Archaeology. In that report, Dr Walshe states that, as a consequence of the planned expansion of the Port Augusta Airport, a quartenary sand dune in the path of the runway extension was examined by herself and the Port Augusta Working Group, which is comprised of representatives of the Nukunu, Banggarla, Kuyani and Kokatha peoples. The working group gave permission for the destruction of the surveyed area. It also identified an adjoining site as being potentially of great importance and recommended its preservation and investigation.

Some of the artefacts found on the adjoining dune were salvaged and samples of sand were taken from the top and bottom of the dune. Sand taken from the top of the dune was dated at 35 000 to 45 000 years old. Sand from the bottom of the dune was dated at between 100 000 and 150 000 years old. Dr Walshe estimates that the artefacts could be up to 35 000 years old. Previously, no open sites discovered in South Australia have been more than 3 000 to 4 000 years old. During the extension of the airstrip the adjoining site was bulldozed and, as a consequence, an Aboriginal heritage site of potentially enormous significance has been destroyed. My questions are:

1. Did the minister authorise the destruction of the non-surveyed adjoining site under section 23 of the Aboriginal Heritage Act? If so, did the minister (as required under section 12 of the act) check whether the site had been entered on the Register of Aboriginals Sites and Objects?

2. Did the minister determine whether the site should be added to the Register of Aboriginal Sites and Objects as required under section 12? If so, what reasons did the minister have for not including the non-surveyed adjoining site on the Register of Aboriginal Sites and Objects?

3. If the minister did not approve the site destruction, has the minister initiated an investigation of who was responsible for the site destruction as required under section 12; and, if not, why not?

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

ELECTRICITY MARKET

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government, the Hon. Robert Lucas, a question on the subject of the electricity market.

Leave granted.

The Hon. L.H. DAVIS: Did the state government make any submission to the National Electricity Code Administrator (NECA) before that body recommended recently that it will toughen up on rules for rebidding by generators of electricity? My question follows an earlier question from the Hon. Paul Holloway and may perhaps be particularly relevant to members of this Council.

The Hon. R.I. LUCAS (Treasurer): I thank the honourable member for his question. I understand it is also relevant to questions that have been asked in another place. I guess it is for that chamber, but it may well be that a member has

seriously misled the House in relation to the government's position. I have not seen the *Hansard* record yet, but I am informed that the member for Hart has claimed that the government did not make a submission and has led the House to believe that that was, indeed, fact.

I want to indicate and quote from a report from NECA that was released just last week, dated September 2001, entitled 'Code Change Panel—generators' bidding and rebidding strategies and their effects on prices'. On pages 3 and 4 of that report, it says:

> At the same time as NECA published its report, the Code Change Panel published a consultation paper on the draft changes to the Code necessary to give effect to the report's conclusions and recommendations. We received 26 written comments on those draft changes from. . .

And I will not bore members with the list of the 26, but in the middle of those is the South Australian Department of Treasury and Finance. If the *Hansard* record does indeed show that the member for Hart has misled the parliament on this issue in claiming that the South Australian government had not made a submission on this issue, that is obviously a serious issue for that House to explore.

In relation to this rebidding process—and it does touch upon some of the earlier questions from the Hon. Mr Holloway—the government had been involved, through me and others, in a series of discussions about rebidding over a long period of time. I do not think it was a report—it was an issues paper of the high level general discussion. We certainly had discussions about that but made no formal submission at that stage. The draft report was released, which was the specific proposals, and there was a specific submission from the South Australian government to that report. Indeed, the September 2001 report that I have just read from confirms the accuracy of what the South Australian government has said. So, as I have said, I place on the record the government's position in relation to that. If a member has seriously misled one of the houses of parliament, that issue, ultimately, will need to be explored by that particular house.

The Hon. P. HOLLOWAY: As a supplementary question, will the Treasurer confirm that the government did not make a submission to the original issues paper issued by NECA in July 2001 at the time that the Premier was claiming credit for bringing this issue to public attention?

The Hon. R.I. LUCAS: My first answer has already answered that question.

INDEPENDENT GAMBLING AUTHORITY

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question in relation to the Independent Gambling Authority and related issues.

Leave granted.

The Hon. NICK XENOPHON: Yesterday, the South Australian Heads of Christian Churches gambling task force wrote to me advising of their concerns about the lack of activity to implement the Statutes Amendment Gambling Regulation Bill 2001, including the formation of the Independent Gambling Authority Codes of Practice and the appointment of a minister for gambling.

A recent legislation update in the *Government Gazette* indicates that the date of operation will be 1 October 2001, except for those amendments that relate to the Authorised Bettings Operations Act, Codes of Practice for the Casino and Lotteries Commission, including the responsible gambling code of practice. My questions are:

1. Given the concerns of the Heads of Christian Churches gambling task force, can the Treasurer confirm that the Independent Gambling Authority will be fully operational by 1 October and a minister appointed by that date?

2. Can the Treasurer indicate when the balance of the act will be operational?

The Hon. R.I. LUCAS (Treasurer): Certainly from the government's viewpoint, it will be fully operational from 1 October. If there are any administrative issues or details that need to be resolved, I will need to check for the honourable member to see whether there are any particular issues. In relation to those provisions that do not come into operation on 1 October, the member has rightly identified that they relate to the codes of practice. I am told that the reason why they cannot come into operation on 1 October is that the authority has indicated that it intends to undertake a public consultation process before approving the content of these codes.

The codes have to be approved before the commencement of the relevant sections since they are conditions of the licence, and without these codes the licensees would be in technical breach of their licences. Given the consultative process established by the authority, the codes will not be able to be completed by 1 October. The government believed that it was not appropriate to defer proclamation of the other provisions of the act whilst that process went on.

We thought, given that everything that needed to be put in place could be operational by 1 October, that should be operational by 1 October and this process in relation to codes of practice could ensue. As to when after that, I do not know. I would have to take advice from the independent authority. I understand that the independent authority will meet for the first time next week and I guess that will be one of the issues on the first agenda for the new authority as to the time frame for that consultation, and when they might be in a position for the government to be able to enact those provisions as well.

The Hon. NICK XENOPHON: As a supplementary question, will there be a public consultation process for all gambling codes and not simply the casino, the Lotteries Commission and the TAB?

The Hon. R.I. LUCAS: Which other ones are you talking about?

The Hon. Nick Xenophon: The hotel industry.

The Hon. R.I. LUCAS: I will need to take advice on that. I would not want to mislead the member, seriously or otherwise, with an answer. I will take advice and bring back an answer.

RAPE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking a question of the Attorney-General on the topic of rape.

Leave granted.

The Hon. A.J. REDFORD: The New South Wales state government recently announced that it intends to raise the sentence for pack rape in New South Wales from 20 years to life imprisonment. It also announced that judicial education seminars would be reviewed to include briefings on the extra care needed in sexual assault cases and also to improve information about the consideration of victim impact statements before sentencing. This followed a high profile case in that state. My questions are:

1. What is the existing maximum penalty for rape in South Australia and do judges in this state have regular education forums where matters such as these can be discussed and raised?

2. Do judges consider victim impact statements before handing out sentences in our courts?

The Hon. K.T. GRIFFIN (Attorney-General): I saw the reports in New South Wales of a rather high profile case involving a pack rape and the government's proposal to increase the maximum penalty for pack rape to life imprisonment. When I looked at the rationale for that, I found that some years ago, as a move to try to rationalise penalties, the New South Wales parliament moved away from life imprisonment for certain offences to try to set statutory maximum penalties. That happens in some areas of the model criminal code where the officers recommending changes to the criminal law have actually sought to move away from the indefinite life imprisonment penalty to statutory maxima such as 20 years, as it was in the case of rape in that jurisdiction, 25 years for other offences and 30 years for others.

In this state, we have not really gone down that path because the penalty for rape in this state has always been a maximum of life imprisonment, which gives the courts a range of options for dealing with cases according to the seriousness of the offences and the circumstances in which they occur. If there was a serious pack rape, as occurred in New South Wales, there is already plenty of scope for the courts to fix an appropriate penalty within that range up to a maximum of life imprisonment.

In this state, the judges have regular education forums, and an overarching education committee is chaired by Justice Margaret Nyland. That overarching committee considers the issues that need to be addressed in educational forums by our judges and magistrates. In other jurisdictions, the judiciary have different structures to address the issue of continuing education. Right around Australia now, judges and magistrates recognise the need for continuing education. A lot of it occurs through the Australian Institute of Judicial Administration, which is a body independent of government but nevertheless gets some of its funds from governments around Australia.

There was some criticism of some matters in the mid 1990s, and since that time the courts have put particular emphasis on the area of rape and sexual assault, as well as into better understanding cultural issues affecting indigenous South Australians whether as defendants or as witnesses. The courts have taken a great deal of trouble to visit the Pitjantjatjara lands and other lands, and Port Augusta, and to meet with Aboriginal people and a variety of others with a view to upgrading their understanding of indigenous issues. In terms of victim impact statements, they have been well received in this state. We certainly did not experience the reluctance to use victim impact statements and to accept them as was the case in New South Wales.

In New South Wales, there was a general reluctance by the legal profession and courts to embrace victim impact statements. I think that is now changing, but there is as yet nowhere near the level of acceptance that occurs in South Australia. I think everyone acknowledges that it is important for the effect of the crime on the victim to be made known to the court during the sentencing process, and that is done by either a written or an oral victim impact statement presentation and puts South Australia at the forefront, along with other initiatives, in providing support for victims and the recognition of their rights in the criminal justice system.

The Hon. SANDRA KANCK: A supplementary question; while accepting that these educative forums are held for judges, what percentage of the judges for each of the magistrates, district and supreme courts attend these forums?

The Hon. K.T. GRIFFIN: I do not have the details of that. I will endeavour to ascertain that information, but my understanding is that they all attend. They may not all attend at the one time because the courts still have to continue because there are matters to be heard, remands to be addressed and trials to be conducted. However, my understanding is that, when they set a time for a seminar or conference, they endeavour to keep as many judges and magistrates free as possible to attend. It is not just in South Australia, there are judges and magistrates conferences in other jurisdictions, and generally there is a pattern which is directed towards ensuring that judges and magistrates are all exposed to the issues raised at these conferences.

I will get some more detail for the honourable member in relation to the educational program and endeavour to get some understanding as to how many judges and magistrates attend. It may not be easy to get that in a coherent form that represents a good cross-section, but I will endeavour to do so.

ELECTRICITY, PRICING

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer a question about electricity pricing.

Leave granted.

The Hon. CARMEL ZOLLO: The Olsen government's own national electricity market task force said that there was an urgent need for a review of the proposed doubling of the maximum wholesale price for electricity. However, the government failed to raise the issue of the proposed price rise at last Friday's NEM ministers forum in Melbourne. Given the Premier's previously stated support for the doubling of the wholesale price cap for electricity to $10 000 per megawatt hour, does the government support the decision by the National Electricity Code Administrator to go ahead with the electricity price rise from April next year?

The Hon. R.I. LUCAS (Treasurer): Given the Premier's statements on these issues, I am sure that it would be fair to say that the government is disappointed at the decision that has been announced, which was prior to the NEM ministers' forum last Friday. As the press statement on behalf of the government today indicates, the government supported the crackdown on rebidding behaviour by generators in the market. NECA's strongly held view is that, by cracking down on the generator rebidding behaviour, the associated increase in VOLL that had been previously announced by the regulators should proceed.

It has also warned that it believes that not to do so could jeopardise private sector investment in much needed generation in Victoria, South Australia and other parts of the national market. It has indicated that people who have shown their willingness to invest in large power stations in Victoria (and they are bigger than those proposed in South Australia for this coming summer) have done so on the basis of the rules that existed and that, should those rules change, there is obviously a risk that those investors and, just as importantly, other investors in the future who will be required to continue to invest in peaking power plant in the national market will be discouraged from doing so.

It believes that, by taking the action that it has on rebidding—and changing its position on rebidding, I might say—

while at the same time maintaining its position on VOLL, that is a package that will see a good impact in terms of the national electricity market. In response to the honourable member's question, given the Premier's statements on this issue it would be fair to say that the government is disappointed with that aspect of the package but is obviously very happy at the toughening up of the laws in relation to rebidding.

VOLUNTEERS

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the minister responsible for volunteers, a question about the duplication of services between Volunteering SA and the Office for Volunteers.

Leave granted.

The Hon. IAN GILFILLAN: This issue has been raised with me by Volunteering SA, the peak advisory body for volunteering in South Australia, through its discussion paper entitled *Isn't That What I Do?* There seems to be some confusion about the role and function of Volunteering SA and the government Office for Volunteers, under the auspices of the Department for Environment and Heritage. With only four months remaining in the International Year of the Volunteer, it would seem suitable to clarify this sooner rather than later.

As the peak body for volunteers, Volunteering SA feels that it adequately represents to government the collective interests and concerns of the volunteer sector across the full gamut of organisations. It consults, communicates and facilitates networking with organisations statewide, including (but not exclusively) those from arts and culture, education and training, emergency services, recreation and sport, health and community and environment and heritage. Volunteering SA advocates for best practice in volunteer management to ensure that volunteers have a positive experience. It believes that its role, and I quote from its discussion paper, is to:

- Provide policy advice to government through consultation with its constituents
- Provide information on issues relating to volunteering
- Promote best practice in volunteer management through training
- Advocate on behalf of the volunteer sector
- Promote the efforts of volunteers

Currently, Volunteering SA feels that some of these roles are being duplicated by the Office for Volunteers, creating duplication of roles (when there are only scarce resources available) and general confusion in the community about who is responsible for what. It is creating a level of 'bureaucratisation' that many who volunteer hope to avoid. Volunteering SA has sought clarification with the government on this matter but, so far, none has been forthcoming.

Also, at present the only formal relationship between the volunteer sector and government is through funding agreements. Given the cross-portfolio nature of volunteering, Volunteering SA feels that it would be more logical to locate the Office for Volunteers within the Premier's Department. My questions are:

1. Has the government developed a strategic vision and plan for volunteering in South Australia? If so, where is it?

2. Will the government develop a clear written agreement outlining the roles and relations between Volunteering SA and the government Office for Volunteers?

3. Given that the government has allocated a further $1 million to the Office for Volunteers, how does it intend to also strengthen the role of the community peak body, Volunteering SA?

4. Does the minister agree with Volunteering SA—the office of volunteering—covering most portfolios? Why should it be in the Department for Environment and Heritage and not in the office of Premier and Cabinet?

The Hon. K.T. GRIFFIN (Attorney-General): The questions will be taken on notice and referred to the appropriate minister, and I will bring back replies.

The Hon. A.J. REDFORD: By way of a supplementary question, could the minister also contrast the initiatives made by this government in the area of volunteering with the efforts made by the previous government and, further, with the promises made by the Australian Democrats? Has Volunteering SA ever publicly acknowledged that this minister and this government have led the way in relation to volunteer policy and recognition in this nation and, indeed, the world?

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: This government has a very significant record in the area of volunteering. However, in my view of the almost imminent close of question time, I will refer the questions to the minister and bring back a reply.

ADELAIDE RAILWAY STATION

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport questions regarding the new ticket offices and validation machines at the Adelaide Railway Station.

Leave granted.

The Hon. T.G. CAMERON: I am pleased to see that the minister has taken up the idea of installing ticket validation machines at the Adelaide Railway Station. However, I am a little concerned about the number of validation machines being installed and the location of the ticket offices. My office has received a number of complaints about the lengthy wait to leave the station platform due to the previous manual checking of tickets, and now the possibility of further long lines as passengers line up to have their tickets checked by the new ticket validation machines. There is also some concern about the location of the new ticket offices, because they apparently cause bottlenecks as passengers attempt to buy tickets whilst others squeeze past to access the validation checkpoints. My questions are:

1. Can the minister report to the best of her knowledge how the new system is currently working and what remedial action is being taken to speed up the flow of passengers through the validation points?

2. In total how much have the new ticket offices and validation machines cost, and how much is it estimated that they will save the government in unpaid fares?

3. How many people have been issued with infringement notices from ticket inspections at the Adelaide Railway Station between 1 July 2000 and 30 June 2001?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will seek advice and gather information on questions 2 and 3. By way of clarification, are the validating machines to which the honourable member refers the machines that people pass through and must put their ticket in upon leaving the platform and going to the concourse?

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes. I saw those machines working this morning, and I spoke to a number of the customers and our staff. The system the honourable member refers to also includes the new turnstiles. The honourable member raised questions—as did the Hon. John Dawkins and others—about the earlier installation of the gates that were at the barriers. There were some accidents, and we did have one legal claim and other people complained that they were hurt or feared being hurt. We then tested a turnstile model, and the customer feedback was fantastic. They have now been installed in all but two of the barrier gates. They have not been installed at all those points because people with wheelchairs or gophers need to be able to go through the gates at the turnstiles and not have to go through the turnstiles themselves.

I saw no hold-up today, either when people validated tickets when going through the turnstile or when people were checked on the rail cars. It was my observation that in two spots people went straight through the open gates because their tickets had already been checked. However, if the honourable member has received some complaints, I will certainly investigate them, because I am very keen to see that TransAdelaide excels in terms of customer service, and it would appear from patronage figures—and they are climbing markedly—that customers believe it is performing much better overall.

Mr Roy Arnold is the new general manager. I know that he would be very keen to meet the honourable member at any time to go through TransAdelaide's plans for customer service and, if the honourable member would like me to facilitate such a meeting, I am happy to do so. I will obtain information on the honourable member's other questions. I know that he, too, is keen to see rail patronage increase further and TransAdelaide perform overall.

TRANSPORT, HEAVY VEHICLE CHARGES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about heavy vehicle charges.

Leave granted.

The Hon. CAROLINE SCHAEFER: The Remote Areas Ministerial Council for Transport Matters comprises the Ministers for Transport from South Australia, Western Australia, the Northern Territory, Queensland and New South Wales and is responsible for progressing issues pertinent to the road transport industry in remote areas and for ensuring that these issues are addressed in the national road transport reform process. I note that Minister Laidlaw has been appointed as chair of that council for the next two years, and I congratulate her on that appointment. The efficient and affordable movement of goods to and from towns and properties is vital to people who live in remote areas. Most have no alternative to road transport and, therefore, matters affecting heavy vehicles are vitally important to them. Can the minister advise whether the remote areas ministerial council has reached a decision or a view on the issue of a ceiling on annual increases in heavy vehicle charges, which I know continue to cause concern to both the industry and people in remote areas?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank the honourable member for her question and also for her congratulations on the further responsibility that I have as Minister for Transport. It is one that I undertake with enthusiasm because I have championed the interests of and issues concerning heavy vehicles in this state and across Australia for a number of years, so I warmly welcome this new responsibility.

One of the two issues that were hotly debated at the last remote area heavy vehicle transport conference in Darwin is the diesel grant. I noted today that the federal government has introduced legislation to extend that for one year, and that will be welcomed across Australia by the heavy vehicle sector.

The other issue is registration charges for heavy vehicles. There will be an increase in charges in South Australia, and I think most other states and territories, from 1 October, which will comply with a formula that was earlier negotiated with the heavy vehicle industry and put to the last Australian Transport Ministers Council by the NRTC. It was a matter of great concern at the remote areas council meeting in Alice Springs that a Labor caucus of ministers across the two zones, A and B, sought to hijack the agenda that had been agreed by the industry and NRTC to be put to the minister.

The Hon. R.D. Lawson: Shame!

The Hon. DIANA LAIDLAW: The Hon. Robert Lawson says, 'Shame.' I met with the NRTC Chairman today and I indicated, as I have indicated to the industry at large, that South Australia will not budge from its earlier opposition to capping the agreed formula for the CPI. The Labor states wish to take off that CPI cap. That would mean that there may be no limit on an annual basis to the charges for heavy vehicle registration, which would see a potentially massive escalation in charges to the industry with an on-flow to farmers and all people living in regional, rural and remote South Australia. South Australia will not be party to that. So, we need to apply all the pressure that we can on the Labor states to act in the interests of remote, regional and rural South Australia in terms of their reliance on heavy vehicles between now and the next ATC ministers conference which is scheduled for November.

RIVERLINK

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

Leave granted.

The Hon. R.I. LUCAS: Earlier in question time today the Hon. Mr Roberts asked a question about correspondence between me and the Treasurer of New South Wales. I indicated that I wondered whether I could be suffering from senile dementia, but I am pleased to be able to report that that is not the case. I had no recollection of having received a letter dated 7 September from Michael Egan. I have since ascertained that today we received a letter from Michael Egan, which obviously was provided to the Labor Party before we saw it. The name of the adviser on it is Mr Danny Price.

Members interjecting:

The Hon. R.I. LUCAS: Surprise! Surprise! I asked the Hon. Mr Roberts what was the date of the letter and he said that it was 7 September. I am sure that he would not want to seriously mislead the Council, but the letter is not dated 7 September, it is actually dated 26 September.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Yes, I wrote on 7 September, but you were talking about Mr Egan's letter to me and I asked you what was the date of that letter and you said that it was 7 September. That is why I could not work out why I had not seen it. I do not impute improper motives to the Hon.

