LEGISLATIVE COUNCIL

Wednesday 27 May 1998

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.18 p.m. and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I bring up the ninth report 1997-98 of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I bring up the tenth report 1997-98 of the committee.

LIVING HEALTH

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

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: When Living Health was first established—

Members interjecting:

The PRESIDENT: Order! This is an important subject.

The Hon. R.I. LUCAS: —back in 1988, its original objectives were to replace tobacco sponsorship programs and to promote good health and healthy practices and the prevention and early detection of illness and disease related to tobacco consumption. The Government remains absolutely committed to the original health promotion objective of Living Health. The Government has now decided that its commitment to health promotion and its commitment to maximising the level of funding available to be distributed to health, sport and arts groups will best be met by implementing major policy changes.

The Government has therefore decided that Living Health as an independent authority should be disbanded and that the budget appropriation of $13.4 million will be allocated to the Department of Human Services, the Department of Transport, Urban Planning and the Arts and the Office of Recreation and Sport within the Department of Industry and Trade. Funding of $13.4 million will also be guaranteed for future budgets to be allocated in a similar way.

Before turning to the details of this decision, it is important to note some of the background to it. Members will be aware that in 1997 the Economic and Finance Committee reviewed Living Health and recommended as follows:

1. It is the view of the committee that the trust has been unsuccessful in achieving its original objective.

2. The trust's inability to focus on and appropriately resource this remaining objective (that is, reduce smoking) has led the committee to recommend that the trust be disbanded.

The committee's recommendations were unanimous and the membership comprised Heini Becker, Kevin Foley, Sam Bass, Frank Blevins, Malcolm Buckby, John Quirke and Mark Brindal.

In making these recommendations, the committee noted that only one-fifth of all moneys disbursed by the trust between 1988 and 1996 were directed towards anti-smoking campaigns and programs. The committee also indicated that administration costs were reported to be $895 000 in 1995-96 and that the committee might undertake a second review into Living Health's administration costs and processes.

It should be acknowledged that some of the findings made by the committee were disputed by Living Health. Since its establishment, Living Health was funded by a fixed percentage of tobacco licence fee revenue. The recent High Court decision, which has meant that South Australia no longer collects tobacco licence fee revenue, necessitated a review by Government as to how Living Health would be funded into the future.

In response to these developments, the Government established a Cabinet committee to consider options for Government consideration and decision. A detailed review of current Living Health expenditure was undertaken, and the Government has concluded that, in addition to the budget line titled 'administration costs' for 1997-98 of $880 000, further administration related costs of some hundreds of thousands of dollars were included in other budget lines. The Government is therefore strongly of the view that additional funding can be provided for sport, art and health programs through considerable savings in administrative costs.

The Government is also concerned that there was considerable duplication and administrative overlap in various Government and Living Health grant programs in the sports and arts areas. Some organisations were successfully double dipping for funding while others missed out completely. Key aspects of the Government's decisions are as follows:

· The Government will introduce legislation in this session to disband Living Health as soon as is possible. In the meantime 1998-99 funding of $13.4 million will not be allocated to Living Health but will be allocated to the respective departments.

· For 1998-99 the proposed grants recommended by Living Health to health, sports and arts organisations will be implemented without amendment.

· The Government will guarantee a continuing focus on health for all grants paid from the $13.4 million. For example, all performance agreements or contracts would include requirements to promote healthy messages.

· All sports and arts venues which are currently smoke-free will continue to be smoke-free. If required, the Government is prepared to consider introducing legislation to ensure that these venues remain smoke-free.

· The Living Health name will continue as the health promotion arm of the Health Commission.

· All contracts entered into by Living Health will be honoured.

· All permanently tenured staff will be guaranteed continuing employment within an appropriate department or agency. All contracted staff will at least be guaranteed a further period of contracted employment with an appropriate department or agency. Most staff will be employed by the Department of Human Services.

· Unspent Living Health reserves of over $4 million will be used in part to fund the transition period, with the remaining reserves to be allocated between the three departments.

· The Minister will separately announce details of a $3.9 million anti-smoking campaign for 1998-99.

In conclusion, the Government acknowledges the work of Living Health, its board members and staff for their work over the past 10 years to promote healthy practices. The Government is committed to building on this record and ensuring that even more funding will be provided to sport, health and art organisations to meet this objective.

MURRAY RIVER

The Hon. DIANA LAIDLAW (Minister for the Arts): I seek leave to table a ministerial statement from the Minister for Environment and Heritage in the other place on the subject of the Murray River—South Australia's life line.

Leave granted.

QUESTION TIME

PUBLIC SECTOR EMPLOYMENT

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question about jobs in the public sector.

Leave granted.

The Hon. CAROLYN PICKLES: The Government's financial statement for 1997-98 stated that $20 million had been set aside to continue the voluntary separation scheme in 1998-99. At the Government's projected figure of $52 500 per separation, this would mean a loss of 380 full-time jobs. Given the Premier's announcement that the Government will continue training and graduate programs over the next two years, will the Treasurer on behalf of the Government now shelve plans to spend $20 million in 1998-99 on separation packages to cut 380 full-time jobs from the public sector?

The Hon. R.I. LUCAS: The Government's commitments in relation to public sector employment levels will be announced to the House in the budget speech tomorrow afternoon.

CAPITAL WORKS PROGRAM

The Hon. P. HOLLOWAY: I seek leave to make a brief statement before asking the Treasurer a question about the Premier's statement yesterday.

Leave granted.

The Hon. P. HOLLOWAY: In a statement to the House of Assembly yesterday the Premier announced that the capital works program for 1998-99 would sustain 20 700 direct jobs and that $64 million would be earmarked for development. The Premier also announced that the capital works budget of $1.2 billion represents an increase of 8 per cent on last year's capital works budget. Last year the Premier signed and distributed a pamphlet, entitled 'Looking forward to the future', to all South Australian households. That pamphlet contained what was described as 'essential information' on the 1997-98 budget. The pamphlet stated:

> A massive $1 291 million will be spent on construction and other projects. This will sustain 21 500 jobs across the State.

Last year's budget pamphlet also announced a $70 million economic development package for companies. In light of that my questions are:

1. Will the Treasurer explain the loss of 800 jobs in this year's capital works program and a cut of $6 million in the industry development package, compared with last year's budget?

2. Will he explain how the $1.2 billion capital works budget for 1998-99 announced by the Premier yesterday represents an 8 per cent increase on last year's capital works budget of $1.291 billion?

The Hon. R.I. LUCAS: The Hon. Mr Holloway has not done his homework. There is a simple explanation—

Members interjecting:

The Hon. R.I. LUCAS: I would like to take you, Terry. The honourable member has been in this Chamber for at least four years listening to responses from me as Minister for Education.

The Hon. L.H. Davis: It feels longer.

The Hon. R.I. LUCAS: Yes. I will use it for illustrative purposes. In the education portfolio we had an education capital works budget of around $100 million, give or take a few million. We kept putting more money into school computers, which the Labor Government never did during its 10 years, but I will not enter into the politics of that. There was a continuing series of questions that highlighted unavoidable delays in the capital works program of the Education Department at the time. To refresh the honourable member's memory: for example, the Government desperately wanted to build a new primary school in Tanunda, but an on-going saga of disputation between the school council, the local council and anyone else who wanted to get involved in the issue of the new school led me to say on a number of occasions that I have never had more difficulty in trying to spend $4 million in a country community in trying to build a new school. The money was there and we wanted to spend it, but there was disputation going on in the local community area in relation to how the money might be expended.

I gave another example of Seaton High School. Tanunda involved about $4 million and the Government had almost $1.5 to $2 million that it desperately wanted to spend on the redevelopment of the Seaton High School. The principal, who members opposite might know—David Tonkin (certainly the Hon. Terry Roberts would well know him)—together with some of his local people, had a very strong view that they wanted to undertake development in a way different from the way the department wanted to undertake development. Indeed, they asked us to delay the expenditure of this money, which we were desperate to spend on their students and staff in the interests of the school but, being a reasonable Government, we listened to any reasonable views put to us and delayed the expenditure at Seaton High School.

If the Hon. Mr Holloway wants further examples, I am happy to waste Question Time by listing all of them, but I will leave it at that. I can refer him to a number of questions I have answered over the past four years as Minister for Education to highlight the reasons why Governments desperate to spend this money are sometimes held up. Sometimes even the Labor Opposition holds up expenditure. One of the reasons for some of the delays last year—and the Hon. Mr Holloway had better be careful as this has been documented—was the attitude the Hon. Mr Holloway and the Labor Party through Mike Rann adopted towards important developments like West Beach. So, the Government was anxious to get on with spending money but, because of delays being implemented and pushed by the Labor Opposition—

Members interjecting:

The Hon. R.I. LUCAS: We have the Labor Party chipping away and holding up some of these capital works programs. We are trying to spend the money and then, when it is underexpended, the Opposition criticises the Liberal Government because it has not been able to spend all the money.

The Hon. L.H. Davis: That's outrageous.

The Hon. R.I. LUCAS: It is outrageous, as the Hon. Legh Davis said.

Members interjecting:

The Hon. R.I. LUCAS: It is intellectually dishonest, outrageous and unacceptable.

Members interjecting:

The PRESIDENT: Order, Mr Cameron!

The Hon. R.I. LUCAS: I am happy to pursue the matter now, but I am not going to in the interests of getting the numbers up in Question Time. I am happy to provide more detail, certainly after tomorrow's Budget, of the expenditure in the capital works program for 1997-98. The simple reality of the comparison is that all of the money listed in 1997-98 in the document to which the Hon. Mr Holloway refers was not expended. It was a budgeted amount but, because of a range of these problems, some—I am not saying 'all'—caused by the actions of the Labor Party and some of their supporters out in the community, was unable to be expended in the financial year 1997-98.

The Hon. P. HOLLOWAY: I desire to ask a supplementary question.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will come to order.

The Hon. P. HOLLOWAY: Given the Treasurer's explanation that underspending in last year's capital works budget is the reason, how can he be confident that this year's capital works budget and associated jobs will be delivered?

The Hon. R.I. LUCAS: Mr President—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Certainly, the Government will do all in its power—all that is humanly possible—to spend the money that is budgeted for. We would be assisted—

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Exactly. We would be assisted if members of the Labor Party did all in their power not to hold up development projects and public works expenditure, as the Hon. Mr Redford has indicated, through the Public Works Committee, and as I have indicated through the processes in the Council and if their fellow travellers out there do not hold up much needed expenditure which the Government wants to spend but which is being held up in so many ways.

EMPLOYMENT, SOUTH-EAST

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about temporary accommodation in the South-East.

Leave granted.

The Hon. T.G. ROBERTS: This is a strange question to be asked of the Minister for Transport and Urban Planning but it relates to a building or site owned by the Department of Transport in or near Naracoorte. An article in the *Naracoorte Herald* refers to a problem associated with one of those factors we are not used to, that is, managing success. The wine industry in that region is growing at a rapid rate and one of the problems that the area experiences is a shortage of labour in particular areas, and the Western District of Victoria and even up to the metropolitan area is being used as a drawing centre for temporary labour while plantings, prunings and harvesting occur. It has led to a shortage of temporary accommodation and an application has been made by one of the management of labour service companies in the area, Villiers, to acquire a Government-owned former Highways depot site.

Negotiations have been continuing for a while but the *Naracoorte Herald* highlights that it is possible that, if the Government does not move quickly, the West Wimmera Shire, which is the Victorian shire abutting the winegrowing area in the South-East, may develop a site itself and offer it to the Villiers group so that it can be the manager of labour on the Victorian side of the border. It will mean a large revenue injection into the area that picks up that program.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: They will still work on the South Australian side of the border, but if they—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: As we speak new jobs are being created, new plantings are starting and prunings are taking place. Those jobs are being filled by people from Portland, Hamilton and Casterton—from the Victorian side of the border—who are looking for temporary accommodation on the South Australian side of the border because 90 per cent of the new plantings are on this side.

Small holdings are starting to appear on the Victorian side of the border and they will be integrated into the plans of the large wineries. The growth is mainly around the areas that have good water and good quality soil. Managing success has proven a little difficult for some of the regional councils. They are starting to bus people from towns, and this has been a good source of temporary labour and has provided jobs for many unemployed people.