Mr Roberts, because I know him. I suspect that it was a genuine error rather than an endeavour seriously to mislead—

Members interjecting:

The Hon. R.I. LUCAS: He might have been set up by others who might want to seriously mislead. The date on the letter looks like 26 September, it was received only today, and the government will consider the correspondence. All I can say is that the letter that I sent to the minister on 7 September asked the New South Wales government finally to determine what route it wanted to follow so that the unnecessary delays that might be experienced by the SNI project could be prevented if and when it finally gets NEMMCO approval.

MATTERS OF INTEREST

AUSTRALIAN FOOD PAVILION

The Hon. CAROLINE SCHAEFER: About two weeks ago, I had the pleasure of attending, as a representative of the state government, the opening of the Australian Food Pavilion at the NTUC Fairprice store at Bukit Timah Plaza in Singapore. South Australia's food exports have increased by an incredible 40 per cent over the past 12 months, but we are not prepared to rest on our laurels. Quite the contrary, because those of us involved with the State Food Plan are determined to use the current successes to build on and open up further opportunities. The food pavilion is one of those opportunities.

This partnership, brokered between Supermarket to Asia Ltd and NTUC Fairprice, has given us an opportunity to showcase product under one Australian banner without all of the usual overheads. There are approximately 10 000 Australian expatriates living permanently in Singapore and, initially, it was anticipated that they would be the major customers. However, we soon learnt that there was also a large demand from Asians who have either visited Australia on business or were educated here.

Many of the products sold out not once but two or three times during the three days I was there. The Australian Food Pavilion will stock about 1 500 Australian products and will feature promotions and cooking displays, as it did at that time. NTUC Fairprice anticipates that it will increase the sale of Australian product by about 20 per cent over the $120 million worth of Australian product that it currently sells. Mr Theo Simos of the state government's Food for the Future program was seconded to direct the project under the auspices of Mr Jim Kennedy from the Prime Minister's Supermarket to Asia group. Also involved from South Australia were Ms Sharon Kennerley from Food for the Future and Mr Bob Soang from Select Retail Services, the consulting arm of Drake Food Markets, who worked closely with Supermarket to Asia Ltd and NTUC Fairprice in planning and establishing the fit-out of the Australian Food Pavilion.

Some 25 000 South Australian companies were represented including Australian Fresh Juices (Auldwood), Balfours, Beerenberg, Bellis Fruit Bars, Bickfords, Coopers Fine Foods, Green Farmhouse, Hog Bay Apiary, Kangara Farms, Lacewood Jams, Laucke Flour Mills, Mariani Australia, McLaren Vale Olive Grove, Mitani, Mugglestons, Palmyra Foods, Spring Gully Pickles, Springs Smoked Seafood, Tip Top Bakeries and Yours Truly Chocolates. As I have stated, many of those exhibitors actually sold out during the time that we were there and had to have extra produce air freighted in. While we were in Singapore, we received a great deal of good press, and it is anticipated that a number of other producers will display at the NTUC Fairprice Australian Food Pavilion in the near future. It is also expected that Fairprice will extend these pavilions to other stores it has throughout Singapore.

Figures for the Bukit Timah store indicate that sales were 60 per cent above its standard trading sales on the weekend following the launch, with a further 20 per cent increase during the week days immediately following the launch. As it was put to me, that was a good result but it is only the beginning. I understand that Supermarket to Asia intends to extend this promotion as it is a test case for having similar Australian Food Pavilions across Europe and possibly parts of America. As can be seen, South Australia is at the forefront of this promotion. I believe that we actually captured the cutting edge against many of the other states but, more importantly, Food Australia was very well badged and promoted, and I congratulate all those who worked very hard to see it get off the ground.

DUAL CITIZENSHIP

The Hon. CARMEL ZOLLO: Today, I would like to talk about an issue close to the hearts of many Australians who find themselves having to call home more than one nation in their lifetime. Several months ago, I was ready to express my disappointment at the then recent decision—or, I should say, indecision—by the federal government in relation to the repeal of section 17 of the Australian Citizenship Act 1948. It had announced yet again another round of community consultations, arising from the Australian Citizenship Council's February 2000 report 'Australian Citizenship for a New Century'. The Australian Citizenship Council had already undertaken a public consultative process based around its issues paper 'Contemporary Australian Citizenship'. Some 6 000 copies of the council's issues paper were widely distributed both in Australia and overseas. From overseas alone, over 1 000 Australians living abroad wrote to the Prime Minister and to the Minister for Immigration and Multicultural Affairs.

I welcome the government's change of mind and subsequent announcement (no doubt due to community pressure) at the beginning of August that section 17 would be repealed. The repealing of this section will allow Australian citizens over the age of 18 to retain their Australian citizenship on acquisition of another citizenship. It is interesting to note that the council's report also told us that the majority of people affected by section 17 are born in Australia. In 1999-2000, Australian-born represented 68 per cent of those who came to official notice as having lost their Australian citizenship through the operation of section 17. I should point out that this issue is completely different to that of people who migrate to Australia and can take up dual citizenship, if their country of origin permits.

Section 17 imposed a considerable disadvantage on native-born Australians. It has caused real hardship and distress for many who have to renounce their Australian citizenship. Australians working overseas are often compelled to acquire another citizenship so that they can enjoy equal work rights, buy property, travel, access hospital care, and so on.

I congratulate the Southern Cross Group, based in Brussells, Belgium, which was particularly active in lobbying for the repeal of section 17. It hosts a web site to promote mobility in the global community. The site reported on the reaction of media, both in Australia and overseas, on the Law Council of Australia, which made representations to the government, and on the opinions of prominent citizens such as Sir Ninian Stephen, who chaired the Citizenship Council.

The federal ALP caucus indicated its strong support for the key recommendation in the Australian Citizenship Council report to allow Australian citizens to acquire dual citizenship. The shadow minister for immigration, Con Sciacca, rightly pointed out that, whilst section 17 remained, Australian citizens living overseas are severely disadvantaged on many occasions by not being able to acquire their new country's nationality while retaining their much loved Australian citizenship. Apparently, we are now at a point where over five million foreign-born residents enjoy dual citizenship following their migration to Australia. However, without repealing section 17, most people born in Australia automatically lose their citizenship if they acquire a second nationality for social, employment or personal reasons.

The changes will bring Australia into line with many other countries, including the US, Britain, New Zealand, Ireland, Canada, Italy and Greece. I mention those countries in particular because, of course, they are some of the countries where you are most likely to find an Australia Diaspora.

Whilst we often hear of better-known Australians having to give up their Australian citizenship, because they have to acquire another for work or business reasons in another country, there are, in fact, some 830 000 Australians living overseas. Australians working overseas are compelled to adopt new citizenship to ensure that they do not miss out on benefits available to local residents. With the increased mobility of Australians, and the reality of global labour markets, it is more likely that greater numbers of Australians will seek to acquire another citizenship. There are 37 other countries in the world that allow dual citizenship. I welcome Australia's decision to join them, with the legislation hopefully in place by the end of the year as I understand that it is today before the federal parliament.

ADELAIDE ARCHITECTURE

The Hon. L.H. DAVIS: Today I will briefly discuss three significant, stylish and sensitive buildings all within 300 metres of each other. First, the Sir Donald Bradman Stand at Adelaide Oval is an architectural gem. Adjacent to that is the development at Memorial Drive which extended the facilities of the Memorial Drive Tennis Court and which includes a swimming pool, gymnasium and recreation facilities.

It is a very sensitive development indeed. It is interesting to note that, on 18 February 1999, Dr Lomax-Smith, who was then Lord Mayor of Adelaide, said that she opposed the tennis centre development. I do not think anyone looking at it can say that it is an insensitive or inappropriate development in that area.

The third development that I want to mention is the $92 million expansion of the Adelaide Convention Centre. Indeed, it is interesting that on 24 August 1999 the *Advertiser* quoted the then Lord Mayor, Dr Jane Lomax-Smith, as being especially critical of the proposal, likening its appearance to a spaceship. That was some two years ago, before the building was even in construction. The article stated:

> 'If this goes ahead as it is designed, we will look back and we will not be proud of it,' she said. 'It will look like a spaceship has landed.'

She was addressing the council's Development Assessment Committee which was considering its response to the state government's expansion plan. The article continued:

> One councillor who defended the expansion plan, Mr Michael Harbison, sought the removal of several clauses from the council's response. This prompted Dr Lomax-Smith to suggest he was 'neutering' the council's submission. 'It's no good being polite to the architect, it doesn't do us any good,' she said. The council particularly wanted the northern facade, including its huge glass wall, to be reduced in bulk and scale.

Dr Lomax-Smith said:

> People don't come to Adelaide to sit in a darkened room for a convention. . . the economic viability of the city depends on the parklands.

The article continued:

> However, Mr Harbison said that the view from the centre's glass wall would enhance people's appreciation of Adelaide. 'It is a wonderful view which will do everyone's appreciation of the parklands and architectural heritage a lot of good,' he said.

I put to members that one of those arguments is right and one is wrong, and I do not think there would be any disagreement that Mr Michael Harbison was spot on when he said that this is a wonderful addition to Adelaide's Convention Centre. In my view, it is open and inviting. It encompasses the best features of Adelaide to visitors. Its architecture is in sympathy with adjoining architecture and complements the Festival Theatre. Its scale provides a balanced counterpoint to the Festival Theatre.

In spite of its scale, its glass facade provides reflections of the adjoining parklands. It presents a completed project, unlike the adjacent Hyatt Hotel, and members here would be well aware of the shortcomings of the $350 million ASER development under the aegis of the Bannon Government. I suggest that members might like to travel slowly down towards the Morphett Street bridge and just look at the beauty of the new Adelaide Convention Centre during the daytime or particularly at night, or drive along Memorial Drive, on the bank opposite, to look at the new building at its best.

I compliment the government on this project, which will be just one of the many improvements along the river bank. There is an upgrade of $20 million to the Festival Theatre and $13 million on the Promenade and Riverbank project link between the Promenade and North Terrace, which will bring people into this area for the first time. This is very much a community project. The Adelaide City Council is contributing $2 million to the river walk. Sky City Casino and the Hyatt Hotel will also contribute to the joint marketing and management of that precinct and there will be commercial development opportunities for cafes and restaurants along that promenade area.

The extensions will increase the total area of the Adelaide Convention Centre by 110 per cent. The banquet area will accommodate nearly 5 000 guests, in addition to the 1 800 guests who are accommodated in the existing building. The kitchen capacity is 9 000 meals a sitting or 27 000 meals a day. In particular, I compliment the Adelaide Convention Centre's CEO Pieter van der Hoeven, who has a well-deserved international reputation for his management of the Convention Centre.

It is pleasing to see that the Convention Centre faces the Torrens. I remember Jane Lomax-Smith attacking it because it faced away from North Terrace. The glass wall of the new Convention Centre, 18 metres at its peak and 180 metres

long, equal to more than the frontage of nine home building blocks, will take full advantage of the Riverbank Promenade and the Adelaide climate.

Time expired.

KNOX, Mr ANDREW

The Hon. R.K. SNEATH: I dedicate this speech to my very good friend Andrew Knox. Andrew was 29 years old and six foot six, which sounds a bit like an All Australian ruckman. However, he was six foot six of compassion, intelligence and commitment. I will speak about some of the lighter things that I remember about Andrew.

I flew to Queensland especially to recruit Andrew for the South Australian Branch of the Australian Workers Union some five years ago. I used all my persuasive skills and the fact that his family was in Adelaide to convince him that he should come home. Thankfully that worked and Andrew joined the Australian Workers Union as a workers' compensation and industrial officer, and so began a wonderful friendship.

Andrew had many successful determinations in the commission and in the workers' compensation tribunals on behalf of the membership, and along the way we had some disagreements on various tactics to be used. When I was proved right, Andrew would walk off mumbling, 'Know-all bloody old shearer.' When he was right, I would say, 'Bloody academic.' It was a wonderful blend and he was only too keen to learn, not only about industrial relations and other matters at universities but also about industrial relations and bush law that I had accumulated in the shearing sheds, and he had a wonderful respect for both.

Andrew was a person who committed himself to improving his knowledge and to bettering himself for his employer and the membership. Most times Andrew walked into my office I would say, 'What damn course do you want to do now?' At the time of the tragedy in America, Andrew was still studying: he was doing a business management course online from Adelaide University.

Andrew's ability to make friends was unbelievable. He had many friends in all walks of life and found something good in everybody. Many of the calls that I have received and that Andrew's parents have received are from people we have never met—calls from university professors, trade union people, politicians from all sides and from people all around the world that he had made friends with on his travels. One such friendship that we used to joke about was that with Senator Stott Despoja. We used to say that there are no mixed marriages in the AWU and that if he married her he would not be able to vote for her. We had a call from Senator Stott Despoja and I know that she valued her friendship with Andrew. For proof of Andrew's wonderful character and nature, one only had to be aware that he remained close friends with all his ex-girlfriends, which everybody would agree is very difficult; obviously not for Andrew.

Andrew sussed out the political parties and made a commitment to the Australian Labor Party. He was looked on as a future member of parliament or a trade union leader. One of Andrew's very close friends, Cheryl Scopazzi, had been holidaying with Andrew at the time of the tragedy and has now returned to Australia to the comfort of her family and friends with the precious memories of their time together in New York. Andrew's parents also had the opportunity to spend some precious moments with Andrew for a few days before the disaster, and were in the air, flying home from New York, at the time of the attack.

I take this opportunity on behalf of Andrew's parents to thank all members of both Houses for their contributions yesterday and on their behalf to pass on their thanks to the rescue efforts of those many wonderful police, firefighters and volunteers in America and their sympathy to all the families who have lost loved ones. Along with Andrew's many friends, I will hold many precious memories of the good times I was fortunate to have with the young fellow whose laughing face I will always see, who was a great comrade and who I am proud to call my mate.

VIRGINIA HORTICULTURE CENTRE

The Hon. J.S.L. DAWKINS: On 10 August I was pleased to attend the declaration of the election of the first elected board members of the Virginia Horticulture Centre (VHC). The Virginia Horticulture Centre is a non-profit organisation that was established in late 1996 as a focal point and catalyst for the development of horticulture on the Northern Adelaide Plains. It conducts a wide range of training activities, hosts inbound and outbound trade missions and represents the local industry on important issues such as chemical registration and pest and disease control.

The four successful candidates, who come from across the horticultural industry in that region, are: Mr Nick Mecozzi, a parsnip, carrot and potato grower; John Balestrin, a bunchline grower; Mr John Clark, a potato and brassica grower; and also Mr Ho Van Mai, a greenhouse grower and tomato, capsicum and cucumber packer. I understand that Mr Clark was subsequently elected as chairman of the new board. The retiring VHC board Chairman, Malcolm Lewis, commented to me that competition was tightly contested with just six votes separating seven of the eight candidates. He also said that the fact that the vote came out so evenly indicates that the candidates truly reflected the make-up of that diverse community.

The counting of the sealed postal ballots was supervised by the returning officer, Mr Tony Clark of Mondello Farms. He was assisted by scrutineers, Paul McGrath, Manager of the Virginia Community (Bendigo) Bank and Tony White, Manager of Water Reticulation Services Virginia, the organisation which distributes recycled water from Bolivar to the Virginia region. The Virginia Horticulture Centre Director, Gerry Davies, told me that the four new board members have been involved in the horticultural industry and the Virginia region for many years. He also told me that each of the new members would bring a depth of experience and industry knowledge to the operation of the centre, and that they had expressed a desire to ensure that the growers' voice was heard and that the centre tackled the important issues for the local vegetable industry.

In addition to those newly elected, there are four other members of the Virginia Horticulture Centre board of management. These members are appointed by the main stakeholders and supporters of the centre. First, the General Manager of Services with the Playford City Council, Ray Pincombe; secondly, the Primary Industries and Resources SA Industry Development Manager for Horticulture, Barry Philip; thirdly, the President of the Virginia Irrigation Association, Peter Tsiros, who is also an almond grower; and, fourthly, another Virginia Irrigation Association committee member, Morris Nicol, who is a broccoli grower. I was pleased to work with the previous board of the VHC and

compliment it on its important role in this vital horticultural region of South Australia.

In addition, I look forward to a continued association with the VHC, and particularly its elected board members, as it works to advance the widely varied industries in the Virginia area. Earlier this afternoon I noted the contribution from my colleague the Hon. Caroline Schaefer in relation to her role with the Food for the Future Council and her representation of the state government in Singapore recently for the opening of the Australian promotions and the wonderful results that followed. I know that the widely varying horticultural industries in the Virginia region greatly respect and acknowledge the help that they have received over a number of years from the Food for the Future Program.

Of course, it is also highly valued in the Riverland region in which I undertake a lot of work. However, I do know that the people involved with the Virginia Horticulture Centre in particular greatly acknowledge the work of the Hon. Caroline Schaefer and others involved with the Food for the Future Program.

ABORIGINAL HERITAGE

The Hon. SANDRA KANCK: In question time I raised the fact that in August this year an article in the influential academic journal *Australian Archaeology* had revealed the destruction of Aboriginal stone tools and remnant faunal material encased in quaternary dunes at the Port Augusta aerodrome in 1998. On the evidence available, it is possible an archaeological site as significant as Lake Mungo has been lost forever. Flinders University archaeologist, Dr Keryn Walshe, the author of that article, conducted a survey of the site with representatives of four Aboriginal groups connected with the area and known as the Port Augusta Working Group.

The Port Augusta Working Group gave clearance for the destruction of an area measuring 500 by 200 metres to enable the extension of the airstrip. The working group report also identified an adjoining site as potentially of great importance. It is that area with which I am concerned. In an act either of wanton cultural vandalism or dreadful bungling, the dunes on the adjoining site were bulldozed as part of the extension. When I raised this matter via the media, the minister claimed:

> Dr Walshe's own report says there are no Aboriginal sites of significance within the area of extension.

In fact Dr Walshe's report states:

> It is strongly recommended that the remaining campsite concentrations located within the dune complex between the existing runway and Sandy Creek to the west be preserved, fully recorded and advice on appropriate management and protection of the remaining site complex be sought from the Heritage Section, Division of State Aboriginal Affairs.

The minister's mendacious statement implies that she authorised the destruction of the dunes running to Sandy Creek.

If so, she has failed to protect a site of potentially tremendous significance and almost certainly breached the requirements of the Aboriginal Heritage Act in the process. Before authorising the destruction of an Aboriginal site, the minister is required, by virtue of section 12 of the Aboriginal Heritage Act, to determine whether the site is entered in the Register of Aboriginal Sites and Objects and, if not, whether it should be registered. We know that not a single item has been added to the register in the eight years of Liberal government. It would be impossible for the minister to uphold the purpose of the act and not enter a site as potentially important as this one on the register. Consequently, the minister has breached section 12 of the act.

Members will remember that last year the minister claimed Aboriginal sites and objects recorded in a central archive were afforded the same protection as if placed in the register. That deception has now been completely exposed. The alternative explanation is that this was an unauthorised destruction of the site. Under section 23 of the Aboriginal Heritage Act, a person must not, without the authority of the minister, damage, disturb or interfere with any Aboriginal site. The penalty for doing so is a fine of $50 000 in the case of a body corporate and $10 000 for an individual. If this was the case, why has the minister not launched an investigation and prosecution of those responsible?

This episode represents a careless new low in the preservation of Aboriginal heritage and demonstrates that the current Minister for Aboriginal Affairs has little respect for Aboriginal heritage or her duties under the act. I urge the state government to send a fully equipped archaeological team to assess the heritage importance of any vestiges of this quaternary dune system. The Premier must now remove the Minister for Aboriginal Affairs from her position. She is unfit for the job.

FEDERAL ELECTION

The Hon. T. CROTHERS: I thought today that I would spend my five minutes discussing matters that have some political topicality. I therefore propose to address the subject matter of the Hon. Kim Beazley versus the Hon. John Howard in the particular political fiesta that is going on in the lead-up to the federal election.

Let me first say that I consider John Howard to be an extremely lucky Prime Minister, and that he shares in the luck that I think accompanied the Hon. Robert Menzies in his tenure of office as Prime Minister of this nation. I well recall that the Hon. Mr Menzies was at electoral death's door in an election when up bobbed the Petrov affair, and the handling of the affair by the then leader of the Labor Party opposition, the Hon. Mr Evatt, was such that it enabled the Hon. Robert Menzies to skate in in an election he must surely have lost.

The parallel is there between the Hon. John Howard and the Hon. Kim Beazley. I believe that the Hon. Kim Beazley, by his inept handling of recent events, has created a position whereby the Labor Party has gone from facing an election that it undoubtedly would have won to facing an election that I think now they should consign to the bin of losses. Let us just look at some examples.

The Hon. Sandra Kanck interjecting:

The Hon. T. CROTHERS: I have been saying for some time that Kim Beazley, in my humble view—and I know him—is not the man to lead the Labor Party; that the Hon. Simon Crean is the person to lead the Labor Party. Members will notice that the Hon. Simon Crean has gone awfully quiet in the past several weeks. It is almost as if he knows that his time is coming fast.

With respect to the illegal refugees, or the boat people, the way in which the Howard-led federal government dealt with that (and the way in which the Hon. Mr Beazley and the Democrats dealt with it) showed, whether they were principled or not, that amongst the electorate it was a popular decision. It became even more popular after the terrible disaster that occurred in the United States with the terrorists who were able to take at least 7 000 lives. Quite a number of those terrorists came over the Canadian border. As we all

know, the Canadian border is like what there used to be between Australia and New Zealand: no customs, no passports needed, come and go as you please.