The European experience has been to integrate wine and grape growing labour shortages with their tourist industry, and large temporary caravan parks and holiday centres act as refuges, if you like, for temporary labour. I have availed myself of that accommodation from time to time in the south of France and northern Spain and those facilities are of high quality and act as a double agent.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I am not advocating this at this stage, but I would like to know whether the Government has been investigating that type of accommodation for people in the wine growing areas. My questions are:

1. What alternatives to the Villiers proposal is the Government looking at, if it is looking at alternatives?

2. Will the Minister reply to the Naracoorte District Council on the Villiers proposal as soon as possible?

The Hon. DIANA LAIDLAW: I replied last week, and I can provide a copy of that correspondence for the honourable member. I advised that I had given approval for Transport SA to offer the property for sale to this company on the understanding that we had engaged a consultant because of concerns about contamination at the site. This site was used by the former Department of Transport for many years and contains oil and other contaminants, as is usual with transport sites. The department would not wish to be involved in either the sale or lease of that property for housing purposes without having undertaken a study of contamination on the site. I think the honourable member would support that objective.

We are working with the consultants. In the meantime we have offered the property for sale and we have indicated that, if it is sold for housing, which would be a much higher status than we would normally have seen that site used for now that it has been declared surplus to transport needs, we believe that the company should be responsible for cleaning up the site. The major issue now, however, is to determine the extent of the contamination, and that is to be done forthwith.

DE FACTO PROPERTY LITIGATION

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about de facto property litigation.

Leave granted.

The Hon. A.J. REDFORD: I draw members' attention to an article which appeared on the front page of last Saturday's *Advertiser*, 23 May 1998, entitled, 'Court sequel to the romance of Chris and Juliette'. The article referred to de facto litigation in the South Australian District Court involving a prominent South Australian sporting couple. The article dealt with certain documents that had been filed in the District Court, including a statement of claim and a defence document, and then proceeded to outline what those documents contained—personal matters of a most private and intimate nature concerning the two people involved. An example of that was issues arising from marital discussions and discussions concerning intentions to deal with property in the future.

In 1996 this Parliament passed the De Facto Relations Act, which dealt with the adjustment of property interests involving de facto couples. The Act was an important piece of legislation and facilitated the dealing with property where de facto relationships break up. I have made inquiries from some legal practitioners who are involved in the practice of family law and the Family Law Act, and I am told that the sorts of documents that were made available to the journalists by the District Court in South Australia would not be made available to the media in the case of matters associated with divorce where there has been a marriage. Indeed, lawyers have expressed concern to me that the settlement of matters and the prospect of bringing litigation in the light of substantial media publicity could be hindered and indeed could discourage people from making such applications on the basis that their personal matters might be made public in the manner that the *Advertiser* made them public last Saturday.

I am told that it can also be abused in that one party in a de facto relationship may well use the threat of publicity in their dealings with the other party in a de facto relationship. I have to say that I, for one, am very concerned at the prospect that private individuals in a de facto relationship will be subjected to publicity whereas those in a marital relationship suffer no such risk. Having done it myself, I know that it is hard enough to go through a divorce and property settlement and associated issues such as custody and access, dealing with solicitors and lawyers and the like, and in dealing with the Family Court, without having the unnecessary and unreasonable intrusion of media reports about these most intimate matters.

Indeed, it is in that context that I ask the Attorney-General whether he is prepared to investigate the implementation of procedures so that documents relating to family matters in de facto relationships—and in that I include property, custody and access matters—are restricted in the same way as documents are in relation to the Family Law Act and the Family Court.

The Hon. K.T. GRIFFIN: I will give consideration to the matter and bring back a reply.

The Hon. T. CROTHERS: As a supplementary question, did the Minister note the absolute silence with which members in this Chamber heard the question asked by Mr Redford?

The PRESIDENT: Order! Would the honourable member ask his supplementary question.

The Hon. T. CROTHERS: That was it.

The PRESIDENT: That was a statement.

ALLENBY GARDENS PRIMARY SCHOOL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer representing the Minister for Education a question about the Allenby Gardens Primary School.

Leave granted.

The Hon. M.J. ELLIOTT: The Treasurer may recall that, following a State Government decision, Croydon Primary and Croydon Park Primary Schools were closed at the end of last year. Obviously there was an expectation that schools in the local vicinity would absorb extra students. While essential funding was provided to remaining schools in the area—in particular to schools within the cluster—the level of funding varied from school to school. It is my understanding that one nearby school, the Allenby Gardens Primary School, experienced a 45 per cent increase in its student population at the end of last year and is concerned that it has not received adequate funding to mirror this boost in numbers.

The co-chairs of Allenby Gardens School Council have sent me a copy of the letter which was sent to the Education Minister and which details their concerns about the lack of provision for these extra students, 57 of whom came from Croydon and Croydon Park Primary Schools. Of course, a number of others who would have begun school at the end of this year and who would have otherwise gone to Croydon and Croydon Park are also in an additional 32 students who enrolled for the first time at Allenby Gardens.

They say in this letter that it has caused a lack of available space to undertake activities such as art, technology, computing, LAP and Aboriginal education. I have been told that Allenby Gardens did not benefit from the distribution of student computing facilities from the closed schools and that significant funds are required to upgrade the school's computing facilities.

Their letter went over a great deal of detail about various programs which they had at their previous schools but which they lost, even though assurances were given that they would be no worse off following the closure of their previous schools. The questions I ask of the Treasurer are:

1. Why did the Education Department fail to anticipate which schools the students would relocate to on the closure of Croydon and Croydon Park Primary Schools, and what efforts did it make to identify where the students were likely to go?

2. What will the Minister do to ensure adequate provisions of resources to Allenby Gardens Primary School to accommodate the significantly increased student population?

The Hon. R.I. LUCAS: I am sorely tempted to respond in detail to the question, but I will resist the temptation. The only comment I will make of a general nature relates to what attempts the department and the Government made to ascertain where the students would go. Many requests must have been made to every parent in Croydon for them to indicate where they would send their children. However, the group of political activists refused to indicate where they were going to send their children.

Members interjecting:

The Hon. R.I. LUCAS: I don't know; I'm just explaining to you that the normal process is that parents are asked—

Members interjecting:

The Hon. R.I. LUCAS: I know a fair few of them.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: All I can say is that, as a normal procedure, parents are asked what their options are or where they would like their child to go so that the department can obviously plan it. It is a sensible question, and that is what the department seeks to do: to find out how many students are likely to go to which school and then to plan accordingly. The reason why there was a problem in relation to this was that, for their own reasons, large numbers of parents refused to provide that information to the department.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, a question about the use of speed cameras.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. J.F. STEFANI: I thank the Minister for recently providing me with some answers to questions that I asked in this Chamber on 17 March regarding the use of speed detection devices over the Australia Day long weekend earlier this year. The Minister advised me that the intelligence section of the traffic unit of the South Australian Police (SAPOL) was not able to provide a breakdown on the individual categories of expiation notices issued. Recognising that not all fines would be finalised at this time, I direct an additional question to the Minister. Can the Minister advise what was the total amount levied through the expiation notices issued and collated in the answer that he provided to me in response to my earlier questions?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague in another place and bring back a reply.

AGED CARE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Disability Services and the Ageing a question about community aged care in South Australia.

Leave granted.

The Hon. CARMEL ZOLLO: South Australia has the highest rate of aged population, with 9.5 per cent of the nation's population being aged over 70 years. In December 1997, the Commonwealth Department of Health and Family Services advertised residential community care services for frail older people. The applications closed in January 1998. The announcement of the successful applications was to be made in April this year. This would have enabled training and other requirements to be completed by the starting date. To date, no such announcement has been made.

I understand that some members of the aged care sector have been unofficially advised that the successful applicants for South Australia have been selected but will now not be announced until late July, despite the fact that funding was to have commenced on 1 July 1998. Over 350 frail older people in South Australia are currently on waiting lists to be placed under community care packages. Most of these people have waited for many months with several of them waiting for over a year. This is placing elderly and frail South Australians at a severe disadvantage and causing increased stress on an already stressed aged care sector in South Australia.

To compound the difficulties caused by these delays, the long wait increases the original needs of the client, and the agencies that have applied for their care will find it harder to provide the high level of care, given the increased costs. It has been suggested to me that the delay in announcing the community care packages may have something to do with a possible Federal election in July. I most certainly hope that this is not the case. My questions are:

1. Is the Minister aware of the delay in announcing the community care packages which were due to commence on 1 July; and, if so, does he find the delay acceptable?

2. What action will the Minister take specifically in relation to these packages to look after the interests of our frail aged in South Australia?

The Hon. R.D. LAWSON: I am aware of the fact that the Commonwealth called for applications for additional aged care packages. I welcome the announcement by the Commonwealth Government that the speed with which aged care packages are to be introduced has been accelerated and that a number of new places are to be made available in South Australia. I acknowledge that there is a demand for these packages and that they do provide an attractive, sensible, compassionate and appropriate alternative to residential care.

I am aware that there has been a delay, although I do not believe that it is for the supposedly political reason suggested by the honourable member. I have already undertaken inquiries in relation to the proposed distribution of the packages and also to the timing of any announcement. I have not yet received a satisfactory reply to my inquiries in that regard. I will again pursue the matter with the Commonwealth Minister and let the honourable member have an appropriate reply about the precise timing of the additional packages.

ARTS FUNDING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for the Arts a question about funding for the arts sector.

Leave granted.

The Hon. J.S.L. DAWKINS: I have noted the Treasurer's ministerial statement in this Chamber today relating to Living Health and I have also noted comments attributed to the Hon. Carolyn Pickles as Opposition Arts spokesperson in today's *Advertiser*, emphasised by way of interjection this afternoon, suggesting that the abolition of Living Health would lead to a 'white board' situation in relation to the distribution of funds to the arts sector. Remembering that it was a former Federal ALP Minister, the Hon. Ros Kelly, who made the white board famous, will the Minister comment on the way in which the arts sector will be supported post Living Health?

The Hon. DIANA LAIDLAW: I welcome the honourable member's question. I was rather surprised and certainly disappointed to hear the comments by the Hon. Carolyn Pickles as shadow Minister for the Arts suggesting that I would play any part in a white board exercise, as did her former colleague, Ros Kelly, in the Federal sphere in terms of sports funding. The honourable member would know that that would not be acceptable in the arts arena and, if it is not acceptable to the arts in terms of the integrity of arts funding through the Government, I would not be a part of it.

I wish to place firmly on the record that the Treasurer has been diligent in ensuring that in this new arrangement these funds will be allocated with integrity. Certainly, I have maintained the same line. I wish to highlight that, in terms of the arts, there will be a guarantee for this year and for the next four years of $2.39 million. As the Treasurer announced today, the Living Health recommendations—not mine and not the Government's—for funding for the coming financial year will be accepted fully by the Government. In future years we will allocate funds through Arts SA using an arm's length approach which is required by Government policy and through peer group assessment.

For lead agencies there will be a small adjustment to the performance criteria which they must now meet in terms of the expenditure of any funds received through Arts SA. So, in terms of Arts SA and the lead agencies, whether it be the Adelaide Festival, the Festival Centre Trust, the State Theatre, or the History Trust, there is a performance agreement, and we will simply change the criteria to indicate health promotion projects and the monitoring of them.

In terms of smaller funds for groups that are not lead agencies, the arm's length peer assessment process will apply and the funds will be assessed as they are today with all other Government taxpayer funds. Further, we will establish a new category of community cultural development to look at applications for under $5 000 which Living Health now supports but which would not necessarily be funded through the arts under the current arrangement because they would not necessarily be seen as purely arts related projects.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: What, like Anne Levy? Anne Levy was Arts Minister, and she smoked. I have never seen it as a criterion to be Arts Minister that one must give up smoking, and I do not now, but the Hon. Carolyn Pickles brings politics into the choice of visual arts. She is bringing in all sorts of new standards that I would never entertain. No wonder she suggests that we can have a white board approach to this matter, because she does not mind interfering—

Members interjecting:

The PRESIDENT: Order! It is very hard to hear the answer.

The Hon. DIANA LAIDLAW: She does not mind interfering in the way in which the Art Gallery would select paintings for this place. Her colleagues do not mind interfering in the way in which the Adelaide Festival produced a poster for the last Festival, and Labor members called for boycotts of Festivals or for the poster to be withdrawn. Now they are making this suggestion—and it would be their standard, but certainly not ours—that we would be involved in a white board approach; this simply comes from the fact that the Labor Party has adopted a white board approach to community funding in the past. I would not entertain it and the Government has not done so, and the arrangements that we have made for this extra funding for the arts related to health promotion projects will certainly be at arm's length from the Minister—and so they should be.

Members interjecting:

The PRESIDENT: Order!

COMMUNITY BENEFIT SA

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Human Services, a question about the Charitable and Social Welfare Fund, now commonly known as Community Benefit SA.

Leave granted.

The Hon. NICK XENOPHON: The Charitable and Social Welfare Fund was established by an amendment in 1996 to the Gaming Machines Act (section 73B) following representations made by eight major charitable organisations in this State, including the Multiple Sclerosis Society, the Wheelchair Sports Association, the Blind Welfare Association, the Red Cross, and the Crippled Children's Association, that gaming machines had seriously eroded fund-raising efforts of those and other charities.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order! The Leader of the Opposition has had a fair chance.

The Hon. NICK XENOPHON: I refer the Minister to a statement made by the Hon. Stephen Baker in the other place on 6 February 1996 when the then Treasurer said:

> We are already committed to helping the charities with the extra impost placed on them by gaming machines to the tune of $1.5 million.

I also refer to a letter from the then Treasurer dated 20 June 1996 to Mr Michael Stewart, Honorary President of the Multiple Sclerosis Society, in which Mr Baker stated:

> This Bill has now been passed and provides, beginning in 1996-97, for $25 million from annual gaming machine tax to be distributed back to the community through identified funds. Of this, $3 million is to be placed in a 'Charitable and Social Welfare Fund' to be used to assist welfare agencies dealing with problem gamblers and their families as well as to assist charities suffering revenue loss directly from the introduction of gaming machines.

I refer to the media report this week of $1.5 million in grants from the fund for a number of organisations, but only $80 000 of that—less than 6 per cent—going to the eight charities known to the Government as being most severely affected by the introduction of gaming machines, those charities applying for this latest round of funding. My questions to the Minister are:

1. Does the Minister concede that the grants made breach the guidelines and undertakings made by his Government previously, that is, to directly and adequately assist charities affected by gaming machines?

2. Will the Minister provide details of all applications for funding made and allocated since the introduction of the fund and further to pinpoint those grants made to welfare agencies dealing with problem gamblers and their families, as well as assisting charities suffering revenue loss directly from the introduction of gaming machines?

3. Will the Minister, who has power under the Act to determine the procedures of the board that administers the fund, direct the board to have clear criteria to ensure that grants are made for the purpose originally intended by the Government rather than the current approach, which makes a mockery of the original guidelines?

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

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question about the impact of the proposed privatisation of ETSA and Optima upon the EDS information technology contract and vice versa.

Leave granted.

The Hon. SANDRA KANCK: In October 1995 the then Premier Dean Brown signed up a $565 million nine year contract for EDS to operate, manage and maintain virtually all South Australia's public sector computer systems. I have been told that 25 per cent of the EDS contract is tied up with ETSA and Optima Energy, and this could represent a substantial encumbrance upon any future owner or owners of ETSA and Optima Energy. My questions are:

1. Would the sale of ETSA and/or Optima Energy impact upon the State Government's contract with EDS, and, if so, how?

2. Would any of the current arrangements between EDS and ETSA, and EDS and Optima Energy impact upon the sale price of ETSA and Optima Energy and, if so, by what amount?

The Hon. R.I. LUCAS: I will be delighted to take up that question and bring back a reply for the honourable member as soon as I can.

GAMBLING, HOME

The PRESIDENT: The Hon. Trevor Crothers.

The Hon. L.H. Davis: Two pages, Trevor? You've slipped.

The Hon. T. CROTHERS: The only time I have ever slipped is when I first met you. I seek leave to make a precied statement before asking the Attorney-General questions about interactive gambling products.

Leave granted.

The Hon. T. CROTHERS: Much has been said of recent times concerning—

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Thank you, Mr President. Much has been said of recent times concerning the level of gambling statistics across all Australian States and Territories, from which gambling all our States and Territories draw considerable income. The feeling certainly has displayed itself here in South Australia to an intensely high enough level to elect to this Chamber a new honourable member, who campaigned on the single issue of poker machines. So, to that extent some South Australians at least have shown themselves to be against certain forms of gambling. In light of the foregoing I now direct the following questions to the Attorney-General:

1. Was a recent meeting of the Standing Committee of Attorneys-General held, at which was discussed a draft regulatory control model for new forms of interactive home gambling?

2. If the answer to the first question is in the affirmative, was the main purpose of the draft regulatory control model to provide for new forms of interactive home gambling?

3. Was any agreement reached by the Committee of Attorneys-General throughout the States and federally to make complementary legislative provision so as to provide the framework for the legalisation of interactive home gambling products?

4. What position, if any, did the representative of the South Australian Government take in respect of interactive home gambling products?

The Hon. K.T. GRIFFIN: I have no recollection of the matter ever being on the agenda for the Standing Committee of Attorneys-General—certainly not in my time—but I will check in case my memory is faulty. It may well have been discussed by Gaming Ministers or others who have responsibility for gambling, but at the Standing Committee of Attorneys-General we have certainly talked about on-line service providers and on-line content providers in relation to pornographic and indecent—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: Interactive gambling is a matter of concern. Quite obviously, the issue of gambling is more appropriately dealt with by the Treasurer as Gaming Minister, but I will undertake to have the appropriate Ministers and officers look at the matter and bring back a reply.

ARTS PORTFOLIO

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for the Arts a question about comments made by the member for Peake.

Leave granted.

The Hon. A.J. REDFORD: I notice that yesterday in a grievance debate about transport the newly elected member for Peake made some comments about the Minister for Transport and Urban Planning in her capacity as Minister for the Arts. In his comments he refers to the Minister's being side tracked with arts and not doing her job because she does not do anything except deal with arts. Indeed, he states:

> It is all very well to be running around the arts community in North Adelaide talking about their achievements; what about some real issues affecting real people?

He goes on to state that he knows that the Minister pussyfoots around with fringe issues when she should be doing her real job, which is providing adequate and safe transport. In light of that—

The Hon. R.R. Roberts interjecting:

The Hon. A.J. REDFORD: The Hon. Ron Roberts keeps interjecting; one day we will get something funny out of him.

Members interjecting:

The PRESIDENT: Order! Let Mr Redford ask his question.

The Hon. A.J. REDFORD: My questions are as follows:

1. Will the Minister ask the shadow Minister for the Arts to counsel the member for Peake on the importance of arts to our community, both culturally and economically and, given the performance of the shadow Minister for the Arts of late, will she provide her with sufficient information to ensure that the counselling will work?

2. Will the Minister respond to the comment that the arts is in effect a fringe issue, is not a real job and is not a real issue affecting real people?

The Hon. DIANA LAIDLAW: I thank the honourable member for alerting me to the views of Labor members about the arts as expressed yesterday by the member for Peake. In terms of the honourable member's question, I can certainly reply 'Yes' to the first question. I will speak to the shadow Minister. I am sure in reply she will say to me that she will counsel her colleague and I wish her success because he clearly has real problems in knowing what is important in terms of defining this State not only in economic terms but also in terms of tourism and arts product generally.

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Perhaps we will get former Premier Don Dunstan to also counsel the member for Peake. I know that the Hon. Mr Cameron of this place is a fine connoisseur of the visual arts in particular and may also wish to counsel the member for Peake. It is important, in terms of what the member for Peake sees as a fringe event—

he probably thinks it is a freak event as well—to have witnessed Music Business Adelaide two weekends ago when many tens of people came from the music industry around this country to Adelaide to see what was happening in terms of local music. They have replied to me congratulating Warwick Cheatle, the contemporary music adviser to me, on the excellence of the effort being made in South Australia and nowhere else in Australia in the contemporary music business with opportunities, particularly for young South Australians.

The Adelaide Festival is a big generator of funds and the Greek Glendi Festival certainly would be seen in cultural terms. One only has to look at the film industry and at what *Shine*, directed by Scott Hicks, achieved for South Australia and Australia not only in terms of international profile but also in terms of return to this State by way of jobs and so on. I spent many hours and weeks with the now Premier and then Treasurer seeking a $2.5 million loan to ensure that that film was made in South Australia. I do not see that that is pussyfooting around and I am sure that the film industry does not see it in that light. I would think that Rolf De Heer, who is now at Cannes with his latest film *Dance me to my Song*, which was won enormous business in terms of sales around the world, would not argue that the arts is not a real job, is a fringe issue or that I was pussyfooting around in terms of support for the industry.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: I do not need to get third party support in relation to the arts and my effort. I treat all parts of my portfolio as a real job because all parts of the portfolio, not only in employment terms but also in terms of economic generation for the State, are extraordinarily important and I appreciate the honourable member's question and the opportunity to place those facts on the record.

The Hon. A.J. REDFORD: By way of supplementary question, when does the Minister think the shadow Minister will counsel the member for Peake on his comments?

The Hon. DIANA LAIDLAW: I suspect that she will do so immediately after Question Time has concluded because of the importance of this issue.

The Hon. L.H. Davis: And will she report back on the result?

The Hon. DIANA LAIDLAW: And I ask her to report back on the result.

RETIREMENT VILLAGES

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question on retirement villages.

Leave granted.

The Hon. IAN GILFILLAN: In reply to a question I asked in this place of the Attorney on 17 February about retirement villages, the Attorney placed great reliance upon the Office of Business and Consumer Affairs to settle disputes and praised a section of the retirement village industry for establishing a self-regulatory redress mechanism. He supplied a written and detailed reply. I join with him and congratulate the many retirement village operators who adhere to a voluntary code of conduct and who make available detailed financial statements to residents. I congratulated those people when I first asked the question.

However, the Minister's reply has not satisfied many residents who have genuine grievances with a minority of poorly run retirement villages where their rights are often ignored, their money is squandered or misappropriated and their long-term health is at risk. For these people the Attorney outlined a three-step procedure, which places the onus on aggrieved residents. First, they start with their residents committee, then move to the office of Business and Consumer Affairs and then to the Residential Tenancies Tribunal. However, he neglected to mention that often a dispute can be dragged on, in some cases for years, as in one currently before the courts, the District and Supreme Courts. The Minister may well be aware of a case currently before the South Australian Supreme Court. In spite of the plaintiff's having succeeded in the Residential Tenancies Tribunal and District Court, the matter has drawn on further to this extra very expensive level.

The Minister may believe the system works satisfactorily but many people do not and feel that it is an undue strain on resources for people to see through their complaint. People at times are represented by ineffective or weak residents committees, may not be aware of their rights and may be subjected to intimidation, manipulation from unscrupulous owners or administrators and may have a genuine fear of losing their home as a result of pursuing a legitimate complaint. These observations have come to me from people who represent residents in retirement villages. They need someone proactively looking at scrutinising contracts and monitoring their villages' financial statements to ensure they comply with the requirements.

Given that the Minister from his answer does not support any form of licensing for the industry, will he support monitoring of the industry? Will he assure the residents of retirement villages that at least someone in the Government is activity working on behalf of retirement village residents? In the 17 February answer, the Minister indicated that most of the villages are owned and operated by smaller companies that are not members of the Retirement Villages Association and therefore not required to adhere to what is in any case merely a voluntary code of conduct. Given that that is the case, what will the Minister do to ensure that not just some but all retirement village operators will have proper dispute settling procedures and proper scrutiny to ensure that they are complying with the code of conduct?

The Hon. K.T. GRIFFIN: I will consider the matters raised by the honourable member and bring back a reply.

CRIME, VIOLENT

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General a question on the Liberal Party's policy and reaction towards violent crime.

Leave granted.

The Hon. G. WEATHERILL: In recent times there has been a notable spasm of bloody violence occurring within the South Australian community resulting in the death of a shopkeeper, a service station attendant and a taxi driver. As stated in the *Advertiser* on 22 May 1998 (page 9), three men admitted guilt and were convicted in the District Court on Thursday of armed robbery. Each was sentenced to at least four years gaol. The robbery consisted of forcing the manager to unlock the door and turn off the alarm, and one robber then pushed him to the floor and handcuffed him while another robber pointed a laser-sighted pistol at his head. The pair grabbed $4 000 in cash and made a getaway in a car driven by the third robber.

On Monday 25 May 1998 my office was phoned by a person identifying himself as a small business person and he

proceeded to express his disbelief that two of the three robbers were given a suspended sentence. He expressed concern that such sentences indicate, approve and advertise that a chance can be taken by criminals or would-be criminals because of the low likelihood of substantial penalties being handed out in court. The constituent was particularly incensed after a firearm was used with the threat of death. In its 1997 election policy headed 'Focus on community safety', the Liberal platform states:

> The State Liberal Government is committed to continuing support with fair penalties for offenders and maintaining a commitment to an effective criminal justice system that continues to keep effective and sensitive mechanisms under review to ensure that they meet with the needs of the community.

Is it the view of the Government that a suspended sentence for such a violent crime should be given?