That is the same as it used to be with New Zealand until we found that they were using that position with respect to smuggling drugs into Australia. So, according to the next public opinion poll, Howard was even more popular. As if to compound the issue, they then tried to get legislation into the Senate that would have put the Cocos Islands, Christmas Island and the Ashmore Reef off limits as a country, so that these people could not avail themselves of our courts.

These people are illegal refugees. We take our share of refugees, and a lot of them are paying $50 000 to get in. I do not accept the argument that they sold up property, because I can tell you that if they were political refugees they would be well watched by their government, and the minute they saw them selling anything they would arrest them. So, I do not accept that, and there is the question that my 16-year-old grand-daughter asked me: where are they getting such money?

The second place where I think Kim Beazley made a mistake was in respect of Ansett, when he wanted to pump in billions of dollars of public money because of Ansett's $2 billion debts to its creditors and the $600 million it owed to its employees when it was dumped by New Zealand. It looks as though Air New Zealand has taken away a lot of the spare parts. Of course, the answer that the unions gave was to block Air New Zealand. That is the source of our biggest tourist income in this state, so you create more unemployment in the hotel and service industry. I found that appalling.

They are blaming the government but I do not believe that the government is to blame, except for this one point: It should have acted a long time ago to protect the statutory entitlements of workers. The Hon. Mr Beazley made another mistake here. In my day in the Labor Party we used to say that the profiteers wanted to privatise the profits and socialise the losses. I never thought I would live to see a Labor Party or a union movement—

Time expired.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ECOTOURISM

The Hon. J.S.L. DAWKINS: I move:

That the report of the committee concerning ecotourism be noted.

On 26 July an interim report on ecotourism was tabled that included findings and recommendations. This final report that I speak to today incorporates all the relevant supporting evidence and a further refinement to the findings and recommendations. In November 1999 the House of Assembly passed a resolution requesting that the Environment, Resources and Development committee investigate and report on ecotourism in South Australia, having regard to:

(1) The appropriate scale, form and location of ecotourism developments;

(2) The environmental impact of such developments;

(3) The benefits to regional communities and the state of such tourism;

(4) The strategies for promoting ecotourism; and any other relevant matter.

This inquiry arose as a result of concerns regarding the impact of tourism on ecologically sensitive land; the methods being used to deal with managing this issue; and the limited recognition of South Australian ecotourism in the annual national tourism awards. This inquiry has been timely, since 2002 is both the International Year of Ecotourism and the Year of the Outback. Submissions were received from groups such as government agencies, local government bodies, industry representatives and operators, academics and individuals.

In addition, the committee spoke with in excess of 50 regional participants and heard numerous witnesses from banks, Planning SA, the National Parks and Wildlife Service, the South Australian Tourism Commission and universities. Familiarisation trips were undertaken to Deep Creek Conservation Park, Kangaroo Island, Naracoorte caves and northern and western South Australia. These latter trips took in a number of towns and regional ecotourism destinations including the Head of the Bight, the Gammon and Gawler Ranges, Arkaroola, Ceduna, Elliston, Parachilna, Streaky Bay, Whyalla, Wilpena and Wudinna.

This approach of meeting with the various stakeholders at their place of operation facilitated more open communication and gave the committee a better understanding of the environmental, commercial and administrative issues that were important to them. The National Ecotourism Strategy defines ecotourism as follows:

> Nature-based tourism that involves education (in the first instance) and interpretation (that is, explanation of what people are looking at and experiencing) of the natural environment and is managed to be ecologically sustainable.

This inquiry has confirmed the significance of tourism to South Australia. In 1997-98 tourism consumption totalled 4.5 per cent of Australia's total GDP and 6 per cent of its employment. An independent economic analysis indicates that tourism in 1999 was driving almost 10 per cent of South Australia's economic growth through the export it generates. However, South Australia's share is only 6 per cent of the national tourism market. Indeed, South Australia ranked last in terms of being associated with nature based experiences.

The World Tourism Organisation claims that 27 per cent of international tourists (that is, 600 million tourists) who travelled to countries outside their boundaries in 1997 travelled for ecotourism purposes. Ecotourism is the fastest growing sector of world tourism. It is a form of nature based tourism where the emphasis is on a quality and not quantity experience of a country's natural assets. Today, environmental issues have entered the mainstream of global life. This has resulted in substantial shifts in consumer priorities and demands to products that are environmentally sustainable.

An increase in demand for ecotourism products is representative of those shifts, and ecotourism is widely considered (both in Australia and overseas) as an area of the tourism industry with significant growth potential. To many, ecotourism is seen as both an important niche market and a catalyst for encouraging the tourism industry to be ecologically sustainable. Ecotourism should be an impetus for conserving natural areas.

This should be done through the provision of resources—both financial and physical—for environmental conservation, management, repairing degraded ecosystems and improving biological diversity. There are outstanding opportunities to develop South Australia's natural assets in a way that promotes economic and community development while

protecting and enhancing natural assets for current and future generations.

It is essential that ecotourism be seen as a long-term activity, because unless properly managed it can result in damage to or even loss of the resources on which it depends. These opportunities need to be appropriately developed and marketed both locally and internationally in order to tap into a range of high yield, low impact niche markets. The findings of this inquiry were extensive and covered many facets of industry development from market research and marketing to infrastructure, operator training and development, funding and community development.

Three particularly significant features of the report are: an emphasis on developing cultural tourism, including indigenous and settlement history, in conjunction with ecotourism; the need for further resources for improved management of national parks; and regional infrastructure. Cultural tourism with respect to both European and Aboriginal heritage can be used to compliment ecotourism. International visitors in particular are interested in seeing and learning about Aboriginal arts and culture at their source, and Aboriginal participation provides many social and economic benefits.

A valuable opportunity exists to retain unique Aboriginal heritage traditions and educate tourists while ensuring their communities benefit from that direct involvement. Specialised training programs need to be developed to promote further involvement of Aboriginal people in our national parks system and to prepare them for involvement in tourism and park management activities. While the primary role of the National Parks and Wildlife Service is conservation, the network of parks has great potential for ecotourism in South Australia. The National Parks and Wildlife Service has done much to facilitate tourism so far as it is consistent with its conservation role through providing high quality infrastructure and facilities for visitors. Waste left behind by visitors in natural areas is currently a major issue. There is a need to develop appropriate waste management strategies that may range from the provision of toilets and garbage disposal to a requirement for bush walkers and campers to remove their own waste.

Planning is currently under way for 35 national park management plans to be drafted. It is important that these plans are put into practice in the near future. Use of marine parks to achieve protection and display of significant marine features such as sea lions, fur seals and dolphins should also be further considered. Whyalla's cuttlefish aggregation is a high profile example of an area with significant international interest where a species population has almost declined to unsustainable levels. There is a need for funding for planning and implementing infrastructure such as signage, tracks, maintenance and waste disposal to satisfy the demand for good interpretive materials and facilities.

The committee also noted that the costs of infrastructure such as power and water in remote regions is a hindrance to growth in this sector, and it also noted the need for upgrading of regional airport facilities and the provision of affordable and regular air services to these areas. I should say that the infrastructure situation is not something that just obviously affects the tourism sector or, indeed, the ecotourism sector. This government has already done quite a bit of work in that sector in regional areas. However, we are faced with a small number of people living in most of those regions and having to work over large distances.

The matter of regional airport facilities and regular air services has been complicated in recent weeks given the Ansett situation. I am pleased to see that this government and the federal government have been able to help Kendell Airlines get back in the air in the interim. I am sure that that will assist some of the ecotourism destinations to experience greater patronage than they have in the past fortnight. Certainly, those two aspects are not easy to address. The committee certainly wanted to emphasise them. Some other key findings in the report include:

- limited specific data analysis of the ecotourism market profile;
- the need for further product development; and
- the need to address off-peak domestic seasons by the development of international markets.

That is important. If we can make sure that people come here away from those normally hectic seasons of school vacation periods, it has to be a great advantage to our operators. The findings continue:

- the need for well-trained operators and guides for effective interpretation and ethical delivery of ecotourism products;
- the strategic advantage in gaining national ecotourism accreditation and the need to increase the number of accredited operators;
- the need for stronger ties between government and the education sector to coordinate research, analysis and product development;
- the need to pursue world heritage listing for key sites in South Australia in addition to the Naracoorte caves; and
- the importance of high yield, low impact niche thematic based tourism.

I have an interest in this area. I was in Coober Pedy last year. I understand there is a rapidly expanding demand for people to go star gazing, and Coober Pedy is one of the best places in the world to do that. Certainly Alice Springs has had a reputation for it, but apparently Coober Pedy provides the people who are very keen on that sort of activity with probably the best views in the world. We can look at a number of other niche markets that are appropriate for the outback areas of South Australia in particular, and the Hon. Mike Elliott who is a member of the committee talks quite a bit about the people who come from all over the world to look at certain varieties of birds in the Outback.

The Hon. Carmel Zollo interjecting:

The Hon. J.S.L. DAWKINS: A range of varieties I understand. The final key finding was the lack of investment capital available for the development of small high quality ecotourism products. The committee has made 12 recommendations to address these findings. For the most part these recommendations are addressed to the Minister for Environment and Heritage and the Minister for Tourism. However, an overarching theme of cooperation needs to be strengthened beyond that which already exists. Cooperation at all levels will maximise opportunities for remote regions in particular but also the state as a whole.

Communities need to develop attractive opportunities for visitors through strategic cooperation to maximise appropriate tourism infrastructure, local economic return and employment opportunities. A concerted effort in the immediate few years will be an important step in addressing the development of this significant growth sector for the benefit of the community, the environment and the economy of South Australia. As has always been the case, the committee put out another unanimous report. I would like to add that we were completely united in our belief that South Australia has enormous potential to develop the ecotourism market.

I know that this state is pursuing the Year of the Outback 2002 probably in a greater way than are other parts of the country, and I welcome that. I am excited by the great potential that we have for further development in communi-

ties, particularly in the out-of-council areas, in relation to ecotourism.

In closing, I thank all those who made submissions and gave evidence in relation to this inquiry. I thank the Minister for Tourism, the Minister for Transport and Urban Planning, the Minister for Environment and Heritage and the numerous staff members of the National Parks and Wildlife Service who assisted us. I also acknowledge the work of our committee secretary, Mr Knut Cudarans; the research officer, Mr Stephen Yarwood; and, more recently, Mr Philip Frensham, who has taken over Mr Yarwood's role in his absence. I look forward to the ministerial responses to this report.

The Hon. T.G. ROBERTS: I rise to indicate my support for the tabling and noting of the report on ecotourism. The report is an addition to an interim report that was tabled in the last session. For administrative reasons, the committee needed to signal to parliament that it had a report in its final stages of preparation and that it wanted to indicate to those people who were interested enough to follow the findings and the recommendations of the committee that the full report would be tabled in this current session. This is the result.

The inquiry arose by virtue of a number of members on the committee discussing the value and the potential value of ecotourism in South Australia. The chair of the committee raised a concern about the lack of gongs, or awards, that have been received in South Australia in relation to the National Tourism Awards. As a member of that committee, I did not find that a strong enough motivating factor to hold an inquiry, and I am sure that the chair did not mean it in that way, either.

The committee's membership covers all parties—it is the only committee in this parliament which has members from the government, the Labor Party, the Democrats and the National Party, and it also includes a majority of regionally based members of parliament—so it is unique. It was a widely accepted and welcome brief to try to take a snapshot of the state in relation to ecotourism and cultural tourism—to compare what is happening in South Australia in environmentally sensitive areas in relation to development; to compare with what is happening interstate and how well we are faring; and if, as we thought might be the case, we are dropping behind the national rate of visitations per capita, what can be done about it? Is infrastructure support required? Is advertising promotion required? Do we have the icons—the geographic features—that other states have? If we do not, how do we promote ourselves to attract the part of the national dollar that is competed for by other states in international tourism and how do we encourage people from other states to visit South Australia?

Most of the promotional dollars that are spent in advertising, particularly on television and in the print media, are directed at encouraging visitors to other states, in particular, the Northern Territory (which is the area that most compares geographically with our state) and areas of south-western Queensland, north-western New South Wales and western New South Wales. How do we promote our state to try to get some spillover effect from the international tourist community, and how do we get people in the eastern states and in the west to consider South Australia as a destination for environmental tourism?

I do not think that any committee member was surprised that the potential value of ecotourism and cultural tourism in regional areas lies in the fact that it will replace some of the job opportunities and the business opportunities where the decay and the lack of growth are starting to impact on communities. Again, it is no surprise to any regional and rural based member of parliament that the infrastructure that is required to foster and target environmental tourism needs to be financed to counter the loss of job opportunities through technological advance, particularly in regions where the traditional rural industries have been deteriorating for some considerable time. It is quite clear that rural communities will have to look at environmental tourism and cultural tourism in an aggressive way and start to market, collectively, much better than they have in the past.

The committee found that a lot of communities compete against each other in their quest to attract tourists and that there is not a lot of widespread cooperation between tourism bodies in regional areas. In fact, it found, particularly in the southern Flinders Ranges, that there is a lot of competition that is not particularly helpful to aggregating infrastructure opportunities in relation to transport, accommodation and those sorts of issues. I hope that, as a result of the visits that we made, the meetings that were set up and the discussions that the committee generated, there is a lot more cooperation between the tourism commission, the regional tourism boards and tourist operators.

I think that one of the committee's key findings is that, if we can achieve cooperation between the tourism commission, the regional tourism bodies, the tourist operators and potential tourist operators, South Australia will be able to identify the necessary infrastructure and training and education programs to bring people who have the attitude, the education and the capital into the marketplace to satisfy the unmet demand and, indeed, the demand that is already being placed on the industry.

This report, if it is read widely enough, should continue the discussions that have been going on for some considerable time. Perhaps the Environment, Resources and Development Committee will have another look at environmental and cultural tourism at a later date to report progress on the snapshot that we observed whilst travelling in regional areas.

The committee found that Kangaroo Island is an icon which is recognised nationally and internationally and that the marketing features for Kangaroo Island are probably stronger than those for any other part of the state, excluding Adelaide itself. Although we found that that is the case, we also found that the benefits of that recognition are not being grasped. Many people are starting to aggregate their efforts, particularly in terms of transport, and we are starting to put together better packages and better ways of managing visitation than has occurred in the past. However, I still think there is room for more attractive transport avenues from the mainland to Kangaroo Island and that more opportunities should be made available for tourism packages using aircraft.

Unfortunately, the collapse of Ansett and Kendell Airlines will not assist regional areas to advance their tourism packages for regional and remote areas. In many cases, airstrips are important to take people into remote and regional areas and to avoid the loss of time. It is important to be able to get tourists into and out of the state by using air travel rather than four-wheel-drive vehicles or buses.

Backpacker facilities were a target for investigation to see whether they are adequate in this state. We found more variations in accommodation starting to appear in an attempt to suit the needs and requirements of backpackers, but in the main we found that backpackers do not rely heavily on integrated transport facilities. When regular transport is not

available they have to use a package or find their way through the state by hitchhiking. In the summer tourist season (between November and March), hitchhiking and driving older cars in many remote and regional areas is not particularly safe.

Regarding some of the recommendations that were made (particularly in relation to the west, the north-west and the north-east) in terms of improvements to allow visitations by backpackers and tourists generally to national parks and more isolated areas, the committee found that one of the key factors for growth has to be a transport system that will allow the safe movement of tourists through those areas.

The committee also found that there is a lack of accommodation opportunities in many of the areas that we visited. It is a bit like the chicken and the egg: investment is not going into areas that require sensitive accommodation built in a style that will melt into the environment. Very few organisations, individuals and companies are prepared to put in the money until the numbers of tourists are built up to a point where they feel it is economically sustainable, whereas the committee was looking at the importance of the industry being environmentally sustainable in the first instance with the type of development and accommodation that is appropriate for those particular environments.

Accommodation and transport infrastructure requirements for the state need to be looked at with the assistance of the Tourist Commission, regional tourism boards and tour operators to make sure that we set up an integrated network which people will feel safe to use. Whether it be light aircraft integrated with four-wheel-drive vehicles and tour buses, those standards have to be maintained so that people feel safe when travelling throughout our state.

We do not have the assets of the eastern states, particularly Queensland, New South Wales and Victoria. We have problems with access to water. Access to potable water in many of our regional and remote areas is a major problem. Some investment programs are being looked at in relation to electricity. Access to electricity in remote and regional areas is another problem for environmental tourism. I understand that money is being spent at commonwealth level and now at state level to independently provide electricity generated from sunbanks or sun collectors in isolated areas.

This must be looked at seriously if we are to get the comfort zones right that international tourists are used to. It need not require large investment and it need not be out of character with the sensitive areas that we need to protect; it can be styled to suit the individual requirements of the environment. If wind and solar power are to be used in these isolated areas, now is the time to put together investment programs so that we can have stand-alone tourist facilities serviced by natural, renewable and resourced electricity generators such as solar power and wind power.

The availability of toilet facilities in remote and regional areas is an issue which needs to be grappled with. We saw the best and the worst examples of those facilities. There is a need for innovative design in toilet facilities for remote and regional areas that do not impact on the environment and are able to be used safely.

The Hon. R.K. Sneath: The French ones.

The Hon. T.G. ROBERTS: The French ones. What is that: a bone in your mouth and grab a bar?

The Hon. R.K. Sneath interjecting:

The Hon. T.G. ROBERTS: I don't think *Hansard* heard that. We had a look at a place on the West Coast that put in an elaborate toilet system that impacted on the very scene that tourists would have come to see. I refer to the settling pond for the toilet system which had a certain visual impact. Certainly, on days when the wind was blowing in the wrong direction, it would have had an odour impact. The recommendations we made in relation to any isolated development were on the basis that the facility was not to impact adversely on the very thing that people had flown, driven or been organised to see.

I am surprised that the geographical areas in the state that did not contribute to the committee's report were the Riverland and the South-East, although the Upper South-East's Naracoorte Caves were certainly on our targeted familiarisation trip. It was certainly well worth the committee's visit to familiarise ourselves with the Naracoorte Caves. I would have thought that all the regional tourism boards and bodies, and even local government, would have made some contribution to the report, either by writing to the committee or by issuing invitations to inspect. However, I assume that it does not mean that they are not interested in promoting environmental and cultural tourism within their regions. It may mean that they are waiting for the outcome of the report and, upon reading it, to assess and make comment on it. I hope that that will happen.

A major problem of a lot of developers, which was evident in the submissions and talking to people on the ground, was raising capital for projects that they knew were worth while and would be successful. In a lot of cases, their major problem was convincing city based bank managers, or bank managers who only had experience in metropolitan areas, to make assessments on what would work in regional and remote areas as far as destinations were concerned. Most of the operators found it very difficult to fund programs with the normal capital ventures through banks, with the hoops the banks make operators jump through. In a lot of cases, the operators avoided approaching traditional banks for loans because they did not want to waste their time filling out forms, going to meetings and then having their projects rejected.

We supported regionally based banking facilities familiarising themselves with the opportunities that are presenting themselves through ecotourism, and that capital be provided on a similar basis to how any financial institution lends money to operators. The only call they were making was that financial institutions familiarise themselves with the projects they were trying to establish to ensure that they understood exactly what they were trying to develop, and what the potential marketing and returns would be. In the main, the evidence was that not a lot of investigatory work was being done by financial institutions in an accurate enough way to make a decision to lend at market rates the moneys required for those projects to go ahead. So, either the state has to be more aggressive in its dealings with capital bodies themselves or banks, credit unions and other financial institutions need to familiarise themselves with the potential for environmental tourism and the risks involved.

It is not all one way; a lot of operators have gone through difficult times and have not emerged intact on the other side. There are quite a number of second and third generation bankrupts in tourism in remote and regional areas. I suspect that their circumstances need to be a consideration for governments as to what needs to be done. If you take the circumstances in which some operators find themselves through no fault of their own—after trying to put together regional infrastructure and tour operation programs, then a major airline collapses along with the regional airlines—a lot

of people out there who were looking at very fine funding lines for margins now find themselves in difficulty. Their management structure and business plans were adequate but, through no fault of their own, unless the problem is fixed, tourists in the numbers required will not be able to reach the tour destinations as the tourist operators would like them to. So, there needs to be an emergency plan, if you like, at a state and national level to assist. When these disasters befall large business, the knock-down effect on small business is disastrous. It is not something that we looked at in the context of the report, but I hope that the government will look at the dilemma that these operators face if the crisis continues for much longer.

Education and training programs that are required for operators and guides were given a lot of time and discussion. The integration of universities, TAFEs and secondary school curriculum was seen to be important to get operators licensed and their credentials to a point where they are internationally recognised and nationally accredited.

The other issue that we picked up, rather than putting it in as a term of reference, was the integration of cultural and settlement history. It was the view of the committee that if something is done urgently with a lot of the early settlers cottages around the state, particularly those that pepper the West Coast, the North and the Flinders and other parts of the state, many of which are in a state of disrepair, then early settlement heritage history can be linked to Aboriginal occupancy and their activities with cultural tourism. I think that there is a lot of potential for growth there that lies unrecognised and untapped.