The Hon. K.T. GRIFFIN: I am not going to make any comment on the particular case. I will get some information and it may be possible to bring back a reply. The honourable member knows that courts make the decisions. The DPP decides whether or not there should be an appeal and it is not sensible to rely on brief material that one might read in the media about what did or did not happen. As I indicated yesterday in relation to Mr Atkinson, you have to be careful what you comment on when just relying on what is in the media.

MATTERS OF INTEREST

HISTORY EDUCATION

The Hon. L.H. DAVIS: In 1988 Australia celebrated the bicentenary of European settlement. At the time there was much public discussion about the importance of history education within the education system. In 1988 it was claimed that less than 50 per cent of students in New South Wales junior schools will have studied any Australian history. In South Australia in 1988 it was claimed that in fact only 25 per cent of junior school students had studied any Australian history. At the time there were plans to introduce a common core unit of Australian History which would be adopted by all Australian States. Commitments were made, but have they been kept? It is appropriate to reflect on this matter as we approach the centenary of Federation. Each State and the Federal Government has established a Centenary of Federation Committee to plan and manage either State or Federal-based projects and events. The Federal Government is allocating $1 billion to a Federation fund: $900 million is to be allocated to major infrastructure works, such as the Alice Springs to Darwin rail link. Around $30 million has been earmarked for distribution by Federal members of Parliament for community projects in their electorates, at the rate of $200 000 per Federal electorate.

The National Council for the Centenary of Federation will manage a $35 million fund from the Federal Government and it will be allocated to national and State-initiated events and celebrations as well as history and education projects. The South Australian Government is also committing funds to mark the centenary.

At the recent State History Conference the Vice President of the History Teachers Association of Australia, Mr Peter Price, made some timely observations about the state of history in schools, and I quote him:

> It is sad to say that history is far from thriving in our secondary schools, and it is a serious issue as to how we can keep it alive and significant as part of school education.

He goes on to say:

> It is a great disappointment to me that over the last decade as history has become more and more prominent in the community, and we even have Prime Ministers talking about history, albeit very contentiously, history is indeed in trouble in our schools.

He then gives some reasons why perhaps that is the case, why history's place in the curriculum has been reduced and ground lost. He points first to the major curriculum change and notes that history's place in the curriculum structure is:

> . . . as one part of the studies of society and environment, where it jostles with geography, social studies, environmental studies, Aboriginal studies, economics, religion, Asian studies, legal studies, agriculture and so on.

Mr Price makes an important observation when he says that New South Wales alone has held on to history as a distinct subject in its schools curriculum and makes a certain amount of history teaching mandatory for all students in the junior secondary years. I suspect that that may have something to do with the commitment of Premier Bob Carr and Nick Greiner before him, in that State, to the importance of history. Mr Price also suggests:

> There are many good reasons for the changes to curriculum that have been introduced this decade—schools are under pressure to both teach the basics, literacy and numeracy, more determinedly than ever, and at the same time to ensure that modern students have drug education, consumer education, health and sex education, computer education and so on.

He says there are some positive developments. Mr Price makes the observation that the Howard Government has maintained a major curriculum development for civics and citizenships with an emphasis on using history as a vehicle for knowledge and understanding of our Government and public life, although this program is not yet in place.

Mr Price also advised me that at a recent history workshop a prominent education researcher made the alarming observation that we should adopt a quantitative style of history and hitch history to the coat tails of the mathematical and computer driven approaches to education. I would argue that we should pay history more than lip service, rather than merely linking it to the laptop.

David Malouf, a pre-eminent literary figure in Australia, made the observation:

> When I was growing up, history was what happened somewhere else.

We owe a great debt of gratitude to Manning Clark whom Professor Geoffrey Blainey (of a different political persuasion) claimed was a monument to intellectual life in Australia. We owe a debt to Blainey himself for making Australians more aware of the importance of history. As Cicero observed over 2 000 years ago:

> To be ignorant of what occurred before you were born is to remain always a child.

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

UNEMPLOYMENT

The Hon. T.G. CAMERON: The South Australian labour market is in crisis and the outlook for any significant reductions in unemployment is bleak, despite the Premier's announcement last night. Currently there are 50 unemployed people in South Australia for every advertised vacancy (figures supplied by SACOSS). Until now the Olsen Government has mainly relied upon a financial strategy to achieve its economic goals. Clearly, its employment policies have failed and, after having read the Premier's speech to the Parliament this morning, it is quite clear that both he and the Government recognise that their reliance on the financial strategy is a complete failure and that they are now going to have to do much more.

It is time that a more strategic approach to reducing unemployment was established—an approach that is quantifiable, has achievable targets and is capable of capturing business, union and community support. We can only hope that Olsen's job package, which was announced last night, is a clear signal that at last this Government has recognised that unemployment is our major problem in this State.

Recent policy papers prepared by the Centre for Labour Research at the University of Adelaide and the South Australian Council of Social Service make a significant contribution to the current debate on unemployment. They assert that the Olsen Government has a responsibility to reduce South Australian unemployment through integrated economic, industry and employment policies and programs.

As a starting point, they argue that the Premier's Partnership for Jobs program should be expanded to produce a four-year State employment strategy, the goal of which would be: to reduce South Australia's unemployment rate to the national average, that is, from 9.4 per cent to 7.9 per cent; to reduce unemployment by 15 000; and to ensure that all regions have an increased employment rate of at least 4 per cent on 1998 levels. The new structure would take a whole of Government approach to the development of employment policy to include a number of critical policy proposals.

First, the recent amalgamations of regional councils mean that they are better situated to play a more active role in regional, economic and employment development. To accelerate this process the State Government should introduce a regional employment partnership program which would facilitate the development of comprehensive regional employment strategies. To assist regions to put ideas into practice, regional employment packs would be established to focus on development of existing infrastructure, businesses and community organisations. The development of new products and services to replace imports and promotion of networking would all be key objectives.

Secondly, to reduce the unacceptable rate of youth unemployment the South Australian Public Sector Youth Recruitment Program should be increased to 10 000 traineeships for young people over the next four years. Whilst I welcome the initiatives for youth traineeships that were announced in the Premier's statement last night, I still believe that it is too little too late, considering that we have the highest youth unemployment in the country and that it has been that way now for a number of years.

Local sourcing clauses should be incorporated into all Government contracts along the lines of the requirements in the Upskill program, which compel contractors to employ a minimum number of local people in training positions. A widening gap between the national and South Australian unemployment rates has emerged and continues to grow. The challenge for the Olsen Government is clear: unemployment can be reduced, but it will take more than cheap rhetoric—it will require a strategic approach with integrated industry and employment policies and programs.

What marvellous political insight our Premier displayed last night when he said that unemployment had been such a pervasive problem for so long that the Government could not sit back and hope for the economy to improve. One cannot accuse Olsen of being quick: it took him over four years to recognise what everyone in this State has known for a long time—that unemployment is the major problem in this State. It was the major problem when this Government first took office. One can only look at the figures for youth unemployment in this State. Admittedly those figures have come down from highs of over 40 per cent to just over 30 per cent, but it is still a disgraceful indictment of everyone who sits in both these Houses that we have unemployment at those levels.

Greg Kelton got it right when he wrote in the *Advertiser* today:

> This is John Olsen's biggest promise. It is the promise he will be held to for the remainder of his term, and may well cost him Government in the long term.

Remember, Premier, South Australian unemployment is 9.4 per cent compared to the national average of 7.9 per cent. You have merely four more years to get South Australian unemployment down to the national average. Do not waste it by infighting, like you did over the past four years. Too many of our children's futures have already been frittered away by your Government's indecision and infighting.

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

HIGH BEAM FESTIVAL

The Hon. R.D. LAWSON: Earlier this month the High Beam Festival was conducted in Adelaide.

The Hon. Diana Laidlaw: Excellent!

The Hon. R.D. LAWSON: The High Beam Festival was, as the Minister for the Arts says, an excellent production. It was a festival which highlighted the creative abilities and talents of people with disabilities. The Director of Arts in Action, Tony Doyle, was the Artistic Director of the festival. I think that he should be congratulated for not only putting together an inspiring program but also for the festival's wonderful organisation from its beginning to end.

The arts are a means of expression to all of us, and none the less for those who have disabilities. The wider community has marvelled at the sporting endeavours and achievements of those with disabilities, and so, too, in the arts. The Heather Rose film being applauded just now in Cannes, *Dance me to my song*, is a wonderful illustration of the great artistic talents and expression of a person with severe and multiple disabilities.

The High Beam Festival was a celebration of the artistic achievements, potential and talent of those with disabilities not only as performers but as audience members. The festival was most stimulating and exciting. It began with a lantern parade on the evening of Friday 1 May, which began in Victoria Square and proceeded to Hindmarsh Square through the streets of Adelaide. It was a wonderful parade lit by lanterns which had been made in preparatory workshops during the six months leading up to the opening ceremony.

The finale of that opening parade in Hindmarsh Square was a truly remarkable and memorable event. I was delighted

that the lantern project, Adelaide Lighting the Way, was supported by $60 000 of funding from the Disability Services Office because of our belief that that project and the High Beam Festival was worthy of support.

The program covered many aspects of artistic endeavours from dance, and the Wonderful Restless Dance Company's production, The Flight, was, I think, a highlight of the festival. There was multimedia, music, a number of performances, seminars and workshops on a number of interesting and diverse subjects, a number of visual arts presentations, and the festival was conducted in conjunction with the Disability Expo, Arlex, which was very successful and was held at Wayville.

A number of supporters of the disability sector and the arts contributed substantially by way of sponsorship, and I think that they ought be mentioned. The SPARC Disability Foundation was very prominent in the promotion, organisation and support of the festival, the Australian Hotels Association, through its hotel community projects was a great supporter, as was the *Advertiser*, the *Sunday Mail*, the City Council, the Adelaide Entertainment Centre and, as I mentioned earlier, the Disability Services Office. All are to be congratulated for their support of what was a wonderful initiative.

During the course of the festival I was able to announce the establishment of new High Beam music and literature awards comprising prizes for various categories which will be awarded in the future. I commend all those associated with the High Beam Festival.

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

VIETNAMESE COMMUNITY

The Hon. J.F. STEFANI: Today, I wish to speak about the Vietnamese community in South Australia. As a close friend of this community and a strong supporter of the Free Vietnam Alliance, I was particularly honoured to be nominated to serve on the Australia-Vietnam Human Rights Committee and to participate at the recent launch of the Roadmap to a Democratic and Developed Vietnam.

Contemporary Vietnam, known officially as the Socialist Republic of Vietnam, is the world's twelfth most populous nation. It is also the second largest socialist country after China. During many decades of rule, the Vietnamese Communist Party has not been able to achieve any substantial economic reform, and the political process has remained largely unchanged. The war in Vietnam can best be described as the political drama of the 1960s. For the many Vietnamese refugees living in Australia, the war has been the cause of a dramatic change in their personal circumstances and in their lives. Through the experience of war, the majority of Vietnamese have developed a strong political consciousness.

Under the Communist regime, the Vietnamese people simply had an aversion to the kind of Government control under which they had come to live in Vietnam. This aversion had become so strong that many of them made the extraordinary decision to flee their beloved country as boat people and refugees, leaving behind all that they loved and risking their lives in search of freedom. To understand why Vietnamese people fled their country, one needs to know what they have lost and to understand what they have loved so passionately. We need to be aware of the trauma they have experienced, and we need to comprehend all that preceded it. We need to comprehend that, after 30 April 1975, when the Republic of South Vietnam ceased to exist, the Communist Government diminished the standard of living for many Vietnamese people and destroyed their dreams and their freedoms.

To describe the feelings of my many Vietnamese friends, I will quote Thanh Nam. He told the story of his escape with his family, as follows:

> When I think of the escape of my family, it is a lesson penetrating my brain. I still see that brave little boat in the swirling storm as the very symbol of life. Anyone who has lived with communists knows the meaning of life, and that the communists have lost it. To live, we had to be free, for life has no purpose without freedom. This was our reason and the reason why many Vietnamese made a game getaway.

There are many other stories about the oppression, the hardships and the atrocities experienced by many Vietnamese refugees, both in their country and during their escape to freedom. Unfortunately for some of them, these experiences can never be forgotten. Despite this, many of them have now settled in Australia, bringing with them important family values and traditions which originated from their beloved Motherland, Vietnam.

These traditions include a strong commitment to democratic values which underlie human rights and a common goal for all people to live and work together in peace and harmony for the national good. Therefore, in this context the Vietnamese people have a strong yearning for democracy and for personal freedoms which have become part of their guiding principles as a community. For many Vietnamese people, freedom has, indeed, been a reason for living, and many have died in the cause of fighting for freedom. It was therefore with great pleasure that I was invited to speak at the launch of the Roadmap to a Democratic and Developed Vietnam which aims to advance the political and economic freedom of Vietnam and its people through a broad international partnership which gives access to improved information and better education to the people of Vietnam.