As far as Aboriginal communities in remote and regional areas are concerned, cultural tourism and ecotourism are inextricably linked and we should find the wherewithal to try to make opportunities that the protection of Aboriginal heritage and environmental tourism can create. I have to use the example that has been given in the Council today about the destruction of the heritage issues associated with the Port Augusta airport. The very thing that interstate and overseas tourists want to see, particularly Europeans and Americans, is the cultural heritage that existed 30 000 or 40 000 years ago. There are not too many other countries in the world that are still discovering the origins of their country and of their original inhabitants.

We are privileged to be living alongside a race of people whose heritage is still being discovered and identified. If it can be done professionally, if it can be done sensitively and if it can be done with the assistance of indigenous people in rural and remote regions, it offers some hope for the advancement and protection of their culture, as well as providing a live museum for exposing to international and national visitors what living alongside another culture means to us all.

It is incumbent on everyone to protect not only our own heritage through the protection of our settlers' identification and history but also our indigenous history, so that art and culture, dance and theatre, and all the other activities associated with Aboriginal culture can be displayed and used in a way that is not exploitative by putting packages together so that the indigenous people can be proud to showcase their history and heritage. That is in contrast to what is happening at the moment, where in most remote communities many young people are being made to feel ashamed of their culture and they are aping our culture to a point where it is destroying their own. Our culture is a pervasive one and, in cases where western culture meets aboriginal cultures all around the world, the indigenous cultures tend to be swamped if they are not protected by those who know what the consequences of no protection or little protection mean.

Ecotourism, environmental tourism and cultural tourism give us an opportunity in this state to bring together those aspects of indigenous culture that can be promoted in a way to present opportunities to allow indigenous people to explain the physical and geographical aspects of environmental tourism in particular regions. Tour operators are crying out for assistance from indigenous groups whose people have been attached to the land. In the Flinders Ranges, in particular, some good projects are being set up by indigenous people alongside other, well-funded projects and they spin off them. They need to be aggregated, integrated and set up on a cooperative footing, and that is where funding becomes important. It may be necessary to set up a separate funding organisation if the traditional banks and lending institutions do not come to the party, but it is something that governments have to consider when viewing the advancement of cultural tourism in this state.

I will not go through the whole report, but they are some of the issues that the committee found and grappled with. I commend the report to all regional development bodies and to all members of parliament to read and to try to get circulated as widely as possible. As a member of the Environment, Resources and Development Committee I would welcome any comments and suggestions that people have. We may look at the issue of environmental or ecotourism at a later date to see how it is progressing, to see what projects are working and to determine the formula for success and also to look at the projects that have failed between our investigating and visiting and to see why they failed.

The Hon. M.J. ELLIOTT: I am a member of the Environment, Resources and Development Committee and have been a long-term advocate of ecotourism. In fact, I will never forget when, on releasing the Democrats' tourism policy in the final four weeks of the 1993 election, the *Advertiser* took the unusual step of taking some note of what we had to say and devoted its editorial to attacking our policy, which said that ecotourism and cultural tourism were the greatest potential for tourism in South Australia and that we needed to focus in that area. As I said, it devoted an editorial to getting stuck into what it called a tooth fairy tourism policy. I was glad to see that, about three years ago, although it did not retract what it had said before, another editorial commented on how promising ecotourism was looking. I suspect it was written by the same person, but one gets used to that in this business.

Nonetheless, this is a unanimous report, as have been all reports of this committee since it was formed. Regardless of political affiliation, country or city background, etc., a unanimous view was formed that the potential for ecotourism in South Australia is significant and, also importantly, that at this stage we are significantly underperforming in this area. That has to be a cause of concern, although one of the advantages of being a late entrant into the tourist market in any significant sense is that you may have avoided making the mistakes that have been made in other places. I hate to think, for instance, that if the original proposed development for Wilpena Pound, the one that was to be built along the escarpment of the ABC Range facing St Mary's Peak, had gone ahead, it would have been an abomination and it would have been counterproductive to long-term successful tourism in South Australia.

People can go anywhere in the world to stay at five-star hotels and to see marinas—there are a whole range of things that are everywhere else. If we are to be successful in tourism, we need to be different. We have a raw product in South Australia which is unique and which is in good condition. It might be fair to say that some farmed areas have been over-grazed but even in the Flinders Ranges we can see that some of those areas are in recovery. There has been the re-establishment of salt bush in some areas of the Flinders Ranges that have not had that plant for 30 or 40 years. It is all growing in rows because it has been direct seeded, so it does not look terribly natural but, given another 20 years—it will probably be something like that—we will see full recovery.

What I am saying is that we have a unique natural product. At this stage, people tend to focus just on the Flinders Ranges, particularly around Wilpena Pound, and perhaps on Kangaroo Island. However, the committee had the opportunity to visit many parts of the state and we are so lucky that there is so much remote, relatively untouched countryside, which gives us the capacity to have a large amount of low intensity development and which will give us an optimal result in every sense.

It will give us an optimal result economically because, generally speaking, ecotourists are big spenders, whether you talk about the backpackers—who do not spend very much per day but who stay for a very long time and who spend almost entirely within local businesses—or people who come for specific experiences, whether it be to see the whales at the Head of the Bight, to go to Arkaroola to look at the stars, or to go birdwatching; and people are operating in a number of places. Some of those people spend quite a significant amount. It is also worth noting that ecotourism is the fastest growing part of the tourism market and it is growing in those areas which, obviously, are most affluent.

It is growing in northern Europe, the United States and Britain, and there are even perhaps some signs of it in places such as Japan, although it would be fair to say that the Japanese tend to prefer travelling in tour groups, but even that is slowly changing. What is important is that we have a very clear view of what it is that we are trying to achieve and that we have a very good understanding of what ecotourism is. It is nature based, but many nature based tourism operations are not ecotourism. Being nature based, you can do it so intensively that you destroy what people have come to see, and it is not really noticed until it is all too late. Ecotourism is about coming up with something which will be sustainable in the long term, sustainable ecologically, economically and socially. It means that we need to think about the styles of developments we form.

We went through a period, particularly through the mid 1980s and perhaps even heading towards the early 1990s, where resort style developments were the way to go. I have already mentioned the proposal for Wilpena, but in fact a number of proposals were bouncing around. They were going to be placed in areas of great sensitivity and they would have been destructive, and while some people would have found them attractive, I do not think that, ultimately, they would have given the return that other forms of ecotourism will give.

I spoke earlier about the fact that potentially there are big dollars to be made. We spoke with people—and I will not identify them—who invite visitors from the United States, for instance, to stay in their own home. What they were charging people for that experience was quite mind-boggling. As I recall, it was pretty close to $180 or $200 a head per night to simply experience staying in the homestead and sitting down to meals—I am sure that they would not have been just meat and three veg, and I am sure that they incorporated some good South Australian wine as well, but nevertheless, they were significant dollar earners. As I said, we have barely scratched the surface so far.

I do not want to linger on the point too long, but, as I said, we have to think very carefully about what it is that we are trying to sell and we should not let the white shoe brigade sell something to us which we will later regret.

We should look at what we can to do to encourage the development of ecotourism, which is home-grown, which is owned and operated locally and which employs local people. We certainly saw a number of home-grown enterprises around South Australia. Some of them are award winners. For instance, the Prairie Hotel at Parachilna; the operation at Baird Bay where a fellow started off with a boat simply taking people out to see the sea lions and the dolphins and is now starting to expand with some accommodation options as well; or four-wheel drive tours into the Gawler Ranges. These operations were started off by locals, and, as with all small businesses, I am sure that they have had their ups and downs along the way.

The government can do things to help facilitate the development of these businesses, and certainly the report contains a number of recommendations along those lines. To begin with, when you are running businesses there is a very great need to have the right staff, and repeatedly businesses told us that it was difficult to get staff with the appropriate training and also very difficult to keep them. One of the more important recommendations within this report is that the government should examine the establishment of a group traineeship scheme in ecotourism, so that a person can go into a job in ecotourism and gain a qualification which could set them up for later.

What one would hope is that, rather than perhaps the odd city kid going for an adventure for 12 months or two years (which is where a lot of the staff comes from now in places such as Arkaroola, Wilpena and so on), increasingly they be drawn from the local community, a community, which, for the most part, young people leave because they do not see any opportunities. However, if it is possible to establish career paths in tourism, they might find it more attractive and they would be far more likely to become involved and, importantly, stay on.

While we were in the Flinders Ranges area, members of the committee spoke to a few operators and simply put the question: if there were a group traineeship scheme, would you participate? Without exception, there was a positive response from everyone ranging from the genuine tourist operator in the purest sense of the word to even the national parks people. If we can give young people the opportunity of working in everything from the Arkaroola type experience to Parachilna to perhaps something such as Iga Worta, the Aboriginal operation to the east of Parachilna, to perhaps working in national parks so that they then gain experience in catering, cooking and looking after accommodation facilities generally and also gain some appreciation for the flora and fauna, then those people, with that breadth of experience, will not only be good employees in the ecotourism industry but potentially could also be future operators.

As I said, this industry has scope for a large amount of growth if it is properly done and, if we can make it home-grown growth, all the better. Having spoken about the fact

that we should be looking to create opportunities for employment in the regional areas to try to get young people involved, some of the most obvious people to get involved would be Aboriginal people. There is no question that, more often than not, people wanting to enjoy the environmental experience of the outback are also interested in the culture, whether it be the more recent European culture or the Aboriginal culture. We really should be seeking to involve Aboriginal people in the development of ecotourism as much as possible. We visited the Iga Worta development for only a short period. There is no question, even on the basis of our short stay, that there was very significant potential in such operations.

Besides issues of education and training, where we think the government can play a role, the government can also play a role in trying to get demonstration projects up. We had evidence that people starting up in the tourism business were seen as being significant risks. I think that view would change as there are more success stories out there and, if the government can look at some way of helping provide seed funding for some of these small eco-businesses, I think it will repay itself, not just in terms of those businesses that are established but in terms of the growth of confidence there would be in investing more generally in that sort of business.

The government also can play a role in the provision of infrastructure, although that could be highly variable. Probably the most important infrastructure is that of transport. The cost of getting to many of these locations makes it more difficult for the operations to get going. I note that the government has already built reasonable airstrips just to the south of Wilpena and also at Balcanoona; and the provision of more strips of that sort around some of these areas would most certainly facilitate tourism development.

The provision of power infrastructure is more difficult and it is more likely that it will need to be an on-site development. Whether or not the government can facilitate the development of alternative energy provision requires further examination. One issue that does need addressing is that of waste management strategies. One of the more novel things we came across, although I do not think it was in formal evidence, was when we were visiting the Gammon Ranges, an area visited by one particular end of the ecotourism market, the backpackers.

Unfortunately, the number of people now starting to backpack in the Gammon Ranges is becoming so great that when the call of nature comes it is very hard to find a place to dig a hole that has not already been dug. There are a couple of implications to that, but it is certainly a problem that needs to be addressed. There are only two realistic strategies available: one is the installation in some of those areas of long drops, strategically placed near places where people are likely to camp. There are particular areas where people are likely to camp overnight. That is one way of tackling it.

The other, and I understand that it happens overseas, is that what you take in you take out. We are no longer talking just about the baked bean cans; we are talking about all the consequences as well. There are some areas where people are now required to clean up after their dogs. I think that backpackers should be required to clean up after themselves in some of these very intensively used areas. That is something I was going to say the government should come to grips with, but perhaps that is not quite the way to put it. It might sound like a trivial matter, but for those areas that are being intensively visited we have to look at ways of managing the impact. I hope I have demonstrated that the impact can be broad.

In summary, one thing that excites me, and other members have already covered this report quite extensively, is what I see as a need to amend the Pastoral Lands Act. The Pastoral Lands Act at the moment is silent on tourism development. There are certainly some pastoralists now who are developing ecotourism as a business, and in some areas I suspect they are probably making more money out of ecotourism already than they make out of their pastoral activities.

That is something to be encouraged, because it seems to me that ecotourism offers the potential not only to improve the economics of some of the operations up there but probably in many areas would enable decisions to be made about stocking rates, which would improve landcare even further. I think that this question of a review of the Pastoral Lands Act, in particular to allow ecotourism on pastoral leases—obviously with the same duty of care of land that they have as pastoralists—would be extremely worthwhile.

I hope that members have a chance to look at this report. It has further underlined the significant potential in South Australia, a potential so far nowhere near fulfilled. I hope that over the coming years South Australia will gain great benefit from the development of ecotourism.

The Hon. L.H. DAVIS secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: COMMISSIONERS OF CHARITABLE FUNDS

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

That the second report of the committee into the Commissioners of Charitable Funds be noted.

It is worth noting that the functions of the Statutory Authorities Review Committee as defined under the Parliamentary Committees Act include the examination of authorities to see whether their operations provide the most effective, efficient and economical means of achieving the purpose for which the authority was established; whether the functions or operations of the statutory authority duplicate or overlap in any respect the functions or operations of any authority, body or person; and, perhaps most fundamental of all, the function of the authority and the need for the authority to continue to perform those functions, the need for the authority to continue in existence.

The Statutory Authorities Review Committee had examined the Commissioners of Charitable Funds as a statutory body and in April 1998 reported on this unanimously. The committee recommended that the Commissioners of Charitable Funds, which had been established in 1875 as a body corporate with responsibility for administering donations and bequests to public charitable institutions, should be abolished. The fact was that back in 1875 there had been a concern that donations and bequests to public institutions, public hospitals, could not be managed separately from the operational funds of those hospitals, and so the commissioners were established to manage those donations and bequests.

Times have changed, and 125 years later it is very common, as members would know, for secondary schools (particularly private colleges), universities and other tertiary institutions, for public hospitals and, indeed, for private hospitals to have both fundraising arms and also bodies, perhaps foundations, that will manage those funds that have been so raised. So, the committee unanimously recommended

that the Commissioners of Charitable Funds should be abolished in April 1998.

The committee noted that, of the funds managed by the commissioners—which at that time totalled just under $40 million—over 96.5 per cent were held on behalf of the Royal Adelaide Hospital, which had been obliged under the provisions of the act to lodge its donations and bequests with the commissioners. In that report over three years ago we made the point that it was somewhat bizarre that the RAH, with an annual budget of over $200 million, was not managing its investment funds which at that stage totalled over $35 million. We made the point that the Queen Elizabeth Hospital and the Flinders Medical Centre, which were smaller public health bodies, had their own foundations, raised their own funds and managed their own funds without any difficulty. We believed that the commissioners were anachronistic and should be abolished.

We also made the not irrelevant point that there was no other body like this in Australia. No other state or territory in Australia required public health bodies to have their investable funds managed separately for them by a statutory body. We in no way reflected on the commissioners who carried out their work obviously in a diligent and professional manner—although we noted that their investment powers were somewhat limited. As a result of that, the performance on their funds invested was rather less than those of bodies such as FundsSA and other major investing institutions in Australia.

The minister accepted the report. Following the tabling of our report in April 1998, the minister responded on 4 September 1998 in a letter. The minister accepted that the Commissioners of Charitable Funds should be abolished and that the 'responsibility for the administration and investment of donation bequests [should be] transferred to the boards of management of the relevant hospitals and health services.' The minister added:

> There is a significant amount of development work necessary before such a transaction could take place.

Of course, the committee had made the point that having taken advice from Crown Law to put this recommendation into effect it would require legislative change. However, it certainly was not something that was momentous or just too difficult to implement.

It was, therefore, somewhat surprising when we received advice from one of the hospitals in the system that they understood that the Commissioners of Charitable Funds were not to be abolished. The committee made inquiries and discovered, indeed, that this was the case. So we reopened our inquiry and made a second report into the Commissioners of Charitable Funds which was authorised to be printed and published by the President of the Legislative Council on 3 August this year. Again, we took evidence from the interested parties, including the Royal Adelaide Hospital, the Queen Elizabeth Hospital and the commissioners themselves. Indeed, we took evidence from a person who is regarded as the leading authority on public hospital fund raising and management of funds in Australia. That person was from Queensland and happened to be in Adelaide for a health conference.

With the help of our diligent research officer and secretary, we examined every nook and cranny of this matter. The committee—consisting as it does of the Hons Bob Sneath, Trevor Crothers, John Dawkins and Julian Stefani, and me—again concluded unanimously that the Commissioners of Charitable Funds should be abolished. We invited the minister to respond regarding the fact that he had changed his mind and to explain what was happening. The minister replied on 26 September 2000, as follows:

> While I agree that the legislation is outdated in some respects, it is now my view that the mechanism established by the legislation should not be abolished. I had originally accepted the Committee's recommendations that responsibility for the administration and investment of donations and bequests be transferred to the Boards of Directors of the relevant hospitals and health services. However, the role and function of hospital and health service Boards has changed and is becoming increasingly complex. In conjunction with their senior executive staff, they are required to manage their budgets effectively in a climate of financial restraint and increasing demand. There are major capital works development projects being undertaken at several of the major hospitals which Boards and their senior officers, in conjunction with DHS—

that is the Department of Human Services—

> will be required to manage closely for the foreseeable future.

Further, the minister stated:

> Accordingly, it is now my firm view that I do not wish Boards to be diverted from their primary tasks and the mechanism established by the Public Charities Funds Act should essentially be retained.

The committee as a whole found that it was really a case of Alice in Wonderland visiting Adelaide. It was an extraordinary proposition to say that the Royal Adelaide Hospital, alone of all the public hospitals, tertiary institutions and secondary schools in Australia, could not manage its investment funds. After all, the Royal Adelaide Hospital has an annual budget for 2001-02 of a lazy $320 million. It is not as though it has ever been attacked for not being able to manage those funds. It is not as though the committee is saying that the board has to personally manage the $40 million or so that is managed on its behalf by the Commissioners of Charitable Funds. It is not as though there is not any other model in Australia which it can look at to see how funds that have been given to it by way of bequest or gift or any other way can be managed. There are plenty of models around in Australia for that purpose.

What was most interesting indeed was that the Royal Adelaide Hospital's own fund raising manager, Mr Fletcher, was quite hostile to the notion that the Royal Adelaide Hospital—his employer—was not in favour of the Commissioners of Charitable Funds being abolished. He said:

> In actual fact, a fund raising organisation has to generate funds. It is not a fact of sitting back and waiting for them to come. I do not think I would be wrong to suggest that if they [the Adelaide community] knew that we are actually going to raise this money and give it away to a third party to manage, I think they would be disappointed. I am fairly sure that my donors. . . would feel that way also. . . They would be disappointed if they knew that we were giving the money away from the Royal Adelaide Hospital, from the Hanson Centre, to a third party. To go back a couple of steps—

The Hon. Diana Laidlaw interjecting:

The Hon. L.H. DAVIS: Yes, there is the minister, the Hon. Di Laidlaw, on the record saying that she agrees with the proposition. A lot of people would be surprised at this. Mr Fletcher's evidence continues:

> —I believe that the hospital has the staff and the capabilities to do what the commissioners have done.

There it is.

Let me just run through the history of this and spend some time filling in the detail of what is a matter of some disappointment and aggravation to the committee and its members. Here a clear recommendation has been made by a parliamentary committee. All members of parliament believe

in the importance of the parliamentary committee. They believe in the primacy of parliament. They believe that the parliament should have some say in the role, functioning and decision making of the executive. The parliamentary committee system has been established for this purpose. In the seven years of its operation, the Statutory Authorities Review Committee has brought down some worthwhile recommendations. They have been invariably unanimous. On only one occasion was there a slight variation—and it was only a slight variation—by a member on the recommendations. The government, to the great credit of the Premier, has accepted many recommendations which have ensured greater effectiveness and efficiency of operation of the statutory authorities in South Australia.

Here, the minister has flip flopped. 'Flip flop' is a term that one more easily ascribes to the Leader of the Opposition at federal level (Hon. Kim Beazley) but, here, there has been a magnificent flip flop by the Minister for Human Services. I am at a loss to understand why. Certainly, there was no adequate explanation in his letter to us of 26 September 2000.

The interesting thing is that the Public Charities Funds Act, which provides a schedule enabling new health bodies to be listed so that they will provide any surplus funds to the Commissioners of Charitable Funds (with one exception), since 1974 has not seen one new health body added to that second schedule. That is quite bizarre. In other words, the proposition that the minister is accepting is that this legislation, although it might be defective and although it has not been put into operation, should be left to limp along. It is quite clear that, if you have legislation which is for one, it should be for all. The Queen Elizabeth Hospital, the Flinders Medical Centre, the Women's and Children's Hospital and the North-Western Adelaide Health Service (which embraces Lyell McEwin and Queen Elizabeth Hospitals) have not been brought under the aegis of this legislation. It is clearly a nonsense to allow it to limp along.

The committee established that funds invested with the commissioners held for the Royal Adelaide Hospital continue to increase as a proportion of total funds held and received. Since the committee reported for the 1997-98 year, funds held for the Royal Adelaide Hospital by the commissioners have increased from 95.6 per cent to 96.4 per cent of the total funds held. In fact, in 1999-2000, 99.9 per cent of the funds received by the commissioners were donations and bequests to the Royal Adelaide Hospital. It is quite clear that the other metropolitan and regional health institutions, which are on the schedule and which are notionally by law required to forward moneys to the commissioners, are not doing so and have sought ways to circumvent that legislation. They are doing it quite openly, and one can understand that. It underlines the committee's argument that this current legislation is an anachronism.