As a member of the Australia-Vietnam Human Rights Committee, I am pleased to pledge my continuing support to the ongoing work of the Free Vietnam Alliance, because we all strongly believe in the freedom and human rights of all people. As a just and free society, Australia condemns the gross violation of human rights which have occurred and are still occurring in Vietnam because, as Australians, we all strongly believe in democracy, freedom and peace. May the work of the Free Vietnam Alliance and the Australia-Vietnam Human Rights Committee be blessed with success in the future, and may their endeavours be of support to the peace loving Vietnamese people living in Australia and in Vietnam.

NATIONAL SORRY DAY

The Hon. T.G. ROBERTS: Today is the day after National Sorry Day, and we are now half way into the Reconciliation Week, which has been celebrated in this State in a commendable way, with most local governments taking part and with dignitaries all around the State making known their position on reconciliation. They described their individual position when the commitment to National Sorry Day commenced.

The differences that emerged from individuals who made statements in relation to National Sorry Day basically can be broken down into the following categories. There were those who were prepared to say 'Sorry' to Aboriginal people living today for the discord that has occurred during the settlement of Australia since 1770. Although they were not prepared to take any blame for the actions of those people who preceded

them, they were prepared to make a fresh start at reconciliation and at understanding what history meant in setting back the chances of Aboriginal people in this nation being able to get off on a footing equal to that of new settlers, and hopefully they were able to then describe their position in relation to where we go forward from this point.

There were those who were prepared to say 'Sorry' but who were not prepared to take any responsibility at all for the generations of carnage that took place, with the desecration of Aboriginal culture, heritage and history. However, they were prepared to recognise that harm had been done. Then there were the other people who were not prepared to say 'Sorry' at all; nor were they prepared to identify with their elected representatives who were saying 'Sorry' perhaps on their behalf. They took that stance on the basis that they see equality of opportunity existing in Australia for all people, and they do not see that Aboriginal people are disadvantaged at all. I was in the first category. I made this statement in this Chamber 12 months prior to a motion which originated in a bipartisan way and which was moved and carried some 12 months ago: I am sorry on behalf of the constituents who identified with my position in relation to a way forward and remembering our past, remembering the problems that occurred from early settlement through to now.

However, in positive way, we must move forward in order to try to overcome some of the disabilities and some of the barriers that have been put in front of Aboriginal people in their efforts to advance their education and to understand their position in today's society so that they can move forward to partake in the benefits of Australia's advanced consumer society.

Reconciliation is perhaps a little more complicated in that the reconciliation process is a longer process. It does not take much to say the word 'Sorry' and it does not take long, but there are in our society some who just cannot bring themselves to say it, the Prime Minister being one. Reconciliation does—

The Hon. Diana Laidlaw: Keating couldn't say it, either.

The Hon. T.G. ROBERTS: No, I must say that the former Labor Prime Minister had difficulty in apologising for a lot of things, but I am sure that he would have made a reconciliation statement had he been in the same position as John Howard. If reconciliation does not include employment opportunities and it does not include opportunities within art, sport and recreation, it does not mean much.

I would certainly like to pay tribute to one Aboriginal in the sporting arena; he was a person who made a determined effort to bring about a reconciliation process through sport—Michael Long. He was able to convince his team mates in the Essendon Football Club to wear black armbands for that day to show that that sporting team was saying 'Sorry' and to pay some tribute to Kevin Sheedy. Some football sides paid tribute and others did not. I pay tribute to those who did.

GAMING MACHINES

The Hon. NICK XENOPHON: I will not disappoint members by straying from discussing anything other than the issue of gaming machines in this opportunity to speak on matters of interest. Today, I would like to focus on the Adelaide Hills town of Mount Barker and surrounding towns, and the concern that many local residents have over the proliferation of gaming machines and the impact they have had on their local communities. Just a few weeks ago, I was contacted by local residents, including Lynn and Wes Howland and Ray and Verity Smith who, on their own initiative, had arranged for a petition to be circulated requesting that there be no more poker machines in Mount Barker. They distributed the petition throughout Mount Barker and within a few weeks over 3 100 signatures were obtained. A significant proportion of Mount Barker's residents signed the petition because they were concerned at the impact that gaming machines were already having on their town. This is in a town of approximately 8 000 residents. I seek leave to table the 101 pages of the petition. It is not a petition in the appropriate format for the lodging of petitions, but as I understand it I can seek leave to have it tabled.

Leave granted.

The Hon. NICK XENOPHON: I believe the petition signifies a number of things. It indicates significant widespread community concern over the number of poker machines in this State, the manner of their introduction and their impact on local communities. It indicates the concern of Mount Barker residents whose town already has a proliferation of poker machines well above the State average and is facing another pokies development which will push the concentration to double the State average.

Apparently, this development was advertised in the *Advertiser* of 23 December 1997 in accordance with the Act. Because the current legislation does not allow for direct notification of residents in the locality, and as it was just before Christmas, no objection was lodged—much to the dismay of local residents who were not around at the time and who wanted an opportunity to object to the application. It also shows a great deal of community initiative by a dedicated group of individuals who are prepared to be actively involved in an issue that has adversely affected their town.

Contrast this with the petition being circulated over the past six months by the Hotels Association and gaming industry interests. They aim to present a 100 000 signature petition to Parliament opposing moves for any changes to their lucrative industry. I have been informed by a number of bemused constituents who have contacted me that some venues are providing inducements and prizes to staff members who gather the most signatures each week. What is more, patrons are being offered free drinks to sign up. In fact, they offered a free drink to a gambling counsellor who, as I understand it, accepted the drink but did not sign the petition. I have heard of vote buying before but not signature buying! I hope the industry's petition, when it is eventually tabled, is treated by members of this Council and of the other place with the degree of scepticism that it deserves.

The concerned individuals at Mount Barker, their community and church groups have organised a public meeting in Mount Barker on 5 August to discuss the impact of poker machines. I understand that the local member, the Hon. John Olsen, will be invited to attend. I hope he does, and I hope that his words of concern last December about the impact of poker machines were genuine and reflect a desire for changes to this industry which are in keeping with grass roots community concerns.

CHILD CARE

The Hon. CARMEL ZOLLO: The tug of emotional war between raising a family and following a career is a very familiar one to most women. Some women choose to work,

and some need to do so because of their financial circumstances. Society is becoming more and more geared towards a two income family. To my mind, women who have genuine choice regardless of their financial circumstances are the luckiest ones. They have sufficient empowerment in their lives to be in that position. Of considerable interest would be the question: what would women's real choice be if society took responsibility for child care? In other words, are the choices made by women to have flexibility in their lives made because they have to fit in all other responsibilities?

Women with children in care who work for whatever reason, particularly those who must work for financial reasons, are increasingly having to face another stress in their lives—a financial one. Last month's Senate inquiry hearing in Adelaide into child-care funding heard some very distressing tales. Statistics now clearly demonstrate that women are being driven out of the work force whilst women at the lower end of the employment scale are being squeezed more and more out of work—12 000 women have left the full-time or part-time work force in the past year without this exodus being translated into more employment for their male counterparts.

The Federal Liberal Government is not only cutting payments in real terms to child-care services but also has made it harder to access care by the changes in the formulas for child-care assistance. The Howard Government's 1998 budget papers show that it actually underspent on child-care assistance in this financial year by $117 million on top of the $820 million slashed from child care in its first two budgets.

In South Australia, 13 child-care centres have closed and more than 500 families have withdrawn their children from formal child care, with the hardest hit being the community based centres, which are non-profit and are run by a management committee of parents.

In 1998, the average fee per child for a community based centre is $176 per week compared with $118 in 1992—an increase of 50 per cent in just six years. Together with a capping of subsidies introduced by the Howard Government, a significant number of women in South Australia have either been forced to stop working altogether or to reduce their hours. Women on a low income have needed to question whether it is worthwhile their even working. Even $25 per week is a significant amount of money to a woman on a low disposable income, and for parents of two children this translates to $100 out of a fortnightly pay packet.

If the idea behind the cuts is to save taxpayers' money and make parents more responsible for their children, surely this argument is flawed because parents who quit work are more likely to rely on social security, and of even greater concern is the possible use of unlicensed care. By that, I am not referring to the extended family. A bigger problem for parents is the capping of child care to 50 hours per week for each child. I understand that this saves $30 million a year. There seems to be a lack of understanding that parents with children in care often will need to access child care for longer than an eight hour day. Centres used to be able to take into account true working patterns and commuting times and would open from 7 a.m. to 7 p.m. Not everyone has the luxury of working from 9 to 5.

The Labor Government introduced responsible child-care funding which was safe, reliable, convenient and more importantly affordable. At a time when demand for child care has never been higher, this Liberal Government is making it more and more difficult for people they purport to assist to access such help. The Howard Government's own figures show that parents are paying up to $780 per year more for child care. The proposed push for a GST will also add an extra burden on child-costs. If the Howard Government were to introduce a 10 per cent GST, families would need to add a further $17 to the $170 child-care fee. If the rate of GST is 15 per cent, then families will have to find an additional $25 for their child-care bill—needless to say, another very unwelcome addition to the stress of child care and another example of the socially uncaring attitude of the Howard Liberal Government.

STATUTORY AUTHORITIES REVIEW COMMITTEE: COMMISSIONERS OF CHARITABLE FUNDS

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

That the report of the Statutory Authorities Review Committee on the Commissioners of Charitable Funds be noted.

The Statutory Authorities Review Committee is reporting for the fifteenth time since it was established in May 1994. This review of the Commissioners of Charitable Funds, however, is a first for the committee because the committee has unanimously recommended that the Commissioners of Charitable Funds be wound up. The committee itself, which was established under section 15C of the Parliamentary Committees Act, has amongst other things the power to report on whether an authority should continue to exist. In this case, we believe that the Commissioners of Charitable Funds should no longer continue to exist.

The Commissioners of Charitable Funds were established 123 years ago in 1875. They were established as a body corporate because it was seen at that time that no body in South Australia could handle and invest gifts of land or money which may have come the way of public charitable institutions in South Australia. So, the Public Charities Act was passed in 1875 and has remained largely untouched in the intervening 123 years, curious though that may be. The investment powers of the Commissioners of Charitable Funds are extremely limited and mitigate very much against the commissioners' providing a comparable rate of return on the assets which are invested for the various public bodies—public hospitals and other charitable institutions. In fact, the committee was rather surprised to find that the Act has been examined only three times in the past 60 years. On each occasion, very few changes have been made to the Act.

The Statutory Authorities Review Committee had no criticism whatsoever of the current Commissioners—Mr John Darley, Chairman of the authority; Mr Robert Kidman and Mr Ian Wilson—all distinguished people in their own right who were paid in aggregate for 1996-97 quite modest board fees of less than $27 000. In making our final determination what we found interesting and fairly significant was that the Commissioners were almost a *de facto* foundation for the Royal Adelaide Hospital. Some 96.5 per cent of the $37.5 million of moneys which it managed were for the benefit of the Royal Adelaide Hospital. In other words, little more than $1 million was being managed for the sundry number of other health and hospital organisations. As you would expect, the relationship between the Royal Adelaide Hospital and the Commissioners was very close. In fact, the

office of the Commissioners was located within the Royal Adelaide Hospital. The Commissioners received administrative and secretarial support from the Royal Adelaide Hospital. It was a close relationship, which was not surprising, given that almost all the funds were administered on behalf of the Royal Adelaide Hospital.

Another point which we found significant was that the Public Charities Funds Act required public charitable institutions to be declared pursuant to the Act through the second schedule of the Act. The Act rather quaintly provided:

> The Governor may from time to time by proclamation declare any public hospital, destitute asylum, lunatic asylum, hospital for the mentally defective, orphanage, reformatory, or other institution of a like character which is established by or pursuant to any Act and supported wholly, or in part out of the general revenue of the State to be a public charitable institution. Upon proclamation as aforesaid, the name of the institution shall be deemed to be included in the second schedule.