The committee took evidence from Mr E. Flack, who is the Director of Third Sector Management Service in Queensland and who is highly regarded. Arguably, he is the leading person in Australia in terms of fund raising and funds management for hospitals and charitable bodies. He made the point, when giving extensive evidence to the committee in person, that in Queensland 12 hospitals have established foundations and raise about $17 million per annum, and they seem to get by without any difficulty. As honourable members would know, there are many professional bodies that can provide advice on investment management—whether it be an insurance group, a bank group or professional organisations, including brokers, investment bankers and so on. The fact is, as I have said, the Royal Adelaide Hospital has an annual budget for the current year of $320 million. It received about $6.2 million from the Commissioners of Charitable Funds. The committee took evidence from people from the Royal Adelaide Hospital, and I will discuss that in a moment, who are strangely reluctant to manage their own donations, bequests and investment funds.

The committee made extensive inquiries interstate, not only in the states but also in the territories, and we could not find one example of a public hospital, a secondary school or a university which does not either manage its own affairs directly through the use of an expert finance committee or delegate that function to someone. We could not find one example which would substantiate the argument of the hospital and the minister. Indeed, the hospital needs to look no further than across Frome Road to the University of Adelaide, which is again an institution with a very large budget, and which has, I understand, investment funds totalling $57 million. Before I came into the Legislative Council I provided investment advice to the University of Adelaide—it sought advice from a range of people to determine its investment strategy. That amount, as honourable members will have expected, has grown significantly since the time that I gave advice to it. The University of Adelaide is typical of many organisations that have funds donated to it or have squirreled away surplus funds which are invested for better return.

The Public Charities Funds Act 1935, as I said, requires institutions under the second schedule which are proclaimed to forward funds to the commissioners for their administration. There are 13 proclaimed institutions, which include the Royal Adelaide Hospital, the Queen Elizabeth Hospital, Modbury Hospital (which, of course, has moved on), Mount Gambier and Districts Health Service, Port Augusta Hospital, Port Lincoln Health Services, Port Pirie Regional Health Services, Northern Yorke Peninsula Regional Health Service, Whyalla Hospital, Hillcrest Hospital, Intellectual Disability Services Council, Tregenza Avenue Aged Care Service (which was established when the Magill Home was closed) and the South Australian Dental Health Service. That, I think, is the last body that has been proclaimed under the provisions of the Public Charities Funds Act.

So, since 1974 only one body—the South Australian Dental Health Service—has been added to the prescribed list of organisations, and that was in 1998. The salient point is that since 1974, in the past 27 years, 77 hospitals and health centres have been established in South Australia but not one of them, apart from the South Australian Dental Health Service, has been prescribed under the provisions of the act. Why is this so? The answer is not readily apparent.

The committee asked Mr Rod Tonkin, the Executive Officer of the Commissioners of Charitable Funds, why health bodies such as Flinders Medical Centre and the Women's and Children's Hospital have not been prescribed under the act, and Mr Tonkin advised the committee:

> Over the years, the governments of the day have not required the Flinders Medical Centre or the Women's and Children's Hospital to become a proclaimed institution, nor have either institution applied to become a proclaimed entity. It should be remembered that the Women's and Children's Hospital was for many years a private hospital and did not satisfy the criteria of being a public charitable institution.

Of course, that is no answer. The fact is that everybody is thumbing their nose at the act—the government is thumbing its nose at the act and the hospitals themselves are thumbing

their nose at the act. The only one that is using the act is the Royal Adelaide Hospital. If you take out the money of the Royal Adelaide Hospital, there is just around $1 million which the Commissioners of Charitable Funds are administering. As the committee pointed out in its detailed report, the commissioners are, in fact, a de facto foundation for the Royal Adelaide Hospital. They operate an office within the grounds of the hospital. There is administrative support—

The Hon. J.S.L. Dawkins: Without fund raising.

The Hon. L.H. DAVIS: Yes. They operate within the Royal Adelaide Hospital grounds. They do not raise funds on behalf of the hospital, but they administer all the funds that have been raised by the Royal Adelaide Hospital.

The Queen Elizabeth Hospital was also critical of the arrangement, as was, indeed, the fund raising manager of the Royal Adelaide Hospital itself. Mr Maurice Henderson, who is the well regarded executive director of the Queen Elizabeth Hospital Research Foundation, believes that the model is flawed. He says, 'I believe that it is a major flaw in the structure to have the investment arm separated from the fundraising.' That is the same point that Mr Fletcher made. He goes on to say:

> Whilst many donations are bequests and there may not be anyone around to question what you are doing, the majority of donations we receive are from people still alive. They are making donations to our organisation to invest in research that is happening.

The committee looked at other possibilities such as what else could be done if the Commissioners of Charitable Funds were to be abolished and if the Royal Adelaide Hospital was too timid to manage the $40 million investment funds held on its behalf by the commissioners. One option that the committee looked at was the possibility that the legislation relating to Funds SA could be amended so that it not only looked after superannuation funds in the public sector in South Australia but its investment powers could be extended to incorporate the funds which have previously been managed by the Commissioners of Charitable Funds. Funds SA, as members would know, has had a wonderful and extraordinarily good track record in terms of returns on funds invested. So, we accepted that it could be an option to legislate for Funds SA to manage funds other than superannuation funds.

One of the arguments that has been put forward is that the commissioners could do better if their investment powers were broadened. We do not believe that is the issue. We believe that, if health bodies prefer to use and manage their own funds, they should be allowed to do so. As we said, many universities and charitable organisations use foundations to raise and manage funds often using experts or other bodies with significant expertise.

I think hospitals, in particular, and health bodies will experience the benefit of developing a strong relationship with the people whom they may have looked after: patients and the families of patients. Foundations that have worked to raise money for medical research and capital works are more successful at directly raising funds from those people and the public at large. Foundations attached to hospitals have a very good track record because they have that connection with the hospital. They can raise funds for a particular project or a particular cause and they can tap into people who perhaps have been cancer patients and who want to support cancer research, and then those foundations can, in turn, use an expert committee or contract out to someone else to manage those investment funds.

We believe the legislation should not force funds to be redirected and managed by a third party such as the Commissioners of Charitable Funds. As the Hon. Diana Laidlaw admitted, quite a few people would be disappointed to learn that the body to which they had given the money has to funnel it through to a third party for management. One of the arguments that was advanced to the committee, but not very forcibly, was that it would require legislative change to abolish the Commissioners of Charitable Funds, and that a lot of the moneys given to them had been given many decades ago, perhaps under complex arrangements and requirements.

We took advice from Crown Law in 1998 for our first report and again, the second time around, in 2001, and the answer was unequivocal: it can be done, it just requires legislative enactment and the Commissioners of Charitable Funds could be abolished and the appropriate arrangements made to transfer the funds back to the Royal Adelaide Hospital or its nominated body together with the other regional health organisations which have small amounts invested with the Commissioners of Charitable Funds. So, we concluded that the responsibility for the administration and investment of donations and bequests to prescribed institutions should be transferred from the commissioners to a foundation or other body as decided by the boards of management of those institutions.

We believe, as I have said, that the Commissioners of Charitable Funds should be abolished. We believe that the arguments for the commissioners to remain in existence are unsustainable. Can it be that the Royal Adelaide Hospital cannot manage its own money? The answer clearly is no, because there are dozens of hospitals, schools and universities around Australia that are doing it already. The Commissioners of Charitable Funds is the only creature of its kind in existence in Australia, and I think that, in itself, says something. It is a relic from the 19th century.

There are no legal impediments to the Commissioners of Charitable Funds being abolished. Of course, the most telling argument of all is the fact that the provisions of the legislation, if applied properly, would require millions of dollars, which are currently being invested by health bodies on their own account, to be directed to the Commissioners of Charitable Funds. The fact that governments of all persuasions over the past 30 years have not required this to happen is a tacit admission that the Commissioners of Charitable Funds are outdated and outmoded. Notwithstanding the goodwill and professionalism of the current commissioners, their time has come. It is time for the commissioners to be abolished.

The Hon. R.K. SNEATH secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: INQUIRY INTO TIMELINESS

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

> That the report of the committee on an Inquiry into Timeliness of 1999-2000 Annual Reporting by Statutory Bodies be noted.

This is the fourth report produced by the Statutory Authorities Review Committee on the subject of timeliness. On behalf of the committee members, I would like to say that there has been an improvement in the accountability of statutory authority bodies when it comes to annual reporting. There continues to be a problem with some offices not having proper procedures in place. For example, the committee noted that the Minister for Water Resources had failed to table four

annual reports of catchment water boards which had been provided to his office on time.

It is disappointing to see that there is not a proper mechanism in place to ensure that occurs. The committee noted that, in 1999-2000, 25 statutory bodies tabled reports late: five of those reports were tabled two or three sitting days late; ten more than 10 sitting days late; one of the statutory bodies tabled its report 34 sitting days late; and nine had not been tabled in parliament at the time that this report was authorised to be printed and published on 28 August.

The importance of timeliness is fairly obvious. The detailed account of the activities of a statutory authority are set down in the annual report with the financial statements for that financial year. If the parliament and the community do not receive this information in a timely fashion, matters of importance are not known about. Sometimes it can of course be a way of diverting attention from what could be a serious problem with management or finance. Certainly, through the introduction of technology, for the most part, statutory authorities are now listed under their ministers on the web site (www.ministers.sa.gov.au). That is an advantage for people who want to obtain details of statutory authorities. The committee, however, continues to argue—as I have argued for over 20 years—that it would be a simple matter to have a register of statutory authorities.

In summary, this report showed a slight decline in the annual reporting performance by statutory bodies. However, 76.2 per cent of annual reports required to be tabled in parliament were tabled in accordance with all legislative requirements. The committee considered that was a reasonable result, but there is always room for improvement.

On behalf of the committee, I particularly thank the research officer, Mr Gareth Hickery, for his contribution to this report, Ms Kristina Willis Arnold, secretary to the committee, who has just gone on maternity leave, and her replacement over the next 12 months, Ms Tania Woodall. They have all worked splendidly in a cooperative and professional fashion with the Statutory Authorities Review Committee.

The Hon. R.K. SNEATH secured the adjournment of the debate.

SELECT COMMITTEE ON OUTSOURCING OF STATE GOVERNMENT SERVICES

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

That the time for bringing up the report of the select committee be extended until Wednesday 28 November.

Motion carried.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. J.S.L. DAWKINS: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 28 November.

Motion carried.

SELECT COMMITTEE ON INTERNET AND INTERACTIVE HOME GAMBLING AND GAMBLING BY OTHER MEANS OF TELECOMMUNICATION IN SOUTH AUSTRALIA

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

That the time for bringing up the report of the select committee be extended until Wednesday 28 November.

Motion carried.

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

The Hon. J.F. STEFANI: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 28 November.

Motion carried.

SUMMARY OFFENCES (PIERCING OF CHILDREN) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 July. Page 2142.)

The Hon. K.T. GRIFFIN (Attorney-General): I indicate that the government supports the bill. A number of amendments initiated by the government have been passed in the Lower House. They make the bill a much more rational piece of legislation than it was when it was first introduced in the House of Assembly, even though the government was prepared to support the essential principle.

The only interesting thing about this bill, apart from its subject, is that none of the opposition members in the House of Assembly spoke on it. I cannot understand why that is the case when this is an important issue. Numerous members of the government and the Independent, Mr Lewis, spoke on it, as did, of course, Mr Such, because he was the mover of the bill. Even though Mr Atkinson and Ms Key adjourned the debate on a number of occasions, no opposition members actually spoke on the subject of the bill. I find that rather strange. It may suggest that they do not have an interest in it. I repeat that the government indicates its support for the bill.

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

SELECT COMMITTEE ON THE FUTURE OF THE QUEEN ELIZABETH HOSPITAL

The Hon. J.F. STEFANI: I move:

That the interim report of the select committee be noted.

On 17 November 1999, the Legislative Council established a select committee to inquire into and report upon the future of the Queen Elizabeth Hospital. In view of some of the evidence presented to the select committee, and the pending prorogation of the fourth session of the 49th parliament, the committee resolved that an interim report was required. This decision was taken because the committee believed that it would not be possible to table a final report before the resumption of this session of parliament. As there is significant public interest in the inquiry being undertaken by the committee, it was therefore determined that it would be desirable to table an interim report. The committee has endeavoured to clarify and address some of the main issues and concerns. However, a number of issues within the terms

of reference have yet to be examined and they will be fully addressed in the final report.

The Queen Elizabeth Hospital is one of South Australia's leading acute referral and teaching hospitals and is affiliated with the University of Adelaide and the University of South Australia. It is the major tertiary teaching hospital for the western and north-western suburbs of Adelaide and provides in-patient, out-patient and emergency services to a significant proportion of the South Australian community. The Queen Elizabeth Hospital has made a major contribution to research and enjoys international recognition for its pioneering contribution to a number of medical procedures, including organ transplantation, having performed in excess of 1 000 kidney transplants.

The select committee has received and considered submissions and heard evidence from a wide range of individuals and groups, including the board of management of the Queen Elizabeth Hospital, the Acting Chief Executive Officer and the Department of Human Services. In particular, there was widespread concern about the uncertainty of the hospital's future role in relation to bed capacity and services, including obstetrics and gynaecology, renal, cardiac, emergency, respiratory and palliative care. Research and teaching also have significant effects on the future status and role of the hospital and its relationship with the universities.

The committee noted the concerns expressed about the difficulties in continuing to attract quality staff to the hospital and the effect of the current uncertainty about the future of the hospital on staff morale. Hopefully this situation will change as the redevelopment work of the Queen Elizabeth Hospital, which has already commenced, will be completed over a period of time in the next few years. The committee acknowledges that the South Australian government has committed $37.4 million for the first phase of the redevelopment work at the hospital. Communication and consultation are critical considerations in planning for the current and future services and facilities of the hospital.

The select committee's recommendations include that the government give a clear commitment to the Queen Elizabeth Hospital continuing as a major teaching hospital and that its role and contribution in teaching and research be recognised. The committee also recommends that the government confirm its commitment to maintaining the bed capacity at 365 acute beds and provide for extra capacity in order to manage emergency admissions, which could be managed through the planned emergency extended care unit.

The committee recognises the very distinctive population mix of the western suburbs, reflected by the high proportion of aged people, ethnic diversity, a poor health profile and social disadvantage. The committee advocates that the below average socioeconomic status is recognised as requiring significant support and that the provision of the present range of hospital and related health services is maintained. The committee believes that the government and the Department of Human Services should give priority to maintaining a strong focus in achieving the redevelopment program at the Queen Elizabeth Hospital as soon as practicable.

The committee strongly recommends that the government make a commitment to maintaining the present role and status of the hospital. The range and nature of the services to be provided by the hospital in the future should reflect the health needs of the community that it serves. These and other issues will be examined in more detail in the final report to be prepared by the committee. I take this opportunity to thank all members of the committee and, in particular, the secretary and the research officer of the committee, as well as parliamentary staff, for their work and input in the preparation of this report.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. CARMEL ZOLLO: As has already been said, the committee decided upon this interim report because of the compelling evidence it received in relation to concerns about the future of the Queen Elizabeth Hospital. It was necessary for no other reason than to keep faith with the many people who made submissions and whose evidence has not so far been able to be commented on. The concerns include the status of the hospital as a public and teaching hospital, bed numbers and level of clinical services that are and will be delivered, its redevelopment and ability to carry debt, lack of communication and consultation, amongst others. It was felt that in case an election was called in the recess just past it was important to place on record at least some of the compelling concerns and make interim recommendations arising from those concerns.

I have to admit that it is somewhat disconcerting to listen to respected senior clinicians in charge of various departments talk about surgery cancellations, ambulance bypass, people not being able to be seen in reasonable time and lack of resources. As is to be expected, the Department of Human Services provided differing views and comments in relation to some of the evidence provided to the committee. Yet, even since this report was prepared, I have independently been advised that the Queen Elizabeth Hospital has had the greatest number of ambulance diversions in our public hospitals over a sustained period. From September 2000 to May 2001, it tallied 34 diversions for a total of 244½ hours. Earlier this month we saw the Queen Elizabeth Hospital being forced onto ambulance bypass three times in as many days.

For the purpose of this interim report, the issues the committee has concentrated on have been set out under various headings, the first being the demographic pressures for removing, reducing or expanding services. As well as the evidence received and given, this issue was the subject of a great deal of discussion within the committee itself. It goes to the heart of the debate. Are the changing demographics of the catchment area causing many of the real and perceived concerns at the Queen Elizabeth Hospital—concerns including the number of admissions, the length of stay and the level of services offered?

Whilst the committee did not have finite data in relation to population projections, government agencies are of the opinion that the total population of the western region is expected to be static, with a minimal increase of fewer than 1 000 persons over the period 1996-2006. Again the issue appears not to be one necessarily of total numbers but the changing composition in that number. Evidence provided to the committee and referred to in this report substantiates this. Also the committee noted that the ageing population of the western suburbs would result in an increased demand for health services.

I think it is important to note that a recent study into in-patient hospital utilisation in South Australia (1999), indicated that the Queen Elizabeth Hospital catchment area, residents, given their age status, were admitted 6.5 per cent more frequently than any other South Australian residents on average. In relation to bed status, since its incorporation, the number of beds available at the Queen Elizabeth Hospital has

decreased. Statistics are produced in the report and speak for themselves. As at June this year, we had 361 beds available and as at June 1996 we had 415 beds. Without doubt, the ageing population has led to some of this pressure. However, the closure of some 500 hospital beds throughout the state since this government came to office has not helped either. The committee's proposed recommendation states:

> In order to ease pressure on accommodation and waiting times for patients at the Queen Elizabeth Hospital, that priority is given to the early completion of an appropriately sized and located Extended Emergency Care Unit. In addition, that support continue to be provided to the Transitional Alliance Care program at the Queen Elizabeth Hospital.

That should go some way towards assisting the bed shortage, but it will not solve it. However, an immediate injection of funding for beds and extra staff will.

In his evidence in February this year, Dr Dunn, Director of the Department of Emergency Services, expressed it this way:

> Beds are the essential resource of a hospital for it to function and, if there are inadequate bed stocks for the demand placed on it, the hospital cannot meet that demand and also cannot work efficiently.

In relation to the ageing population, in giving his evidence in February this year, Dr Dunn made the point that, of the then 350 beds, approximately 50 of those beds were occupied by patients waiting nursing home placements. However, he went on to explain that, working on 300 operational beds, that was still 25 per cent less than four years ago.

The committee has been provided with a copy of the Department of Human Services pamphlet issued by the minister following the latest public meeting. Whilst one is heartened to see such a pamphlet, I would have liked to see written not 'It is planned to still maintain about 365 beds at the Queen Elizabeth Hospital after the construction of the new buildings' but something along the lines of 'The Queen Elizabeth Hospital will remain at a bed capacity of not less than 350 beds.' Nonetheless, as I said, it is good to see general communication at the community level with some time lines so that the public can identify with what is happening at the moment.

In relation to the current availability of obstetric and gynaecological, cardiac, renal and emergency services and the impact on residents of the north-western suburbs of reducing such services, senior clinicians from the Queen Elizabeth Hospital gave evidence, which, as previously mentioned, was very disconcerting. Much has already been the subject of media attention. The committee heard evidence that the Queen Elizabeth Hospital was not able to attract a neo-natology registrar or training post for nearly two years and, whilst such difficulty is apparently not uncommon in other obstetric services, a decision was made almost immediately by the then CEO to revert to a lower level of neo-natology care. Subsequent witnesses believed that there had been insufficient consultation and perhaps some over reaction.

The then Director of the Department of Emergency Medicine gave evidence that, in terms of overcrowding and access block, the Queen Elizabeth Hospital now has the worst problem of any metropolitan hospital in terms of bed access. Further, the following evidence says it all:

> What happens is that, when we are 100 per cent occupied, every new patient coming in from that point cannot be seen until a space becomes available. At times, there may be 15 or 20 patients waiting for treatment and there is no physical space in which to see any of those patients and so essentially become gridlocked. We are unable to provide the service that we would like to and the patients have to wait for their care. There is the potential that they may become sicker and certainly their level of satisfaction is decreased. That is a serious situation.

The Renal Unit of the Queen Elizabeth Hospital is often referred to as the flagship of the hospital, for very obvious, good reasons. Concern was expressed by some that, if there was downgrading of other clinical services, there would be difficulty in sustaining transplants because of the high level of support medical services required for such procedures.

Associate Professor Graeme Russ, Senior Consultant Nephrology from the Queen Elizabeth Hospital, stated in his submission that the Renal Unit performs 60 to 80 renal transplants per annum. He pointed out that renal transplants require a comprehensive 24 hour laboratory and imaging service, a top class ICU, a clinical pharmacology laboratory to monitor immunosuppressive drugs and the following services: infectious diseases, cardiology, gastroenterology, haematology, vascular surgery, general surgery and urology consultative services.