That wording alone would suggest that this Act has not had legislative attention for some time. What is bizarre is that the Royal Adelaide Hospital was one of the institutions listed in the second schedule. It meant that moneys gifted to the Royal Adelaide Hospital had to be funnelled through to the Commissioners of Charitable Funds for their management. The Queen Elizabeth Hospital was on that second schedule, as were numerous country hospitals, such as Mount Gambier, Port Augusta, Port Lincoln and Port Pirie hospitals but, curiously, Flinders Medical Centre was not, because it was established little more than a generation ago. In giving evidence to the committee representatives of the Queen Elizabeth Hospital pointed out that their legal advice was that, now that they were part of the North West Health Services organisation and having merged with Lyell McEwin, they were outside the purview of the Act. However, the Crown Solicitor's advice to the committee was otherwise and claimed that they were still trapped by the Act and should funnel moneys donated to the hospital to the Commissioners.

This ambiguity and confusion was obvious to the committee. Therefore, technically, on the Crown Solicitor's advice a cheque made payable to the Queen Elizabeth Hospital should be vested with the Commissioners of Charitable Funds for their management. But, if a cheque was made payable to the Queen Elizabeth Hospital Foundation, which was an autonomous and independent legal entity, the foundation could manage those funds rather than funnelling them to the Commissioners. Therefore, quite unwittingly and by a mere stroke of the pen, a donor to the Queen Elizabeth Hospital could determine which way the funds should go for their management.

Clearly, the conditions which prevailed in 1875 no longer exist in the South Australia of 1998. It is rather banal to suggest that people who donate funds to the Queen Elizabeth Hospital should expect that an independent organisation with the curious and rather unflattering title of Commissioners of Charitable Funds should manage that investment on behalf of that institution. It is also rather curious to see the obvious inconsistencies which exist, such as that Flinders Medical Centre was free of any aspects of this legislation and that a whole raft of hospitals in the Riverland had not been prescribed under the second schedule. The Women's and Children's Hospital was also outside the purview of the Act, the reason for this being that the Queen Victoria Hospital had originally been private and, when it was linked to the Adelaide Children's Hospital, it was never picked up. As it was, the Adelaide Children's Hospital was not listed in the Act in any event. In many cases, as members would understand, some institutions had changed their name. In fact, some institutions had gone out of existence and their functions had been passed on in part if not wholly to another organisation which may have been geographically removed.

One example of which the Crown Solicitor advised the committee was of interest, and I will draw members' attention to this. The Commissioners are holding funds on behalf of the Tregenza Avenue Aged Care Service, which is located at Elizabeth South, which comprises part of the North Western Adelaide Health Service but which was formerly part of the Lyell McEwin Hospital and Julia Farr Centre. The advice from the Crown Solicitor to the committee was:

> I am instructed that the Tregenza Avenue Service took over the functions performed by the Magill Home. Apparently some or all of the funds held by the Commissioners on behalf of the Tregenza Avenue Service were derived from gifts or bequests to the Magill Home.

Now, I have some affinity with that, because I grew up very close to Magill. My grandmother was in fact the President of the voluntary workers for the Magill Home which looked after people in need. The Crown Solicitor continues:

> Whilst I do not have detailed instructions it is not immediately obvious how a bequest or gift to a clearly identifiable institution such as the Magill Home can be applied for the benefit of another body located some 30 kilometres away which happens to perform the same or similar functions. This issue requires further investigation.

So, I think there the Crown Solicitor is drawing attention to a very obvious difficulty which confronted the Commissioners and which indeed confronted the committee. There was no question that the Commissioners were doing an excellent job, but they were limited very much in the scope of their investment powers by section 14 of the Act, which limited their ability to invest to Government securities, fixed deposits with any bank, the bonds of the Corporation of the City of Adelaide (and I understand that it would have been decades since the Corporation of the City of Adelaide issued any bonds) and the purchase or acquisition of freehold land, chattels, real and other interests in land and in mortgages over land. There were no powers of investment for shares and other instruments commonly used by investors in the markets of Australia. Therefore, it reflected in the performance of the funds or their returns on investments, in the order of $37.5 million. Over the past few years our research, by taking advice and by looking at the typical investment performance of funds managed by such institutions as Bankers Trust, AMP, the movement in the All Ordinaries Index (which measures the average movement in Australian share prices), would suggest that the performance of the Commissioners for Charitable Funds was rated at half or less than half that of those other funds.

For example, in 1996-97 the annual rate of return from the Commissioners for Charitable Funds was 6.8 per cent as against all major funds of the AMP achieving a return of between 10.7 per cent and 18.4 per cent; Bankers Trust returns of between 12 per cent and 15 per cent; and IOOF returns as high as 26 per cent. That was true in earlier years. So, the Commissioners hands were tied by this archaic and anachronistic legislation, which had not been modified to take advantage of changing circumstances. One of the interesting aspects of the Commissioners, and one of the reasons for their existence, was that town acre 86 had been donated to the Royal Adelaide Hospital to be managed by the Commissioners back in—

The Hon. T. Crothers interjecting:

The Hon. L.H. DAVIS: That is right. I will ask my colleague the Hon. Trevor Crothers to elaborate on that point and will not steal his considerable thunder. Town acre 86 comprised the city centre on the corner of Pulteney Street and Rundle Mall and is in the books at $9 million. Although the Commissioners have the power to sell or exchange land held by them, it is with the consent of the Minister. There was no indication that they were seeking to sell the city centre. Town acre 86 is held by the Commissioners on behalf of the Royal Adelaide Hospital and formed part of the estate of the late Thomas Martin. That was the only real estate held. The balance was in cash and bank deposits with a small amount in shares, which they had received by way of bequest or donation.

An overwhelming amount of $23 million of the $37.5 million was held in cash and bank deposits and, with low interest rates prevailing, quite clearly that diminished the rate of return on the investments. The point that emerged from the evidence we took from the Commissioners, from major health and hospital organisations of South Australia and from written evidence received from some country hospitals was that, given the sophistication and technology available today, the small amounts invariably held on behalf of regional and city health and hospital centres could easily be managed by those centres. There was no need for the Commissioners to be managing funds on their behalf.

As members would understand, it is not uncommon these days for regional hospitals to have annual budgets in excess of $10 million. So, $200 000 of surplus funds by way of donations is something which could easily be managed by the board either directly or by reference to an independent expert. For the Royal Adelaide Hospital, with a budget in excess of $200 million and arguably the largest public hospital in South Australia, to have $36.5 million of its funds managed by another statutory authority with the quaint title of 'Commissioners of Charitable Funds', is an exercise in historical correctness but not in current day practicality. Members would be well aware that institutions such as the University of Adelaide, the Flinders University and a whole raft of educational institutions have set up foundations to raise funds in capital sums for ongoing research, development and capital works. The Royal Adelaide Hospital clearly has millions of dollars already deriving from many sources that it manages directly or indirectly of that nature. The committee had no doubt that the Royal Adelaide Hospital would not be disadvantaged if the committee's recommendation to dissolve the Commissioners for Charitable Funds was adopted by the Government.

So, the facts spoke for themselves. The evidence from all quarters was persuasive. One remaining argument that I should dispose of was that perhaps there may be some disadvantage to some of the smaller funds if they were forced to manage their own funds on their own behalf, that the Commissioners generally pooled funds so that moneys at call or on fixed deposit would attract a higher rate of interest because of the size of the moneys invested, whereas if the individual institution invested the money it would attract a lower rate of interest. However, inquiries by the committee revealed that a pooling arrangement would still apply if there was a consensus from the regional and metropolitan hospitals and health organisations involved that they should use a common bank; they may be able to attract more favourable fees and more favourable rates of interest. We believed that no financial disadvantage was attaching to our recommendation.

I would like to think that the committee's unanimous recommendation to wind up the Commissioners of Charitable Funds would be adopted speedily by this Government. The case for it is very persuasive. Over a period of years there has been a recommendation that this Government, indeed the preceding Labor Government, should amend the Act to widen the Commissioners investment powers and to enable the Commissioners to act as a co-trustee of the $6 million estate of Shirley M. Helpmann because the Royal Adelaide Hospital is one of the principal beneficiaries of the Helpmann estate and under existing legislation the Royal Adelaide Hospital could be disadvantaged.

It has been pleasing to see the committee yet again unanimous in its findings and I pay tribute to the research officer to the committee, Mr Andrew Collins, for his diligence and professionalism and to the committee Secretary, Helen Hele, for her contribution to the inquiry.

The Hon. J.S.L. DAWKINS: I rise to endorse the comments of the Hon. Legh Davis, Presiding Member of the Statutory Authorities Review Committee. I endorse the comments about the unanimous decision of the committee. I joined the committee after the inquiry had commenced, as did the Hon. Carmel Zollo. We joined the Hons Mr Davis, Mr Crothers and Julian Stefani and proceeded with that inquiry. As the Hon. Mr Davis stated, the Commissioners currently manage more than $37 million for 13 public hospitals and health centres and more than 96 per cent of that amount of money is vested in the name of the Royal Adelaide Hospital.

The operation of this antiquated Act is highlighted by the fact that Flinders Medical Centre is outside it. The Queen Elizabeth Hospital has been advised by its solicitors that it is not subject to the Act, although the Crown Solicitor has a different view, whereas Royal Adelaide Hospital, which as the Hon. Mr Davis has said, is the largest public hospital in South Australia, is unquestionably subject to the Act. In regard to the fact that so much of the Commissioners' work is done on behalf of the Royal Adelaide Hospital, in many senses they operate as a *de facto* operation for Royal Adelaide Hospital but without any fundraising powers that foundations set up by other hospitals such as the Queen Elizabeth Hospital and Flinders Medical Centre have.

The committee was unanimous in its decision to recommend the abolition of the Commissioners and transfer their responsibilities to the boards of hospitals. There are many examples where these hospital boards and health services of varying size have shown their ability to manage funds considerably more than those vested with the Commissioners.

Larger hospitals now manage budgets in excess of $100 million and they have considerable financial expertise. Several regional hospitals and health centres have budgets in excess of $10 million and are more than capable of properly managing the donations and bequests made to them. Regional health centres for which the Commissioners currently hold more than $60 000 are the Port Lincoln Health and Hospital Service, the Port Pirie Regional Health Service, the Mount Gambier and Districts Health Service and the Whyalla Hospital and Health Service. The committee's decision to recommend the abolition of the Commissioners in no way reflects on the performance of the current Commissioners, as the Hon. Mr Davis has outlined. The committee believes that the Commissioners have worked very well under difficult circumstances and under an antiquated piece of legislation which was drawn up in the previous century.

I make the point that we discovered during our deliberations that there is no comparable body in any other State in Australia. I conclude by saying that, as a new member of the committee, I extend my sincere thanks to the Research Officer, Mr Andrew Collins, and the Secretary, Ms Helen Hele, for the work they have done to facilitate this inquiry.

The Hon. T. CROTHERS: I rise, although I am not listed to speak, to make a modest contribution, as is my wont. My colleague, the Presiding Member of the committee (Hon. Mr Davis), and my other colleague the Hon. John Dawkins have comprehensively covered the canvas that constitutes the deliberations of the committee in respect to the Commissioners of Charitable Funds. I might say that, because it was initially set up in the 1870s, a time when there was no such thing as unemployment benefits or society caring for its sick, its old and its infirm, it was with a tinge of nostalgic regret that we came to the unanimous conclusion—there being three members from the Government benches and two from the Opposition on the committee (Hon. Carmel Zollo and I representing the Opposition and the Hons Legh Davis, John Dawkins and Julian Stefani representing the Government)—after some soul searching that this was the way to go. Even nostalgia has a place in historical times, but there comes a time when one must move on to maximise benefits that the initial setting up of the Charitable Commissioners sought to accrue to the benefit of hospitals that served the needy of our community in those days.

There is one point I wish to make, namely, that the Commissioners had a policy of endeavouring to ensure that they maintained the equity capital value of the original bequest or any other bequest made through their aegis, and I suppose that one must say that in order to do that, given the strictures they had on them in respect of what they could do with investment and the property in Pulteney Street and so forth, it further restricted and limited their capacity to disperse funds back to the hospitals because of that sensible policy. There is no criticism from me for maintaining the capital equity value of the original and other bequests that came their way. I pay tribute to the fact that the three Commissioners, Messrs Kidman, Wilson and Darley, admirably discharged their duties. The State has to be thankful to people like them, who do such good work for little or no remuneration.

I do not have a great deal further to say except that, like my colleague the Hon. John Dawkins, I pay tribute to one of our officers who is resigning to go to other fields. That is our research officer, Andrew Collins who, in my view, is an absolutely brilliant young man who will go to higher and higher places in life. The committee has decided on his replacement, Helen Hele, and she is equally most capable. Certainly, in the time I have known Andrew Collins and in the way in which he has performed—and I am sure I am echoing the comments of everyone who has served on the Statutory Authorities Review Committee—he has been a thoroughly excellent young man. I am sure it will be said at a more appropriate time but we wish him well with anything he undertakes in times future. That sums up what I have to say.

As a member of the Statutory Authorities Review Committee I am of the view that we never want to get Neville Wran on his hollow log theory. To this time the committee has worked in a most equitable, forthright and honest manner as parliamentary committees should do. I think that has been due largely to the capable chairpersonship of the Hon. Legh Davis, although I must say that from time to time yours truly and he sometimes clash. Nonetheless, I admire the excellent way in which he discharges his functions. As for myself, modesty ensures that at this time I must complete my contribution.

I hope that the Government does act promptly. It will require a fair degree of legislation to give effect to our recommendations, because over 120 years we were once under a pax Britannica and operating under many legal precedents from British courts. Since the end of the Second World War we are under the pax Americana and we are operating under many legal precedents emanating from American courts of jurisprudence. Having said that, it would not be impossible to legislate for it and it might tidy up the matter in a more simple form. I commend the proposition to the Council. My colleague the Hon. Carmel Zollo has indicated to me that she does not wish to make a contribution and I do not know about the Hon. Julian Stefani; perhaps my other colleagues may know what his position is and we may be able to deal with the matter now.

The Hon. L.H. DAVIS: I thank members for their contributions.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: REPORT

Adjourned debate on motion of Hon. Mr Redford:

That the report of the Legislative Review Committee, 1996-97, be noted.

(Continued from 25 March. Page 640.)

The Hon. R.D. LAWSON: I rise in support of this motion. I had the honour to be the Presiding Member of the Legislative Review Committee during the period which this report covers and I think it is appropriate that on this occasion I should make a couple of comments about the work of the Legislative Review Committee during the year ended 30 June 1997.

The committee during that year operated, in my view, very satisfactorily. It conducted a number of inquiries and published a number of reports on significant matters. For example, the committee examined regulations under the Firearms Act, received evidence from a wide range of persons interested in firearms and produced a report on the very extensive regulations which were promulgated after the enactment of the national firearms package. Although no amendments were recommended or arose as a result of the committee's consideration, I believe that the action of the committee in hearing the complaints and suggestions of many people who are interested in firearms was a very valuable service to the Parliament and the community in general.

The regulations under the Reproductive Technology Act were also the subject of a report during the year. That was a controversial matter and one requiring great sensitivity on the part of the committee, and the committee produced a report which I believe was a significant document in the history of the development of appropriate codes of conduct in relation to reproductive technology in Australia. The regulations on that occasion contained codes of conduct for both clinical and research practice and it is my recollection that the codes were the first of their kind in Australia, and I was pleased that the committee was able to produce a unanimous report on it.

Other regulations which were considered and which were the subject of special note concerned expiation of offences

and streets, and some regulations under the Electricity Act. I mention only the regulations under the Expiation of Offences Act because I think they highlight the true role of the Legislative Review Committee and its value in the parliamentary process. The matters which caught the attention of the Legislative Review Committee were a series of new forms under the regulations pursuant to the Expiation of Offences Act, and those forms contained some elements which it was the unanimous view of the committee were unsatisfactory. For example, the item 'due date for payment' on a summons issued to a person alleged to have infringed a by-law stated simply 'you must work out this date for yourself'. It was the view of the committee that that was an inappropriate form of regulation making and that it was unfair to the citizen and inconsistent with proper notions of regulation making.

There was resistance to change from some local government authorities and the police. The Attorney, however, was sympathetic to the view of the committee and ultimately agreed that the regulations would be changed and that a more appropriate form of date calculation would be incorporated. Once again the committee on this occasion was unanimous. I think the exercise demonstrated, if demonstration be necessary, the value of a committee such as the Legislative Review Committee which examines matters in a dispassionate and usually bipartisan fashion and produces results which benefit the community and which do credit to the parliamentary process.

The Hon. A.J. Redford interjecting:

The Hon. R.D. LAWSON: The current Presiding Member of the committee, the Hon. Angus Redford, asks whether I have any comments in relation to section 10AA of the Subordinate Legislation Act. Indeed, I do have some comments about that. In fact, the committee has been commenting on the inappropriate use, in the view of the committee, of certificates of urgency under the Subordinate Legislation Act. Pages 5 and 6 of the report which is presently under consideration deal with that matter which, I must say, is a matter of some difficulty and was the subject of an attempt by the Government to remove the difficulty by repealing the section. I do not propose to say any more about that other than what is contained in the report.

The Legislative Review Committee I believe during my term (and I am sure currently) operated effectively and I want to pay tribute to the members who served the committee whilst I was Presiding Member. The member for Colton, Mr Condous, has been a member ever since his election to the Parliament and is still a member, and I am glad to see that; as is Mrs Robyn Geraghty. The Hon. Ron Roberts was a member of the committee at the time I was first appointed and was an effective contributor to it. He then ceased to be a member of the committee for some time, but I am glad to see that he is back on it. The Hon. Paolo Nocella was a member of the committee during his term in the Parliament and was an effective contributor; as was the Hon. Paul Holloway, who I am glad to see is here today. Mr John Cummins, the member for Norwood, was also a member whilst he was in the Parliament and, again, was an effective contributor.

This is an important committee and, if it works in accordance with the way that it was intended to operate, it will make a great contribution to the good government of the State, and I commend members for their contributions during the term under review.

In conclusion, I should like to pay tribute to the work of the Secretary of the committee, David Pegram. David was Secretary for the whole time I was a member, and he was a most effective, efficient and dedicated Secretary. He is thoroughly familiar with the operations of the committee, with the subordinate legislation process and also with local government and other regulation making bodies. David has been an exemplary Secretary to the committee, and it has been served well by him. Peter Blencowe was the Research Officer at the time of this report. Peter, who came from and is now back in the Parliamentary Library, was a most effective Research Officer. I commend the motion.

The Hon. P. HOLLOWAY: I would like briefly to endorse the remarks of the former Presiding Member of the committee. It was my privilege to serve on this committee during the period for which this report applies, that is, for the year ended 30 June 1997. The Legislative Review Committee is a very important committee of this Parliament, as it plays a key role. As appendix (h) to this report shows, a significant amount of subordinate legislation is dealt with by the committee, some 411 items, of which 301 are regulations. Of course, some of those regulations are quite lengthy and significant in their impact.

The Legislative Review Committee has the very important function of scrutinising all that subordinate legislation on behalf of the Parliament. As this report indicates, the committee conducted in-depth reviews of a number of key issues regarding certain aspects of the legislation. As a consequence of that, the legislation was subsequently improved for the benefit of the people of this State. As the former Presiding Member pointed out, most of the recommendations made by the committee are bipartisan, and they have unanimous support. An example that is given is that of the expiation notices where, as a result of the committee's recommendations, substantial improvements were made to that area as, indeed, there were to other regulations that came before the committee.

I want to refer to the conference of all the committees of Australian Parliaments that consider scrutiny of Bills or other forms of legislation review. Held in Adelaide about 12 months ago, it was a very interesting conference. As one who attended all the sessions of that committee during the week or so it was held in Adelaide, I believe it was extremely useful for all the legislators who attended it. It was certainly valuable for parliamentarians to hear what was being considered by other committees in their various jurisdictions throughout Australia. So, the committee has played a very important role, and it is appropriate that we should recognise that in the consideration of the annual report.

One other matter to which I wish to refer is the commencement of regulations. I endorse the comments in the report in relation to section 10AA of the Subordinate Legislation Act. There has been abuse of that provision by Ministers who, when they bring in regulations, declare that they are urgent and, therefore, they should apply straight away. Unfortunately, it has now become the norm. As the report also points out, there has also been some abuse of the lack of consultation before much regulation is brought before the Parliament. That issue needs to be addressed. I am aware that my colleague the Hon. Ron Roberts will move an amendment to the Act regarding the disallowance of the regulation. I know there has been some abuse, in the view of the Opposition, by the Government of that matter, and I am sure we will hear more about that later.

In conclusion, I would just like to record my thanks to the former President of the committee, the Hon. Robert Lawson, and the other members of the committee—Paolo Nocella, Robyn Geraghty, Steve Condous and John Cummins, as they were during my time there. I would like to pay a tribute to the staff that committee—Peter Blencowe, David Pegram, and Julie Kemp—for their contribution to this important parliamentary committee. I am sure under the new Presiding Member and the new members of the committee it will continue to form a useful function into the future.

The Hon. A.J. REDFORD: I will be brief. I thank members for their contributions. I acknowledge and congratulate the former committee and in particular the former Presiding Officer, the Hon. Robert Lawson, and I also thank the Hon. Paul Holloway for his contribution. To update members, today we adopted a set of guidelines upon which we will consider regulations, and they will be tabled in Parliament in the next couple of weeks. We will be looking for comments from members about those guidelines. We are also still in the process of dealing with a freedom of information inquiry. I note that there is another matter on the Notice Paper regarding freedom of information, and I might say at this juncture that it would seem to me appropriate to have that referred to the Legislative Review Committee so that we can deal with all the freedom of information issues in one fell swoop.

The other issue that is engaging the committee is the question of regulatory impact statements. In that regard, without preempting the committee's viewpoint, there is a lot of confusion within the Government and elsewhere as to what is meant by 'regulatory impact statements' and what requirements there are in relation to them. I must say in the short time I have been Chair of the committee that it seems to me that a lot of the regulations are generated by what I would describe as the middle end of the bureaucracy, and the Legislative Review Committee plays a very important role in protecting Ministers from perhaps some excesses that might arise in that context and ensure that Ministers are not unduly burdened by having to scrutinise some of these regulations with enormous detail. I endorse the Hon. Robert Lawson's comments about the staff. In conclusion, I thank everyone for their contribution.

Motion carried.

RETAIL AND COMMERCIAL LEASES (TERM OF LEASE AND RENEWAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 664.)

The Hon. CARMEL ZOLLO: I rise to support the proposed amendments to reform the Retail and Commercial Leases Act 1995. The Opposition believes that for far too long small retailers have been at the mercy of lessors, some of whom have sought to pursue their own interests at the expense of the often-unprotected lessee. The Opposition has for some time been concerned with the circumstances of small retailers, whether they be located in a major shopping centre, shopping strip or stand-alone concern. We are therefore pleased that this Bill offers protection to all lessees, not just to those in shopping centres.

The proposed tabled amendments go some way towards addressing some of the inequities in the relationship between lessees and lessors. It does not address all the issues of concern to the often beguiled lessee, but it does have regard for some of the areas where lessees often find themselves at the mercy of the more empowered lessor.

Since the introduction of this Bill I have consulted widely including with representatives of the Small Retailers Association, Mr Max Baldock and Mr David Shetcliffe, and with Mr Alan Branch of Tindall Gask Bentley. I have also had the opportunity to attend a seminar held during Law Week on retail and commercial tenancies. These consultations reflected the Opposition's concern for reform in the area of retail and commercial leases.

Apart from offering opinions on the proposed amendments, I am sure that many of my colleagues will not be surprised to hear that during these consultations many other issues were raised which weigh heavily on our small retailers. These include an industry call to see standard leases in plain English and other concerns such as different terms between lease and franchise arrangements—for example, franchise lessees find themselves in subleases which they cannot negotiate over—and the importance of seeking advice before entering and more importantly negotiating a lease.

In the first instance I will discuss the original amendment Bill before dealing with the further tabled amendments. Like the Hon. Ian Gilfillan, we recognise the injustice in the current legislation in that current leaseholders in large shopping centres will not benefit from earlier amendments that enable some justice at the termination of a lease, namely, the right of renewal. We are pleased to see that justice is to be extended to the current lessees so that they, too, will be embraced with the provision of right of renewal.

We agree also with the proposed transitional provisions which would allow any lease that is due to expire within six months of this division commencing, the protection that requires the lessor to begin negotiating with the lessee. Alternatively, the lessor would need to notify the lessee as soon as practicable that they do not have the right of preference (that is, the first option to renew/renegotiate). We welcome this extra safeguard for the lessee. This provision goes some way to protect the interests of lessees who could lose their business through non-renewal of leases in a shopping centre. The core intent of this amendment is providing the protection that is afforded to other lessees.

When the original Act was first considered, many provisions were effective immediately, not just to those leases signed after the commencement. Because the original Act only applies after the commencement of the division, the earliest it could afford any protection was five years from the time of proclamation of the Act in 1997.

This means that the earliest that tenants can gain protection of this law will be 2002. This arrangement would make it untenable for lessees who have signed five plus five leases and even worse still for those who have signed five plus five plus five. They would have to wait up to an incredible 15 years until after the proclamation of the Act before they could receive the benefit of first right of renewal.