The issue of teaching and research is close to the heart of many clinicians at the Queen Elizabeth Hospital. The committee heard in evidence from Professor John Horowitz, the Director of Cardiology, of his unease at what he sees as lack of commitment in the form of facilities for research, imposed by a lack of funds. Whilst the Department of Human Services points out that the amount of funding that the Queen Elizabeth Hospital is able to attract is independent of DHS, Dr Horowitz believes that he is rightly concerned that adequate research facilities will not be made available in future at the Queen Elizabeth Hospital. He gave evidence of the reproductive medicine at the hospital (which is world famous), which is to be moved to the Women's and Children's Hospital, for the reason that adequate research facilities would not be made available in future at the Queen Elizabeth Hospital. He proffered further evidence, with which few would disagree, as follows:

> My view is that if we have actually equipped at considerable cost an entire seven storey building for research funding, and we have set up a large number of research projects which attract a huge amount of peer review funding and which generate dozens and dozens of papers—some of it in leading journals such as this—I would have thought this is something that should not be too readily knocked down. This is very serious. . . Let me say the policy of most of these units is what is called bench to bedside. In other words, they are not secluded there with their cells and have forgotten about the patient.
>
> We believe in a continuum about what is happening clinically and what is likely to happen, hence this approach about improving discharge. We believe that research should not be pie in the sky. We believe it should have immediate clinical relevance. I believe that laboratory research should maintain its obvious connection with the clinical world and we have attempted to do so at all times. That is the general philosophy within North West. So, provision for research is a huge issue.

I am certain that we all agree that the impact of this reduction, or disintegration, in research is not a positive for South Australia. All this uncertainty over many years now, and downgrading of clinical services such as maternity and instigating of trauma bypass, has contributed negatively to public confidence in the Queen Elizabeth Hospital.

The level of debt being carried by the Queen Elizabeth Hospital is staggering—part of a total of $35 million already owed by our public hospitals. The two hospitals in the North Western Adelaide Health Service—the Queen Elizabeth Hospital and the Lyell McEwin Hospital—had debts of $25.7 million at the end of June this year and are, no doubt, accumulating further losses even as I speak. I understand from media reports that the government was telling the boards of the hospitals to borrow money from the govern-

ment's financing authority, because no additional money can be made available to them.

They would have our public hospitals owing the government money—money that it probably did not get to start with and with Buckley's chance of ever paying it back. There are many other issues that need to be looked at in a substantive report, as well as other witnesses to be called. Since this report was produced, I have been advised that funding for the multicultural coordinator's position at the hospital officially ceased at the end of June. Whilst the position was originally funded for only three years, I am advised that it filled an important role in the hospital.

A great deal of work was undertaken with health providers from the hospital, including cultural and linguistic awareness, cross-cultural training and increased use of interpreters. Given the great number of people from diverse cultural backgrounds, such a position is very desirable and appropriate. As a side issue, I have also had raised with me the concern of some in relation to interpreter services. Interpreting should always be the first point of call, going to the heart of access and equity. Consumer involvement in the delivery of health services is facilitated by such awareness, from a risk management point of view. It is an issue that I hope the committee will have an opportunity to consider when producing our substantive report and, hopefully, will take some evidence.

I have heard from other sources that in some agencies, when the amount allocated to that service is expended, interpreting funding is not available or very much avoided. I have also received a report, which has been made available to the rest of the committee, on a proposed multilingual assessment and consultancy service in mental health for older people which I hope the committee will have the opportunity to look at.

Amongst those further issues to be considered are the extent of the services that should be offered from a public and teaching hospital, how decisions are arrived at in offering that level of service and the funding level available for such service. The clinical services reviews also need closer scrutiny, as does palliative care, the manner of incorporation of the North-Western Adelaide Health Service and the now (again) separate administrative and finance committees, with the health services again having chief executive officers, amongst other issues.

I believe that the community and staff at the Queen Elizabeth Hospital have demonstrated a strong commitment to see a well financed and resourced public teaching hospital in the western suburbs. I hope that this interim report also demonstrates the commitment of this parliament in understanding the necessity of seeing the outcome. I place on record my thanks to both the secretary and the research officer in preparing this report.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ECOTOURISM, INTERIM REPORT

The Hon. J.S.L. DAWKINS: I move:

That Order of the Day, Private Business, No. 13 be discharged.

Motion carried.

AUDITOR-GENERAL'S REPORT

Adjourned debate on motion of the Treasurer.
(Continued from 3 May. Page 1435.)

Motion carried.

STATUTES AMENDMENT AND REPEAL (STARR-BOWKETT SOCIETIES) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Trading Act 1987 and to repeal the Starr-Bowkett Societies Act 1975. 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.

The purpose of the Bill is to repeal the *Starr-Bowkett Societies Act 1975*, and to amend the *Fair Trading Act 1987*.

A Starr-Bowkett society is a type of building society that causes or permits applicants for loans to ballot for precedence, or in any way makes the granting of a loan dependent upon any chance or lot. The *Starr-Bowkett Societies Act 1975* currently prohibits this activity except in relation to a Starr-Bowkett society that was registered under the previous Act. The Act also prohibits trading or carrying on business as a society unless the person or body is registered under the Act.

Following the deregistration of the last Starr-Bowkett society, no further regulation is necessary except in respect of any possible offences and to prohibit trading or carrying on business as a Starr-Bowkett society. For this reason, it is proposed to repeal the *Starr-Bowkett Societies Act 1975* and amend the *Fair Trading Act 1987*.

The amendment to the *Fair Trading Act 1987* will prohibit anyone trading or carrying on business as a Starr-Bowkett society in South Australia, including balloting for loans. The maximum penalty for contravention of the prohibition is $5 000.

New South Wales is the only jurisdiction that provides for the regulation of Starr-Bowkett societies with no prohibition on balloting for loans. The proposed Bill provides that an interstate Starr-Bowkett society will not contravene this prohibition if it conducts business with a member of the society in South Australia, provided the person became a member of the society before the member commenced to reside in South Australia.

Provisions that permit investigations and proceedings for any offences under the repealed Act are saved by the operation of section 16 of the *Acts Interpretation Act 1915*. The time limit will be two years, as applies under the Act being repealed.

The provisions of the *Fair Trading Act 1987* will permit investigations and proceedings for any offences of the prohibition to be inserted into that Act.

The provisions of the Bill will provide certainty for the protection of consumers even though the risks are considered to be slight.

Explanation of Clauses

PART 1—PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Interpretation

This clause provides that a reference to the principal Act means the Act referred to in the heading of the relevant Part.

PART 2—AMENDMENT OF FAIR TRADING ACT 1987

Clause 3: Insertion of Part 8A

This clause inserts a new Part in the *Fair Trading Act 1987* that relates to Starr-Bowkett Societies and the activity of balloting for loans. The new provisions prohibit the trading or the carrying on of a business as a Starr-Bowkett society or using the name 'Starr-Bowkett' (that is, a person or body that causes loan applicants to ballot for a loan, or makes the granting of a loan dependent on chance). There is an exception for an interstate Starr-Bowkett society, which may continue to do business with a member in South Australia if the member joined the society before moving to live in this State.

PART 3—REPEAL OF STARR-BOWKETT SOCIETIES ACT 1975

Clause 4: Repeal

This clause repeals the *Starr-Bowkett Societies Act 1975*.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (MISCELLANEOUS No. 3) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Classification (Publications, Films and Computer Games) Act 1995. 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 is necessitated by amendments to the Commonwealth Act of the same name which passed the Commonwealth Parliament last March, and is based on model complementary legislation to be implemented by all States and Territories. The Commonwealth law, that is, the *Classification (Publications Films and Computer Games) Amendment Act (No 1) 2001* was the subject of consultation with censorship Ministers nationally through the Standing Committee of Attorneys-General and makes minor and chiefly technical amendments to the national scheme. It will take effect when all States and Territories have enacted their complementary amendments and in any case no later than 23rd March 2002.

As Members are aware, the *Classification (Publications Films and Computer Games) Act 1995* is part of a national co-operative scheme for the classification of publications, films and games. The Commonwealth Act provides the national machinery for classification, including establishing the Classification Board and the Classification Review Board, and provides the categories into which the various items may be classified. The State and Territory enforcement Acts provide the legal restrictions on the advertising, exhibition and sale of these items, depending on their classification.

The amendments to the principal Commonwealth Act arise from experience with the scheme over the last five years, and seek either to address minor defects in that Act, or make improvements to its operation. As examples of the technical amendments, the Commonwealth Act amends the definition of 'film' to ensure that the soundtrack accompanying the film is included, and includes a new definition of an 'add-on', to deal with computer programs which add supplementary material to an existing computer game and may require separate classification.

To mention examples of amendments which are intended to improve the operation of the scheme, the Commonwealth Act provides that the Board may require that a publication be sold in a sealed bag, even where the publication is classified Unrestricted, that is, there are no legal restrictions on its sale. This could be used to prevent minors from leafing through such a publication in a shop. Likewise, the amendments give the Board a discretion to determine consumer advice for a publication classified Unrestricted. At present, it cannot do so. This may better inform consumers as to what they are buying. The application of the scheme is also somewhat expanded by the amendment of the definition of 'contentious material' to cover material which would cause the item to be classified M, rather than as at present, MA. Conversely, the range of films exempt from classification is expanded, to include material such as current affairs films, and documentaries of a hobbyist, sporting, religious or cultural nature, among others. However, such a film is not exempt if it contains material which would warrant a classification of M or higher.

Again, the Commonwealth Act expands the definition of persons who have standing to seek a review of a classification by the Review Board, to include persons or organisations which have a role in relation to the contentious aspects of the theme or subject matter of the item. This might be used, for example, by an organisation formed for the protection of children, to seek a review of a decision in relation to a film dealing with child abuse or paedophilia. This could help to ensure that the concerns of qualified persons and groups are aired in the classification process.

There are also amendments intended to improve the practical operation of the Act, for example, provision that in the case of a computer game which is an arcade game, access can be given to the premises where the game is situated, rather than the game having to be submitted to the Board. Similarly, provision is made for classification of an item in the case where the Board cannot verify whether the item is identical with one which has already been classified. If this proves to be the case, the earlier classification can be revoked.

Some of the amendments in the Commonwealth Act necessitate consequential amendments to the State and Territory Acts. Accordingly, model provisions have been prepared through the Standing Committee of Attorneys-General for national use, and are likely to be implemented in all jurisdictions in the near future. The present Bill is based on those model provisions. However, there are some additions to accommodate the fact that South Australia retains its own Classification Council which has power to classify an item for South Australia, and also retains a power for the Minister to do so. There are also some amendments intended to ensure that the Act is not at risk of challenge under the principles in the High Court case of *R v Hughes*.

I refer first to the amendments which are required to be made in all States and Territories. First, there are amendments to the definitions used in the Act. One of interest is the inclusion of a new definition of an 'international flight'. This reflects the fact that while the scheme is intended to apply to the screening of films on domestic flights, it is not intended to catch international flights which merely pass through Australian airspace as part of a longer voyage. Similarly, there is a definition of an 'international voyage'. It is not the intention of the scheme to require an international carrier to have a film shown on board classified, merely because part of the journey passes over Australian airspace, or through Australian waters.

Under the Commonwealth Act, the range of films and computer games which are exempt from the requirement to be classified under the scheme has been expanded. To match the Commonwealth Act, there is therefore also a specific provision that the State Act does not apply to an exempt film or exempt computer game. That is, there is no obligation to have that item classified. Note that under the Commonwealth Act, it will be possible for a person to apply for a certificate that a film or game is exempt, if that person wishes for certainty on the point.

The amendments also accommodate the fact that, under the amended Commonwealth law, there are new provisions for a classification to be revoked, or a film to be reclassified. This can be necessary for technical reasons, or because of contentious material discovered in a film or game which has previously been classified without knowledge of that material. It is already the case under our Act that where there is a reclassification, the previously required markings and advice can continue to be used for 30 days. This gives the publisher or distributor a reasonable opportunity to ensure that product complies with the law. The Bill extends this provision to cover the situation where the classification is revoked. A minor anomaly in respect of restricted publications is addressed. Under the present law, while a Category 2 publication must be sold only in restricted premises, and must be in an opaque package on delivery, it need not be wrapped while it is in the restricted premises, whereas in the case of a Category 1 publication, that is, a lower classified publication, this must be in a sealed opaque wrapper at all times until sold. That is, patrons of restricted premises can examine Category 2 publications in the restricted premises before purchase, but may not examine Category 1 publications in the restricted premises. The Bill amends the Act so that a Category 1 publication offered for sale in restricted premises does not need to be in a sealed opaque bag while it is in the premises. However, the Commonwealth Act as amended will permit the Board to require that any Category 1 publication must be sold in a sealed package made of plain opaque material, regardless of the location of sale. The State Act is amended so that any such requirement is given legal force here. It is also amended to give legal force to a requirement of the Board that an Unrestricted publication carry consumer advice.

The Bill also amends the call-in powers of the National Director so that they cover all films and computer games which are not exempt, and so that they cover the situation where the national Board wishes to re-classify a previously classified item. They are also extended to cover publications, which had not been the case under the scheme hitherto.

Because the amended Commonwealth Act expands the categories of persons who can seek a review of a classification decision, the

amendments to the State Act also provide for the Director to require the original applicant to provide a copy of the film for consideration, where the Board or the Review Board no longer has a copy. This reflects the fact that where the review applicant is not the publisher or distributor of the item, he or she may not have access to a copy.

The Bill also provides transitional provisions. In general, the amendments will only apply to material first published or first submitted for classification after this law comes into effect. However, the power to call in items which are not exempt and require classification, the requirement for arcade games to display the determined markings, and the power to obtain a copy of an item for the purpose of review, will apply immediately to all material covered by the Act.

The Bill also makes certain amendments to the functions of the Classification Council and the Minister. This has been done to mirror the amendments to the functions of the National Classification Board, because it has always been the intention in South Australia that while the national classification will normally apply, in particular cases action can be taken by the Council or the Minister to deal with community concerns about particular items. Hence, the Bill provides for the Council and the Minister to have powers mirroring those of the National Classification Board in respect of classifying publications which are part of a series, attaching consumer advice to publications, and revoking the classification of films or games which are later found to contain contentious material. Of course, the Council and the Minister already have power under s. 19A to classify a series of publications based on the content of one issue and the effect of the amendment is simply to expand this provision so that the powers are similar to those of the National Classification Board. In particular, the effect of this is that the classification of the series must be revoked if any publication contains material which would result in a higher classification or contains an advertisement which would be refused approval.

In addition to amending the State Act as necessitated by the Commonwealth amendments, this Bill makes other minor amendments to ensure that the Act does not risk invalidity as a result of the decision of the High Court in the case of *R v Hughes*. I should say that in the government's view the likelihood of any successful challenge to the validity of the scheme on this basis is extremely remote. However, it was considered best to close off any possibility. Members will be aware that in the *Hughes* case, the High Court indicated that to the extent that State legislation seeks to confer duties on Commonwealth officials, such duties must be supported by Commonwealth heads of power. Further, a duty may be found even where the expression of the statute suggests merely a power, if in reality the power is coupled with a duty. This may be the case where the State Act does not confer any similar duty or power on a State officer.

Our Act presently provides that the National Director or the Minister may grant exemptions from the Act for particular films, games or publications (s. 76) and may exempt approved organisations in relation to the exhibition of films (s. 77). It also confers on the National Director powers to call in various items for classification (Schedule 1). To avoid argument as to the validity of some action taken by the National Director under the Act, the Bill removes the power of the National Director to grant exemptions, leaving this solely to the Minister. Similarly, the Bill invests the Classification Council with call-in powers similar to those given to the National Director. Although the Council has already the power to require production of a film, game or publication, the rewording avoids any doubt that the powers of the National Director are co-extensive with those of the Council in this respect.

I commend this Bill to honourable Members and would urge that, as it reflects model provisions and is necessitated by the Commonwealth amendments, effort be made to facilitate its passage in the present session.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

This clause amends various definitions in the principal Act to ensure consistency with the Commonwealth legislation and to reflect the inclusion of call-in powers for State classification authorities.

Clause 4: Substitution of s. 6

A new section 6 is substituted so that the Act will not apply to exempt films or exempt computer games (which are defined under the Commonwealth Act).

Clause 5: Amendment of s. 14—Powers

This clause is consequential to clause 10. Section 14 currently gives the Council power to require production of a publication, film or computer game. This is now the subject of specific call-in powers under proposed section 24A.

Clause 6: Substitution of s. 19A

This clause replaces section 19A with new provisions which make the powers of the State classification authorities more consistent with the powers of the National Board under the Commonwealth Act.

Clause 7: Amendment of s. 20—Considered form of publication, film or computer game to be final

This clause amends section 20 of the principal Act to make it consistent with the Commonwealth Act.

Clause 8: Amendment of s. 21—Consumer advice for publications, films and computer games

This clause amends section 20 of the principal Act to make it consistent with the Commonwealth Act.

Clause 9: Insertion of s. 23A

This clause inserts a new section 23A to make the powers of the State classification authorities more consistent with the powers of the National Board under the Commonwealth Act.

Clause 10: Insertion of s. 24A

This clause inserts a new section 24A into the principal Act to make it clear that State classification authorities have call-in powers that are substantially the same as those of the National Director.

Clause 11: Amendment of s. 27—Calling in advertisements

This clause makes the offence in section 27(2) expiable, for consistency with the offence in clause 3(2) of Schedule 1.

Clause 12: Amendment of s. 40—Films to bear determined markings and consumer advice

This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clause 9 of this measure.

Clause 13: Amendment of s. 47—Category 1 restricted publications

This clause amends section 47 of the principal Act to provide that when Category 1 restricted publications are sold in a restricted publications area, they may be displayed without packaging but must be delivered in an opaque package (to be consistent with the packaging requirements relating to Category 2 restricted publications).

The substitution of subsection (2) is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clause 6 of this measure.

Clause 14: Amendment of s. 48—Category 2 restricted publications

This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clause 6 of this measure.

Clause 15: Insertion of ss. 48A and 48B

48A. Sale or delivery of publications contrary to conditions

This ensures that conditions imposed by the National Board under the Commonwealth Act or by State classification authorities under proposed section 19B (included in clause 6 of this measure) are enforceable.

48B. Consumer advice for publications

This ensures that a requirement to display consumer advice imposed by the National Board under the Commonwealth Act or by State classification authorities under section 21 of the principal Act (as proposed to be amended by clause 8 of this measure) is enforceable.

Clause 16: Amendment of s. 50—Misleading or deceptive markings

This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clause 6 of this measure.

Clause 17: Amendment of s. 60—Computer games to bear determined markings and consumer advice

This clause clarifies the requirements in relation to the display of determined markings on 'pay and play' computer games (for example, coin operated arcade games). Proposed subsection (6) is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clause 9 of this measure.

Clause 18: Amendment of s. 66—Certain advertisements not to be published

This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clauses 6 and 9 of this measure.

Clause 19: Amendment of s. 72—Advertisement to contain determined markings and consumer advice
This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clauses 6 and 9 of this measure.
Clause 20: Amendment of s. 73—Misleading or deceptive advertisements
This is consequential to the revocation powers given to the National Board under the Commonwealth Act and to the State classification authorities by clauses 6 and 9 of this measure.
Clause 21: Amendment of s. 76—Exemption of film, publication, computer game or advertisement
This clause removes the power of the National Director to grant an exemption in relation to a film, publication, computer game or advertisement.
Clause 22: Amendment of s. 77—Exemption of approved organisation
This clause removes the power of the National Director to grant an exemption in relation to the exhibition by an approved organisation of a film at an event.
Clause 23: Amendment of s. 78—Ministerial directions or guidelines
This clause is consequential to clauses 21 and 22.
Clause 24: Amendment of s. 79-Organisation may be approved
This clause removes the power of the National Director to approve an organisation for the purposes of the Part.
Clause 25: Amendment of Schedule 1
This clause amends Schedule 1—
- to expand the National Director's call-in powers consequentially to the introduction of 'exempt' films and computer games;
- to provide the National Director with a call-in power where the National Board proposes to reclassify a publication, film or computer game;
- to provide the National Director with a call-in power where an application for review has been made.
- to

Clause 26: Transitional provisions
This clause makes various transitional provisions.

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

UNCLAIMED SUPERANNUATION BENEFITS (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 Unclaimed Superannuation Benefits Act 1997.

VICTIMS OF CRIME BILL

In Committee.
(Continued from 25 September. Page 2202.)

Clause 8.
The Hon. K.T. GRIFFIN: I move:
Page 8—
Line 13—Leave out 'offender' and insert:
offender[1]
After line 25—Insert the following note:
1. Section 64 of the Young Offenders Act 1993 provides a mechanism for exercising this right in relation to a young offender.

Taken together, the amendments insert a footnote which refers readers of the legislation to the relevant section of the Young Offenders Act 1993. This section, section 64, provides that, if a youth is dealt with under that act for an alleged offence, a victim is entitled, on application in writing to the Commissioner of Police, to be informed of the name and address of that youth. The purpose of the footnote is simply to draw attention to the relevant provision.

The Hon. CAROLYN PICKLES: The opposition indicates its support for the amendments.

Amendments carried; clause as amended passed.

Clause 9.
The Hon. K.T. GRIFFIN: I move:
Page 9, after line 7—Insert:
(2) The information should be given (if practicable) so as to allow the victim sufficient time to obtain independent advice, and arrange independent support, in relation to the exercise of those rights or the discharge of those responsibilities.

This amendment makes clear that not only should victims be given the information they need about the trial process and the victim's rights and responsibilities as a witness but, in addition, this should occur in sufficient time to allow the victim to obtain advice and arrange support in relation to those rights and responsibilities. For example, the victim may be a person who is entitled to apply to have a companion to provide support while giving evidence. The victim should be told of this entitlement in time for him or her to identify such a person and secure his or her consent to attend court. The amendment adopts the suggestion made to the government by Yarrow Place.

The Hon. CAROLYN PICKLES: The opposition supports the amendment.

The Hon. IAN GILFILLAN: The Democrats support the amendment.

Amendment carried; clause as amended passed.

Clauses 10 to 19 passed.

Clause 20.

The Hon. IAN GILFILLAN: I notice that one of the amendments with respect to this clause relates to Page 15, line 2 and is to be moved by the Hon. Nick Xenophon. That is on my copy.

The CHAIRMAN: The Hon. Mr Xenophon is not proceeding with a number of amendments. Does the Hon. Mr Xenophon need to check?

The Hon. NICK XENOPHON: No. I will just clarify the situation so that we know where we are going. Given that the amendment to index non-economic loss payments for victims of crime was defeated yesterday, I will not be proceeding with all the consequential amendments with respect to that. Further, I can indicate that I will not be proceeding with the amendments I proposed with respect to clause 20, page 16, lines 14 and 21 in relation to a proposal to include blameworthy conduct as a result of discussions I have had with the Attorney. I am satisfied with the explanation given by the Attorney and his officers that my concern about a good samaritan—

The Hon. IAN GILFILLAN: Sir, I cannot hear.

The CHAIRMAN: Would the minister please sit down next to the Hon. Trevor Crothers because the other members cannot hear.

The Hon. NICK XENOPHON: The amendments that relate to a proposal to include blameworthy conduct to make it clear that a good samaritan, so to speak, would not have their claim for compensation reduced occurred as a result of a submission from the Law Society. I have subsequently had discussions with the Attorney and officers of his department and I am satisfied that my concerns are not an issue given the way in which the act has operated over a number of years. As I am satisfied with the explanation of the Attorney, I will not be proceeding with those amendments.

I also indicate that, with respect to clause 27, I do not propose to move the amendment that relates to the Attorney giving written reasons for a decision with respect to an exercise of his discretion under the section. I understand the policy decision behind that. I do not necessarily agree with

it but, obviously, that is something I could well revisit at another time in terms of giving victims of crime, who have their claims of compensation reduced, some other mechanism for being informed which does not necessarily open it up to judicial review and potential further cost for claimants. I thought that course might save a bit of time down the track.

The CHAIRMAN: The committee is now left with the possibility of two amendments to clause 20: one to be moved by the Hon. Mr Gilfillan to page 15 and the other by the Attorney-General to page 17. I assume that they can be taken separately.

The Hon. IAN GILFILLAN: I move;

Page 15, lines 26 and 27—Leave out 'if the numerical value so assigned is 3 or less, no award will be made for non-financial loss but, if the numerical value exceeds 3,'.

If this amendment is successful, it is my understanding that it will retain the current situation. I addressed this issue in my second reading contribution, so I do not intend exhaustively to do so again. It seems to me that it is clear that, in large part, this has been motivated as a cost saving measure. The Review on Victims of Crime Report 3: Criminal Injuries Compensation Executive Summary from the Attorney's department recommends the measure in the bill and identifies that it will also help:

. . . maintain the financial viability of the scheme. Any savings derived from raising the threshold could then be used to improve services such as providing regional services for victims of crime which would be commensurate with the recommendations in report 1 of the review.

The Attorney referred to the opening of regional services, which I thoroughly support; that is excellent. However, it should not be at the expense of what was conceived and supported as the right balance of victim compensation. So, I am opposed to the measure. Originally, the intention was to raise it to five points, and now the bill seeks to raise it to three points, but I am not persuaded that that is justified. Therefore, my amendment is to leave it at what is virtually one point (or $1 000) having to be achieved before any compensation would be paid.

The Hon. K.T. GRIFFIN: The government opposes the amendment, which would not do what the Hon. Mr Gilfillan claims. It would not remove from the act any threshold for compensation whatever (whether economic or non-economic). Any injury sustained by an eligible victim, no matter how trivial or fleeting it might be, would become compensable. This would permit claims for fractions of a point for scratches, bruises or muscle sprains or minor anxiety which resolves over a matter of days. Even claims which are currently excluded by the section 7(10) requirement that the total claim must be at least $1 000 would be open.

I submit to the committee that that is a retrograde step. From the very inception of the act in 1978, there has been a threshold. Originally it was $100. At that time, the maximum compensation payable was $10 000. When in 1993 the statutory maximum was increased to $50 000, the minimum threshold was increased to $1 000, and it has remained unchanged at $1 000 since then.

The intent of the bill is to do away with this combined threshold which requires that the total amount of the claim must be at least $1 000 and, instead, to remove any threshold for economic loss. There will be no threshold for economic loss in the future if the government's bill is adopted. So, you would have special damages where if you lose a week's pay which is under $1 000, if you are taken to hospital in an ambulance and you do not have ambulance cover, if you are discharged following the treatment of a scratch, and if you suffer no other disability, obviously you will be entitled to claim less than $1 000.

The change in the bill is to remove the threshold for economic loss. The bill seeks to institute a threshold for lump sum monetary compensation for non-financial loss. This is because there is a real difference between reimbursement of out-of-pocket expenses and the payment of a lump sum in recognition of suffering. At the same time, the bill creates a new power for the Attorney-General to make ex gratia payments to any claimant to help him or her recover from the effects of the crime. The policy behind this is that, in small claims, direct assistance to recover is more appropriate and more useful than monetary recognition.

Such a recognition more appropriately belongs to cases where serious harm has been done. So victims of a minor offence are not left without a remedy. They are given a remedy that focuses on their recovery rather than on their degree of suffering. I have made the point previously that this new discretion given to the Attorney-General to make ex gratia payments might include such things as the installation of some deadlocks so that a person who has suffered a break-in will have some peace of mind. Presently that is not permitted, although there have been a couple of cases recently where I have been asked to grant approval for the installation of security systems in very special cases.

This bill extends the flexibility to enable the Attorney-General to make ex gratia payments to cover those sorts of expenses that are directed towards recovery. The present amendment would cut across this policy and across the approach that has been taken throughout the lifetime of the act. I predict a barrage of trivial claims, together with associated claims for legal costs the amount of which will be the same regardless of the amount of compensation due to the victim. We can anticipate that they will be made. I suggest that the few dollars that may result to each slightly injured victim would be of little practical assistance. The net effect on the fund, however, having regard to legal costs and medical report disbursements, could be significant. It is for those reasons that I do not support the amendments. There is an amendment to a later part of the bill and it might be helpful if I move that as well. It is my amendment and I therefore move:

Page 17, lines 20 to 24—Leave out subclause (12).

In essence my amendment seeks to remove from the bill subclause (12), which provides that, if the Crown has made a written offer to settle and the victim does no better than the offer at trial, the victim cannot recover costs for legal work done more than 14 days after the offer was made. This clause was of some concern to the Victim Support Service. We had it put in the bill so as to draw to the attention of victims the possibility that their costs may not be recoverable in full when an offer has been made. The removal of the clause does not, however, alter the reality that an open offer made by letter may be taken into account by the court in determining what costs orders should be made, nor does it affect that fact that the rules of court may permit a party to file an offer in court with cost consequences for the other party if the offer is not bettered at trial. That should be non-controversial, whereas the current amendment moved by the Hon. Mr Gilfillan obviously is.

The Hon. CAROLYN PICKLES: I am in somewhat of a dilemma because my understanding was that what the Hon.

Ian Gilfillan sought to do was keep the status quo. Is it too much to expect to have parliamentary counsel down here when we are dealing with legislation so we can question them, because we may wish to have an amendment that clarifies the position, just as you think the amendment that you are moving does? The Hon. Mr Xenophon will probably wish to move an amendment along those lines and there is no parliamentary counsel in the building. It is a bit rough.

The Hon. IAN GILFILLAN: With due respect, I think the Attorney has misrepresented the effect of my amendment and I will spend a moment explaining that. The actual clause as I would amend it reads this way:

> If a claim for non-financial loss is made, the total non-financial loss must be assigned a numerical value on a scale running from zero to 50.

In other words, the minimum numerical value of any consequence is one.

An honourable member interjecting:

The Hon. Ian GILFILLAN: It cannot be assigned zero because it then goes on:

> The greater the severity of the non-financial loss the greater the number and the amount awarded will be arrived at by multiplying the number so assigned by $1 000.

Anyone with a basic idea of maths knows that if you multiply zero by $1 000 you get zero, and it says that it has to have a number assigned. The only number of any consequence is 1, which when multiplied by $1 000 means—

An honourable member interjecting:

The Hon. IAN GILFILLAN: It cannot; it does not mention fractions. It says:

> . . . from a numerical value on a scale running from zero to 50.

So, 1 is the basic level at which the non-financial loss can commence.

An honourable member interjecting:

The Hon. IAN GILFILLAN: The current system works at a start of 1 and $1 000, and that is what I asked Parliamentary Counsel to draft the amendment to achieve, and I believe that it has done so. The only other observation I make is that I have had discussions with several lawyers who work in the field, and if the bill is passed in its current form it would cut out not only the minor and incidental injuries but also people who have suffered a single fracture of a bone, an adjustment disorder or a post traumatic stress disorder of under three months. So, I consider that reasonably significant injuries would be excluded if the current bill were not amended.

The Hon. T. CROTHERS: If I understand correctly, the Attorney is proposing that the bar be lifted to $3 000, and I understand that it is $1 000 before you can get into the court. I am appalled at that. I am appalled at the Attorney, because you are not only cutting out people's right to the judicial process. If someone has done you damage to the extent of $2 500, they will not pay and you have a court judgment against them, that means that, if your court judgment against them is less than $3 000, you are finished, whereas, if it is over $3 000, at least you can take a lien on their property or something—

The Hon. K.T. Griffin interjecting:

The Hon. T. CROTHERS: Yes, you can if they do not pay you. What you are saying at the moment is that, if it is not more than $3 000, they cannot get into court. Recently, my grandson had his little car wiped out. He reported it to the police, who said that he was in the right. I forget what the damage was but the other bloke was supposed to pay him $100 a week. He paid the first week but then shot through—he defaulted. That leaves my grandson with no recourse whatsoever if, in fact, we accept the heightened principle of what the Attorney is saying about a capacity for people to have their day in court. I am just appalled at that, because you are not only cutting off their right in relation to the money in question, but also cutting of their right, if they have an order against a person such as this fellow to whom I have just referred, to take a lien on any property of those people who are defaulting on the debt. I find—

The Hon. T.G. Roberts: You find it appalling.

The Hon. T. CROTHERS: I do indeed. I find your interjection equally appalling. I find that proposition just so peculiar. I will support the Hon. Mr Gilfillan's amendment, because I think it is a worthy one. It is worthy of this parliament which, after all, exists in the first instance to protect the little fellow. It is the little fellow for whose protection we exist.

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: Well, little in height and little in mind, like someone who sits not far from me. In my view, that is the person for whom we exist. I have a lot of time for the Attorney; I have generally found him to be a very fair man, but I do not think he understands the extent and the reach of that which he is proposing. I support the Hon. Mr Gilfillan in what he is endeavouring to do.

The Hon. NICK XENOPHON: I support the amendment of the Hon. Ian Gilfillan. I oppose any provision that will raise the threshold or raise the bar for victims of crime in order to claim. This would knock out potentially—I think the Attorney-General gave a ballpark figure yesterday—at least 100 or 150 claims per annum. I stand corrected if that is incorrect. I understand that it may be even more than that. We already have a situation where victims of crime do not have their non-economic payments indexed, unlike others who are injured in the community including those injured in motor vehicle accidents with the Wrongs Act provisions. We have a situation where some of the most vulnerable in the community will not be able to claim compensation.

I commend the Attorney-General for a number of his initiatives in this bill—there are many good provisions—but raising the bar or raising the threshold in this way is grossly unfair. In the circumstances, I support the Hon. Ian Gilfillan's amendment. There appears to be an issue as to whether the amendments will do what they are meant to do. I understand that there is a genuine dispute between the Attorney-General and the Hon. Ian Gilfillan in relation to that. I am not sure whether the Hon. Ian Gilfillan proposes to obtain further advice from parliamentary counsel in relation to this but, if there is a dispute after the clause is dealt with, and if the Hon. Ian Gilfillan's amendment is passed, I am sure that can be sorted out in the other place. Obviously, that is up to the mover of this amendment.

The Hon. IAN GILFILLAN: If there is ambiguity about that it would be a simple amendment to adjust the numbers zero to 50 to one to 50. The Attorney-General is concerned that there would be some use of fractions of the number one. To make it abundantly clear, the amendment could be amended so that in that first subclause it reads, 'The total financial loss must be assigned a numerical value on a scale running from one to 50.' That would then make it quite clear that nothing under $1 000 would be considered and it would settle any uncertainty about that. The other amendment would be to assign a numerical value which must be a whole number; again, removing any fear that there may be a fraction used which is under one.

The Hon. K.T. GRIFFIN: Obviously, there is some misunderstanding about what the amendment seeks to do—certainly not from my point of view—and I understand that members opposite and the Hon. Mr Gilfillan have some genuine concerns about what it might achieve. I do not propose to amend the amendment on the run. I have always understood that this particular amendment might be a point of contention so I always anticipated that, if I was to fail in my opposition to an amendment of this nature, there would be an opportunity to resolve the issue, even if ultimately it is at a deadlock conference. It may be that we do not have to go that far. There may be discussions about how we can resolve the impasse, but I am firmly of the view that the Hon. Mr Gilfillan's amendment opens up the right to claim to any person who might suffer a scratch. I acknowledge that the Hon. Mr Gilfillan does not want that to occur and wants to maintain what is effectively the status quo. Already I can gather that the numbers are against me in relation to my opposition to the amendment. I put it on the record that it is still a live issue.

I will not divide on it because there will be other opportunities to debate this part of the bill. We will resolve it over the next week or so. I regret that parliamentary counsel is not here and I do not know why that may be. So that we are clear on what it achieves, I think that we can get the issue resolved over the next week or so. Whether or not we can agree on what should be the threshold is, of course, another issue.

The Hon. IAN GILFILLAN: I appreciate the Attorney's approach to it. It is a constructive way and it will put any doubts at rest. I recap that it appears as if we are going to pass my amendment without dividing but I acknowledge that the Attorney does not support the intent of the amendment and is looking to have an opportunity to make sure that my amendment eventually will be framed so that it does, beyond dispute, achieve what I believe it is aimed at achieving and should achieve.

The Hon. I. Gilfillan's amendment carried; the Hon. K.T. Griffin's amendment carried; clause as amended passed.

Clauses 21 to 26 passed.

Clause 27.

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

Page 21, line 8—Leave out 'lack of mens rea by reason of'

This removes from the clause relating to the power to make ex gratia payments in certain cases the reference to mens rea. This is because as a matter of law the defence of automatism goes to actus reus, that is, to the act alleged to constitute the offence, and not to mens rea, that is, the necessary mental intention. This is a technical error in the present act which requires correction. The reference to mens rea is simply removed so that the ex gratia payment can be made in any case where the acquittal appears to have arisen from duress, drunkenness or automatism. This will not in anyway reduce the scope of ex gratia payments which can be made under the act.

The Hon. IAN GILFILLAN: I indicate support for the amendment.

Amendment carried; clause as amended passed.

Clauses 28 and 29 passed.

The CHAIRMAN: I point out to the committee that clause 30, being a money clause, is in erased type. Standing order 298 provides that no question shall be put in committee upon any such clause. The message transmitting the bill to the House of Assembly is required to indicate that this clause is deemed necessary to the bill.

Clause 31 passed.

The CHAIRMAN: I point out that clause 32, being a money clause, is in erased type. It is to do with the imposition of a levy. Standing order 298 provides that no question should be put in committee upon any such clause. The message transmitting the bill to the House of Assembly is required to indicate that this clause is deemed necessary to the bill.

Remaining clauses (33 to 37) passed.

Schedule 1.

The Hon. NICK XENOPHON: I move:

Transitional provision

2. (1) This act applies to an injury arising from an offence committed on or after its commencement.

(2) The repealed act applies to an injury arising from an offence committed before the commencement of this act.

Clause 2(1) in its current form provides:

Subject to subclause (2), the repealed act applies to an application for compensation in respect of an injury arising from an offence committed before the commencement of this act.

It is qualified in subclause (2), which provides:

However, if compensation (other than interim compensation) had not been paid under the repealed act before the commencement of this act. . . applies to the exclusion of the corresponding provisions of the repealed act as if the order for compensation were an award under this act.

Subclause (3) provides:

This act applies to a claim for statutory compensation for an injury caused by an offence committed on or after the commencement of this schedule.

My amendment makes it clear that this act applies to an injury arising from an offence committed on or after its commencement because I am concerned—and obviously I would be interested to hear from the Attorney on this—that, to some extent, there is an element of retrospectivity, in the sense that if the—

The Hon. K.T. Griffin: Only in relation to compensation. The only issue which is different is the discretion in respect of legal costs, and I will explain that in a minute.

The Hon. NICK XENOPHON: I am grateful for the Attorney's interjection because, in a nutshell, the issue is that clause 28 of the bill gives the Attorney a new discretion to knock out legal costs with respect to an application for compensation that is unsuccessful. The current position is that, even if an application is unsuccessful, even if the claim fails, the legal representative receives the statutory amount of $675 plus disbursements, or whatever the disbursements may be—they could well exceed $1 000 or so dollars.

The point made by the Hon. Angus Redford last night was a good one in that, when a lawyer deals with these sorts of claims, sometimes a lawyer is faced with the position of advising that they may have to issue proceedings under both the Criminal Injuries Compensation Act and the workers' compensation act to ensure that they are doing the right thing by the client to protect and preserve the client's legal rights. I understand that the Attorney's position is that generally the workers' compensation proceedings are dealt with prior to the criminal injuries compensation claim, but that is not necessarily the case. If my memory serves me correctly, in years gone by, when I used to practice in this field, I have done claims where that was not necessarily the case.

My concern is that a lawyer is trying to do the right thing by the client by issuing proceedings under both the workers' compensation act and the Criminal Injuries Compensation Act (now the Victims of Crime Bill) on the understanding

that, for instance, if the workers compensation claim was a risky claim—and people such as the Hon. Ron Roberts with his background as an advocate for workers in the past would understand—that there would be circumstances in which an argument might arise as to whether it arose out of or in the course of employment. For instance, a number of years ago I handled a criminal injuries compensation claim involving some people who were employed in South Australia but who were working in Queensland. They were coming home from dinner one night and were quite viciously assaulted, a totally unprovoked assault.

There was a real issue and we had to issue proceedings under both acts to preserve the clients' position because it was unclear whether or not, in those circumstances, there was a workers' compensation claim because there was no journey injury as such.

The Hon. R.R. Roberts: He was there in the course of his employment, otherwise he wouldn't have been there.

The Hon. NICK XENOPHON: Yes. But issues were raised, from memory, about the compensability of that; some question marks were raised in relation to that. It was not that simple. I think it was an issue about contractor—whether they were an employer or an employee, or whatever.

I can understand the Attorney's concerns in relation to practitioners who have issued proceedings that are unsuccessful and then received costs. But if a practitioner is issuing proceedings just for the sake of issuing proceedings and for the sake of cost building, I query whether that in itself would be unprofessional conduct on the part of the practitioner. Again, picking up what the Hon. Angus Redford has said in relation to this matter, often lawyers are faced with the position of having to protect the client's interest, and that could involve issuing proceedings under both pieces of legislation. In terms of what the Attorney is attempting to do with the transitional provisions, his discretion would apply, as I understand it, for an application for compensation that has been made before the commencement of this act.

I would have thought that, in many respects, that would be seen to be retrospective in its operation, in the sense that, if a practitioner has already issued the proceedings, the Attorney's discretion can come into play, whereas my amendment proposes to ensure that it would only apply for applications for compensation that have been filed after the commencement of the act. In that way, there can be a clear memorandum, a warning, or whatever, to the legal profession as a whole, saying, 'This is the position. In those cases where the discretion could be exercised, you could miss out on your costs.'

I do not agree with the position of the Attorney in relation to what he is trying to do with clause 28. Again, the points made by the Hon. Angus Redford, I think, are very valid in terms of trying to protect the client's position. Sometimes it is very difficult when you are making that decision, when you see a client who, for whatever reason, has taken some time to pursue a claim for either workers' compensation or criminal injuries compensation; you are running out of time and you have to issue proceedings. I understand that the position is lost with respect to clause 28, but I urge honourable members not to make this retrospective in its operation: it ought to be prospective with respect to the exercise of the Attorney's discretion.

The Hon. K.T. GRIFFIN: I oppose the amendment. The effect of the transitional provisions in schedule 1 is that, where a case has been settled or adjudicated and compensation is due to be paid to the victim, the new provisions of the bill as to the Attorney-General's discretion will apply; that is, being able to reduce the award or decline to pay altogether—and that does not change: the old act and the new bill are the same. So, in relation to compensation claims, the same discretion continues. But the additional discretion is that the Attorney-General will be able to decline to pay legal costs. That cannot occur at the present time. I understand that the argument of the Hon. Mr Xenophon is that that should apply only in relation to claims which arise after the date on which the act comes into operation. However, the reason for applying that now as a discretion to legal costs, regardless of when the claim arose, is that practitioners are very often well able to judge in advance whether the victim will gain any benefit from pursuing a criminal injuries compensation claim in the case where some other entitlement is also available. It is undesirable, in my view, for practitioners to advise victims to pursue such a claim in a situation where it is obvious that the victim will gain no benefit and all that can be expected from the claim is legal costs.

It merely results in the topping up of legal costs from the fund. The intention of the bill, therefore, is that with impending claims, where the Attorney-General sees fit to reduce the award, there shall also be a discretion to the client to pay legal costs. But that, of course, is simply a discretion. If there are proper reasons for pursuing the claim in addition to the victim's other entitlements, then those issues can be taken into account. Costs may properly be payable in some of those cases where, for example, time is running out and the workers' compensation claim has not been settled. But I get cases, and the sorts of cases towards which this is directed, where there is a very large section 43 lump sum payment made for the injuries sustained as a result of a criminal act, and it is obvious to anyone that making a criminal injuries compensation claim in the end will not result in any more money being payable to the claimant. But the legal costs nevertheless are payable. And that is the sort of situation we are directing this towards.

All I can say is that, if the provision in the bill were to stand, the amendment were to be lost, there remains a discretion that would be properly exercised on the basis of all the facts in relation to legal costs. As I said yesterday, there will be only a handful of these each year, something like 20 or thereabouts out of 1 000, but nevertheless it is a sizeable amount and there are some issues of principle involved. If the amendment is carried, it would remove the discretion and simply carry over the present law in respect of old claims. The government considers that the provisions of the bill are appropriate and, because of that, the amendment will be opposed.

The Hon. NICK XENOPHON: I am grateful for the Attorney's explanation, but he makes the point that very often a lawyer is able to gauge whether there will be a benefit to the claim by going ahead with criminal injuries compensation. In a sense, the Attorney has qualified his own argument by saying 'very often,' because sometimes you do not know. There are cases—

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: Yes, and the Attorney says that he has reflected on the exercise of a discretion. The Attorney has made the point in relation to, say, a section 43 claim for non-economic loss under the worker's compact. In some of the cases I have been aware of, you have a victim of an armed robbery who, as a result of the armed robbery, suffers nervous shock, in a sense, and is unable to work for a number of weeks, unable to go back to the bank or building

society where they worked. Unfortunately, that happens all too often in this day and age. They manage to get back to work, but then there is a clear continuing psychiatric trauma: they are unable to sleep, they are on antidepressant medication and they have ongoing therapy—

The Hon. K.T. Griffin: If they are not compensated by workers' compensation—and they are not—then they are entitled to a claim under criminal injuries compensation.

The Hon. NICK XENOPHON: The Attorney makes the point that, if they are not compensated by workers' compensation, they are entitled to a claim under criminal injuries compensation, but they would have received a payment for workers' compensation with respect to weekly income maintenance.

The Hon. K.T. Griffin: But that is not taken into account.

The Hon. NICK XENOPHON: I understand that. But what about a situation where, for instance, the armed robbery involves physical violence upon the bank teller or building society teller, they sustain an injury that could give them a small section 43 lump sum with respect to, say, an injury to the arm, neck or something like that? But what happens then, Attorney, with respect to any balance of the claim? They will have a section 43 claim but what happens with respect to that aspect of the claim where the bank teller has a fairly significant ongoing psychiatric trauma?

The Hon. K.T. GRIFFIN: In those circumstances, ordinarily, there is an entitlement to, in a sense, top up; there is no issue about the payment of legal fees. It is only where there is no entitlement, or the entitlement is exceeded by a very significant other payment such as a large section 43 lump sum, that one exercises the discretion for a client to make any payment of compensation. In those circumstances where it should have been envisaged, because of the nature of the injury, that there would be a sizeable, say, section 43 claim, if the amount payable under the Criminal Injuries Compensation Act is reduced to nil, the legal fees still accrue and the medical expenses are still payable, unless they have been covered by workers' compensation. It is in those limited circumstances where it is proposed that there be a discretion not to pay the legal costs. There are those cases where it is obvious that it is a try on, where it is obvious from the facts of the case and the way in which it has been handled that it has been a try on. No criminal injuries compensation is payable but the legal costs remain payable.

The Hon. CAROLYN PICKLES: Rather than debate this all night, I indicate that the Opposition will support the amendment and take into consideration some of the comments that have been made by two previous speakers. If there is a need to look at it again, we will do so in the lower house.

The Hon. IAN GILFILLAN: We will be opposing the amendment. We have a lot more sympathy for victims who may be being shafted of their opportunity to get reasonable compensation. Lawyers are pretty adequate survivors, and I think that the Attorney has put a substantial case that there is a minimal risk that anyone—

The Hon. R.R. Roberts interjecting:

The Hon. IAN GILFILLAN: Well, it is a matter of judgment. I just want to indicate our opposition to the amendment.

The Hon. NICK XENOPHON: I know that all the members want to me to wind up—

Members interjecting:

The Hon. NICK XENOPHON: I see the Treasurer's enthusiasm. I am afraid that I am wound up. There are a couple of issues. The Hon. Ian Gilfillan states his opposition to this amendment because he is interested in victims of crime. That is very laudable but my query is this: if, as a result of the exercise of the Attorney's discretion with respect to existing claims going through the system, you knock back the claim as unsuccessful and you have knocked back the claim for costs, is there a question as to whether the lawyer can then separately charge the victim?

The Hon. K.T. Griffin interjecting:

The Hon. NICK XENOPHON: The Attorney says he does not believe they can but my concern is that that may well open the victims to a much greater claim for legal costs. I am not sure whether the Hon. Ian Gilfillan has considered that, because it could impact. That is one particular concern that I think should be placed on the record. I do not know the answer to that but I think it does potentially expose victims of crime to a fairly significant legal bill in excess because, at the moment, there can be no double dipping.

The Hon. K.T. Griffin: I don't believe that they can be.

The Hon. NICK XENOPHON: The Attorney says that he does not believe they can be. My concern is that it is unclear, and at the moment the act does protect victims in the sense that the costs are fixed at a statutory amount and that is that.

I seek clarification on the point that the Attorney made about a significant section 43 lump sum payment being made. Let us say that a victim of crime involved in a hold-up situation sustains a severe physical injury and receives a significant section 43 payment of $50 000, $60 000 or $70 000 because they were shot and had paralysis to one side of their body. The non-economic loss could be well in excess of $50 000. However, there is also a significant psychiatric component. How does the Attorney exercise his discretion now with respect to those cases? Is it the Attorney's view that, because they have received a significant amount of money for their physical injury under section 43, they are not entitled to anything under the Criminal Injuries Compensation Act for a fairly significant psychiatric injury?

The Hon. K.T. GRIFFIN: That is possible. That is already the case, but that does not go to the issue that we are addressing, and that is the legal cost.

The Hon. NICK XENOPHON: I understand that the Democrats have abandoned me on this amendment. The point must be made that this does go to the issue at hand, because in the exercise of your discretion a practitioner might issue proceedings on the basis of a gross psychiatric injury suffered by a bank teller. For example, they might suffer from agoraphobia and be on antidepressants for the rest of their life. They might have received a lump sum payment under section 43, but it does not cover the psychiatric trauma. Yet under the exercise of your discretion, they can be not only knocked out but—

The Hon. K.T. GRIFFIN: If the amount of the award exceeds the $50 000 on the scale, it does not matter what components make up the section 43 payment.

The Hon. NICK XENOPHON: Again, I appreciate the Attorney's response, and I will not belabour the point any more. However, it seems to me to be unfair that in those circumstances it could be that the injured worker is trying to pursue a claim for psychiatric injury as a result of amendments of a previous Labor government to knock out psychiatric injury under the workers compensation act. In such a scenario who will be paying the disbursements? A total of $2 000 worth of medical reports might have been obtained because it was a complex issue. What happens in those cases? Who picks up the bill? Does the practitioner pick up the bill

or does the victim of crime pick up the bill for the disbursements, because they are properly costed as part of the claim for costs?

The Hon. K.T. GRIFFIN: The medical expenses are actually paid by the fund. I am fairly confident that is the case.

Amendment negatived; schedule passed.

Title passed.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

I take the opportunity to give the Hon. Mr Cameron an answer to a question which he raised yesterday. He asked how much money is collected by way of the levy and how much we are spending on the fund—that is, what is the shortfall between the levy and the total expenditure?

I have the figures for the last four years. In 1997-98 the total collected by way of levies was $5.548 million and the fund's total expenditure was $11.522 million. In 1998-99 the total collected by way of levies was $4.316 million and the total expenditure of the fund was $11.335 million. In 1999-2000 the total collected by way of levies was $6.43 million and the total expenditure of the fund was $11.319 million. In 2000-01 the total collected by way of levies was $4.029 million and the total expenditure of the fund was $8.749 million.

The Hon. T.G. Cameron: That is a bit of a drop.

The Hon. K.T. GRIFFIN: Yes. They are the figures.

Bill read a third time and passed.

LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2007.)

The Hon. T.G. ROBERTS: I rise to indicate that the Labor Party supports the Land Acquisition (Native Title) Amendment Bill. The Attorney-General and his officers have done a very good job to bring together the parties which originally had differences of opinion regarding the bill. The Statutes Amendment (Native Title No. 2) Bill lapsed in 1999. One of its components was the Land Acquisition (Native Title) Amendment Bill. When the bill first landed, differences of opinion between stakeholders were not major but were major enough for the Attorney to hold the bill over—for which I thank him—so that stakeholders could get together to work through a series of amendments.

I suspect that the Attorney is quite pleased with the process and the outcomes. The more that people sit around tables talking about the differences that they have on various bills, the more likely they are to build relationships which will prevent negotiations on other bills being soured. I think that the Attorney has done a good job in not being worn down by what in some cases might appear to be petty opposition to some positions but in other cases are principled positions adopted by stakeholders to protect the various interests of parties in the important issue of the application of the native title. Although land rights negotiations—individual land use agreements—exist and have different lives in legislation, the overall philosophical direction in which the state of South Australia has developed relationships between stakeholders is probably the envy of other states.

Again, the original bill that was introduced in 1998 did have a tortuous path. There were long, drawn-out negotiations around the table and, certainly, lots of meetings were held all over the state. Fortunately, the groups, organisations, individuals and representatives of Aboriginal people, including the ALRM and other law firms that had an interest in outcomes, were able to iron out their differences and reach an agreement. A series of amendments which have been put together by the government and which are on file have brought agreement amongst stakeholders, and we will be supporting those amendments.

We would hope that the goodwill that has been brought about by, perhaps, the tortuous path of the negotiations last in this state so that the outcomes that are gained through negotiations and the benefits that are derived are delivered to indigenous communities, to developers and to other stakeholders in a way that allows the state to benefit from the goodwill included in the bills. I suspect that the umbrella that is provided by the series of bills in relation to the original Statutes Amendment (Native Title) Bill (No. 2) will provide a variation of negotiating models. The right to negotiate is not excluded from state owned land indicated in any of the acts, and this has been one important facet that the representatives of Aboriginal interests have wanted to include.

Some of the amendments are intended to address inconsistencies between the operation of the bill and relevant provisions of the commonwealth Native Title Act. There was some difference of opinion about the meaning of 'instrumentality of the Crown'. Clause 3, page 4, line 26, referred to the state, and that has been remedied by amendment. Other technical amendments have been included as a result of the negotiations about which I will not elaborate. I indicate that we will be supporting the bill and the amendments, and we hope that the measure is given speedy passage.

The commonwealth legislation provides the umbrella, and the state's provisions do not weaken any of the negotiated positioning within this state. Due reference and dignity must be paid to the commonwealth act, and all the practitioners in the field recognise that. They would certainly like some aspects of the commonwealth bill altered but that will not happen in the immediacy. It will be up to negotiators at the commonwealth level to keep an eye on the development of the commonwealth act. In the case of this bill, the opposition will be wishing it speedy passage.

The Hon. SANDRA KANCK: I rise to indicate that the Democrats support the Land Acquisition (Native Title) Amendment Bill. This bill amends the Land Acquisition Act so that it is consistent with the commonwealth right-to-negotiate process. I note that the bill was introduced on 11 April. No doubt the Attorney-General is keen to see it progress, but as is my wont I am not prepared to pass legislation until all relevant stakeholders are happy with it. For that reason, I held out for the last few months to ensure that that happened in this case.

I understand now that the Aboriginal Legal Rights Movement, which represents the interests of South Australian native title holders, is generally happy with the bill in its current form provided that the amendments that the Attorney-General has placed on file are passed. I indicate that the Democrats will support those amendments. Obviously, the opposition has just given a similar commitment, so under those circumstances we are happy to support it. I think we have come a long way from the original bill on which this was based. I think it was two years ago when it was intro-

duced, and it was then a quite draconian piece of legislation. This measure is now relatively civilised in comparison.

The Hon. T. CROTHERS: Independent Labour indicates support for this very necessary amendment.

The Hon. K.T. GRIFFIN (Attorney-General): There have been some frustrations in dealing with this matter. I think the issues which have now been resolved could have been resolved a long time ago. This bill has been on the *Notice Paper* for nearly six months but, as I indicated by way of interjection, I have a certain measure of patience. This is an important bill, and ultimately we were able to negotiate a satisfactory outcome.

I have indicated to indigenous representatives that I would clarify two issues in respect of the bill when I made my second reading reply. The first relates to the definition of 'prescribed private acquisition'. This definition sets out the acquisitions to which the process in the new section 12B will apply. This section reflects the process set out in section 24MD(6B) of the commonwealth Native Title Act 1993. Section 24MD(6B) was introduced in the 1998 amendments to the Native Title Act and sets out a right to object process in circumstances where the right to negotiate does not apply. Indigenous groups have raised concerns about the inclusion of subsection (d) in the prescribed private acquisition definition, which refers to:

> an acquisition of native title in land that is neither made by the Crown or an instrumentality of the Crown nor made for the purpose of conferring rights or interests on the Crown or an instrumentality of the Crown.

In effect, all compulsory acquisitions undertaken by entities which are not part of the Crown and which are not for the purpose of granting rights on the Crown will be subject to the process in section 12B. The definition in this bill, however, merely reflects the position under the Native Title Act where the right to negotiate only applies to acquisitions undertaken by the state. This does lead to the position whereby certain acquisitions which would attract the right to negotiate when undertaken by the Crown will not when undertaken by an entity that is not part of the Crown.

Whilst this position is a cause for concern for indigenous interests—and they have asked me to note that concern in this place—it is not something that can be addressed in this bill as, in the event of an inconsistency with the Native Title Act in this area, the position in the Native Title Act will override the state legislation in any event.

The second matter relates to the absence in the legislation of a specific reference to the fact that payments negotiated under the right to negotiate process may be calculated by reference to profits. The absence of such a statement is merely a reflection of the fact that such a calculation would not generally be relevant in the context of land acquisition. I note, however, that, whilst it is unlikely to be relevant in most land acquisition processes, the absence of a specific reference to this possibility is not intended to exclude it. I thank honourable members for their indications of support for this bill.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

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

Page 3, lines 24 and 25—Leave out the definition of 'instrumentality of the Crown'.

Page 4, line 26—After 'Crown' insert:
or an instrumentality of the Crown.

These amendments are intended to address a potential inconsistency between the operation of the bill and the relevant provisions of the Commonwealth Native Title Act 1993 that arose from changes made to the bill at the request of the commonwealth just prior to its introduction. The amendments ensure that the phrase 'Crown or an instrumentality of the Crown' in the bill is equivalent to the use of the term 'state' in the relevant sections of the Native Title Act 1993.

Amendments carried; clause as amended passed.

Clauses 4 and 5 passed.

Clause 6.

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

Page 6, lines 28 to 30—Leave out proposed paragraph (b) and insert:

(b) the relevant representative Aboriginal body is taken to have an interest in the land if—
  (i) the land is native title land; and
  (ii) there is no native title declaration for the land; and
  (iii) —
    (A) there are no registered representatives of claimants to native title in the land; or
    (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.

This amendment and the amendment to clause 7 are in similar terms. Both amendments are in response to a request from indigenous representatives for additional rights to be given to the relevant representative Aboriginal body, currently the Aboriginal Legal Rights Movement, under the general objection process that is set out in sections 11 and 12 of the act.

Where a registered claim group already exists in respect of the land concerned, these amendments will allow the relevant representative Aboriginal body to act in the circumstances where they are authorised to do so by and on behalf of an identifiable group of people claiming native title to the land who are not represented by the registered claim group.

Amendment carried; clause as amended passed.

Clause 7.

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

Page 6, lines 34 to 36—Leave out proposed paragraph (b) and insert:

(b) the relevant representative Aboriginal body is taken to have an interest in the land if—
  (i) the land is native title land; and
  (ii) there is no native title declaration for the land; and
  (iii) —
    (A) there are no registered representatives of claimants to native title in the land; or
    (B) an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.

The rationale for the amendment is the same as that for the amendment to clause 6 that has just been passed.

Amendment carried; clause as amended passed.

Clause 8.

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

Page 7, lines 12 to 16—Leave out proposed subsection (4) and the example and insert:

(4) The Attorney-General must, at the request of a native title party who has made an objection under this section, appoint an independent person or body to hear the objection.

Example—
The Attorney-General might appoint a judge of the ERD court or a native title commissioner to hear the objection.
(4a) Before making such an appointment, the Attorney-General must consult the minister and the native title party.

The amendment addresses concerns raised by indigenous representatives in respect of the process for the appointment of an independent person or body under proposed section 12B. The amendment means that it will be the Attorney-General, and not the minister responsible for the administration of the act, that is, the Land Acquisition Act or another piece of legislation under which the proposed acquisition is occurring, who will appoint the independent person or body and that this will occur only after consultation with the parties involved.

Amendment carried; clause as amended passed.

Clauses 9 and 10 passed.

Clause 11.

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

Page 9—
Line 17—After 'native title' insert 'in'.
Line 19—After 'notice' insert 'of'.
Line 23—After '(Cwth.)' insert:
(see sections 24MD(2), (2A) and (3))

The amendments to this clause and to some other clauses which follow are minor technical amendments to the bill. They are in response to comments made by commonwealth officials and indigenous representatives. The amendments are intended to address some minor drafting errors in the bill and to make the operation of the act more understandable. They are almost exclusively amendments to the non-substantive headings and footnotes to the legislation. They refer to the amendments we are proposing to make to clause 11, new clause 12A and clauses 14, 19 and 26. I will formally move those amendments when we get to those clauses, but the explanation covers the lot.

Amendments carried; clause as amended passed.

Clause 12 passed.

New clause 12A.

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

Page 10, after clause 12—Insert new clause as follows:
Amendment of heading to Division 1 of Part 4
12A. The heading to Division 1 of Part 4 of the principal act is amended by inserting 'IN' after 'NATIVE TITLE'.

Amendment carried; new clause inserted.

Clause 13 passed.

Clause 14.

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

Page 10, line 22—After 'native title' insert 'in'.

Amendment carried; clause as amended passed.

Clauses 15 to 18 passed.

Clause 19.

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

Page 14—
Line 19—Leave out 'acquiring'.
After line 22—Insert:
See section 24MD(6B).

Amendments carried; clause as amended passed.

Clauses 20 to 25 passed.

Clause 26.

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

Page 16, line 34—Leave out '22A' and insert '22B'.

Amendment carried; clause as amended passed.

Remaining clauses (27 to 30) passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (STALKING) BILL

Adjourned debate on second reading.

(Continued from 26 July. Page 2085.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the government legislation designed to address the growing problem known as cyberstalking. We are all familiar with stalking legislation, which was enacted in South Australia in 1994. That bill represents our more conventional form and, to a degree, predates the explosions in new technologies that have since occurred. Today's emerging and booming new technologies have brought with them many new and vexed issues for regulators and legislators, and cyberstalking is a very good example. I suppose that the nature of the new technologies means that in many cases these problems emerge after the boundaries have been tested and pushed by these technologies.

The Attorney in his second reading explanation has referred to the various ways in which cyberstalking can occur—persistent emails and other opportunities presented by the internet. I understand that the Victorian legislation refers to electronic communication whereas this bill does not, but I believe that an amendment has been circulated by the Attorney that will deal with that issue.

The Attorney made reference to a case involving a Victorian man alleged to have stalked electronically a Canadian woman, which is interesting because of the international dimension of the case. Can the Attorney advise how such a case would be prosecuted, given the international dimension of the case, as there are Canadian laws and Australian laws, which may vary, governing the same of offence? For instance, I presume that the Victorian man would be subject to Victorian legislation even though his victim resides overseas.

The opposition has received communication from Electronic Frontiers Australia Incorporated, which raised some objections to the legislation. I imagine that the Attorney's office has received similar objections and I wonder whether, in his second reading reply, the Attorney would respond to this. If he has not got a copy of it, I am happy to provide him with a copy of the email from Electronic Frontiers Australia. We support the bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

Adjourned debate on second reading.

(Continued from 24 July. Page 2021.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indication of support for the bill. It is non-contentious and, as far as I can see, no-one who has spoken so far has raised any contentious issues. I thank members for their indications of support.

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

ADJOURNMENT

At 10 p.m. the Council adjourned until Thursday 27 September at 11 a.m.