I note that on the last occasion an amendment such as this was considered it was vigorously opposed by the Attorney-General. I hope that since then the Attorney has had the opportunity to take into consideration the concerns of small retailers and is now prepared to support the amendment before us.

Some members opposite may wish to colour the proposed amendment by suggesting that it should not be considered on the basis that it is retrospective. As clearly explained by my colleague in another place on a similar amendment, the

member for Spence and shadow Attorney, this Bill does nothing but affect future conduct.

The only opportunity lessees will have to access any first 'right of renewal' will be after this Bill has been proclaimed. Should not the protection of the new law be made available to existing lessees? No compelling arguments against this proposal have been presented. The interest of small retailers must be protected from unreasonable expectations from the lessors.

We also agree that the further tabled amendments go part of the way to helping the retailer and attempt to provide some balance in the industry. I will speak to some of them without hopefully going over exactly the same ground already covered by the Hon. Ian Gilfillan.

Section 12 involves the disclosure statement and is a significant change. It has been a common call from lessees that they feel the profiteering of lessors. There is a basic principle at play here, and that is that outgoings, such as electricity or other utilities, should reflect the actual costs incurred by the lessor or the agent. If a profit or additional amount is added to the costs of the outgoings, then surely the lessor must be held to account for the basis on which it has been made.

I shall also talk here on section 68—the increased jurisdiction of the Magistrates Court to deal with what may be unreasonable outgoings. Clearly, if this change to the disclosure statement is to have any effect, the court must be allowed to make rulings on it. We should also be mindful that refits should be within the capabilities of the business, although I understand that this would be difficult to legislate for.

Section 13 again involves the disclosure statement, calling on lessors to outline costs and possible costs associated with fitting or refitting premises. Fitouts can be a costly exercise and, if not properly informed about potential changes, the lessee can be left stranded and bearing substantial costs which were not made clear at the commencement of the leasing arrangements.

Part 3A, section 18A, is also a useful inclusion in these propositions before us. Provision for a cooling-off period is a standard practice in almost all other major purchases. The period of five days will not have any economic impact on the industry, but will allow the lessee the opportunity to consider the full consequences of the lease and more importantly to seek advice. As outlined, this right can be waived under independent legal advice.

The next substantive amendment is the 'holding over' of the lease for six months in certain cases on the same terms as the original lease. This makes it possible in the event of a dispute between the lessor and lessee that the lessee is not removed from the premises unless a *bona fide* lessor is found for up to six months. This could have positive outcomes, including providing time for any necessary relocation and could even benefit the lessor as no better offer may be found in the intervening period. It would also provide the time to show if there has been any contrived determination. The Opposition feels that lessors should not be allowed to lever the prospective lessee to remove their right to renewal. It is hoped that section 20EA will address that matter effectively.

The amendment to limit substantial changes to the site area is heralded as a positive change by small retailers. As the Act stands, there is no requirement that the lessor provides a site of comparable area and is not compensated for potential loss of trade or the costs of removal, which can be quite considerable.

These proposed amendments are a sound and fair attempt to bring to light the real costs involved in a lease to the lessee and then provide some recourse if those things are deemed unreasonable. Although there are some considerable concerns about some areas of the Act, such as the appropriateness of the jurisdiction of the Magistrates Court in leasing arrangements, they cannot be dealt with today.

I anticipate that the matter of a tribunal which is less intimidating for lessees and other matters will be considered by the Opposition as possible future amendments in due course. Many small retailers spend significant sums of money investing in the development of their businesses. This includes large amounts towards plant and equipment purchase. This provides the infrastructure for jobs and growth in the future. Why then would these small retailers continue to invest in their business when they know the lessor could squeeze them out? They cannot simply pick up their business and head elsewhere. For them, their business would cease just as their lease had, as few businesses could move from a major centre to re-establish themselves elsewhere. The industry believes that a few areas of the Act are still in need of reform.

I will be consulting further for possible future amendments to the Act, including those already mentioned, but the amendments before us go some way towards correcting some of the issues that particularly face lessees. One of the objects of the existing Act is to enable an appropriate balance between the expectations of the lessor and the lessee in relation to the renewal and extension of retail shop leases. These amendments assist in providing that balance. They are concerned with fair play in leasing arrangements and go some way to empower the lessee. Lessors will not be disadvantaged by these amendments. Essentially, I have been informed by industry representatives that responsible lessors are already pursuing such practices. The Opposition supports the Bill.

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

REPUBLIC

Adjourned debate on motion of Hon. M.J. Elliott:

1. That Australia should become a Republic with an Australian citizen as Head of State; and

2. That the concurrence of the House of Assembly to this motion be requested.

(Continued from 18 March. Page 547.)

The Hon. J.F. STEFANI: In speaking in support of this motion I propose to move some amendments which will seek to recognise the work of the Federal Liberal Government in organising the Constitutional Convention and which will also reflect more accurately the position and the decisions taken by the convention in relation to the referendum which will be held in 1999. My proposed amendments will also define that if the referendum is supported by the required majority of Australian people then Australia will become a republic with an Australian citizen as the head of State. I endorse the comments made at the Constitutional Convention by the Premier of South Australia, the Hon. John Olsen, when he said, 'An Australian republic is our future.' The Premier also said that as a symbol of our maturity it was important for Australia to approach the issue of becoming a republic by giving careful consideration to the new structure and its operation.

We all accept that the present system of monarchy has served Australia well. However, as a nation Australia has come of age. Today Australia is a proud nation, capable of being independent. We are a nation of great diversity, with different values and many different economic objectives. Australia is a multicultural nation, which has built its future upon the strong foundations laid for us by Great Britain. In offering congratulations to the Federal Liberal Government for organising the Constitutional Convention, and in particular to the Prime Minister of Australia, the Hon. John Howard, I would point out that it was the Liberal Party that promised to the people of Australia before the next election that the issue of Australia's becoming a republic would be dealt with by holding a constitutional convention. It is our Federal Liberal Government that has promised to hold a referendum on this issue before the end of 1999, if it is returned at the next election. It is also important to underline that as a Party the Liberal Party of Australia allowed a conscience vote on this issue. I am proud that the Liberal Party has shown great maturity by allowing people to exercise a free and open vote on this important matter.

The Constitutional Convention was a unique event, because it brought together so many people from different backgrounds, with a diversity of views and with different contributions. It was a moment in our history which will long be remembered, particularly by all those who attended and participated in the convention. Despite the differing views expressed with great enthusiasm and enormous passion by the delegates of the convention, the most important feature which emerged was the integrity of the whole debate. That is the reason why the Constitutional Convention was so successful, as it captured the imagination of many Australians with a range of diverse views yet united the delegates in a common cause, that is, the things that are important to us as a nation: our democracy and freedom. I take this opportunity to pay a special tribute to the contributions made at the convention by the representatives of the first Australians—the indigenous people—as I believe they occupy a very special place in our community.

In summary, the convention decided that the President, who must be an Australian citizen, is to be appointed by a two-thirds majority of Parliament after a recommendation by the Prime Minister, with the support of the Leader of the Opposition. A short-list of candidates is to be presented to the Prime Minister by a committee comprising representatives from Parliament and the community. That committee is to draw its short-list from nominations received from the public, community groups and the three tiers of Government. The Prime Minister alone will have the power to remove a President from office; however, such decisions must be ratified by the Lower House within 30 days. In the event that that dismissal of the President is rejected by the Lower House, then such a rejection would constitute a vote of no confidence in the Prime Minister.

The convention also decided that the President's powers would be similar to those of the Governor-General. Our status as a Commonwealth republic would not affect the States, which would still be responsible for the title, role, powers, appointment and dismissal of their respective heads of State. Australia would retain the name 'Commonwealth of Australia' and remain a member of the Commonwealth of nations. Finally, a new preamble to the constitution is to include reference to Australia's original inhabitants, the affirmation of the equality of all people before the law, recognition of gender equality and recognition of Australia's cultural diversity. I move:

Paragraph I—Leave out all words after 'That' and insert the following:

'this Council congratulates the Federal Liberal Government for organising the Constitutional Convention;

II. That following a referendum to be held in 1999 and, if passed by the required majority, this Council is of the opinion that Australia should become a republic with an Australian citizen as Head of State; and'.

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

PUBLIC FINANCE AND AUDIT (APPOINTMENT OF AUDITOR-GENERAL AND REPORTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 665.)

The Hon. P. HOLLOWAY: This Bill is supported by the Opposition. When a similar Bill was introduced by the Hon. Mike Elliott in late 1996 the Opposition spoke in support at that time and I am glad to have the opportunity to do the same today. The Bill seeks to make two very important changes to the Public Finance and Audit Act. First, it seeks to make the appointment of the Auditor-General the responsibility of Parliament as are the appointments of the Ombudsman and the Electoral Commissioner and, secondly, seeks to allow the Auditor-General's Report to be made available upon its release, even when Parliament is not sitting at the time. The Opposition believes these amendments are eminently sensible and should be supported by all members.

In fact the Government has a further responsibility to support this Bill as its own 1993 and 1997 election policy commits it to making the Auditor-General's appointment a function of Parliament. It is interesting that this Bill has been presented not by the Government but by the Hon. Mike Elliott, but in any event we are certainly happy to support it. It could well be, given the track record of the Government over the past 12 months, it may have some difficulty with the second part of this Bill. Last year the Auditor-General's Report was made available to the Government during the parliamentary break, just before the last State election. Conveniently the Government decided that the report could not be released until it had been laid before Parliament. The argument used by the Government at that time was that parliamentary privilege could not attach to the document until it was laid on the table.

That was a highly debatable argument the Government used and I am aware that under Standing Order 454 of this Council, certainly after two months after the prorogation of Parliament any document can be issued to members anyway. That is already provided for in the Standing Orders. However, we know what happened. The argument used at the time allowed the Government to hold on to the Auditor-General's Report until well after the State election in October. Indeed the Auditor-General's Report was not released until Parliament sat in December last year. This meant that the Auditor-General's Report for 1996 and 1997 was not released until the end of 1997 and the Parliament did not have the opportunity to debate that report until February of this year.

This is a ludicrous situation and one that I hope will not be repeated. That situation goes against traditions of good government and accountability. It is vital that all members of

Parliament should have the opportunity at the earliest possible time to peruse such an important report, especially if it holds similar concerns to the most recent report. It is interesting in relation to the debate we are now having over the sale of ETSA. Allegedly on the Government's part it only discovered when it received this report in the Parliament in December when it became available that there were concerns in relation to the risks associated with ETSA. I do not know how many people believe the Government line on that, but suppose it was true and there were these concerns, is it not ludicrous that we should have been in limbo for two, three or four months if such a matter as the Government claims is so serious was known and available to us but we could not get that information. Clearly there is no doubt that members of this Parliament should have the benefit of reading such important reports as the Auditor-General's Report as soon as they are available.

So the Bill that the Hon. Mr Elliott has put before us puts this matter beyond dispute by allowing that, if a report or document of the Auditor-General is received by the Government at a time when no sitting day is programmed to occur within seven clear days, then all immunities and privileges that apply to a document laid before the Parliament will apply. The President and the Speaker will then be able to furnish copies of the report or documents to members at that time. So, this provision would overcome any argument the Government may have about Parliamentary privilege attaching to such documents. I certainly look forward to the Government's response on this matter.

In conclusion, the Opposition believes this Bill is sensible, is practical and furthers good government and accountability and for these reasons it will be supported by the Opposition.

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

IRRIGATION (DISSOLUTION OF TRUSTS) AMENDMENT BILL

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

TREASURER

The House of Assembly requested that the Legislative Council give permission to the Treasurer (Hon. R.I. Lucas), member of the Legislative Council, to attend at the table of the House on Thursday 28 May 1998 for the purpose of giving a speech in relation to the Appropriation Bill.

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

That the Legislative Council grant leave to the Treasurer (Hon. R.I. Lucas) to attend in the House of Assembly on Thursday 28 May 1998 for the purpose of giving a speech in relation to the Appropriation Bill, if he thinks fit.

Motion carried.

AERODROME FEES BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to provide for the fixing and recovery of aerodrome fees relating to aircraft activities. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill will enable aerodrome operators to recover fees for aircraft arrival, training approaches, parking and departing at an aerodrome from the certificate of registration holder of the aircraft, hereafter called 'user fees'. The Bill will only apply to aerodrome operators who choose to publish their fees in accordance with the Bill and it will not affect or limit contractual powers to charge and recover any fees.

Currently the only right of recovery for aerodrome user fees lies against the direct user of the facilities and this person is difficult to identify, especially for unstaffed regional aerodromes. The certificate of registration holder can be traced through the aircraft's call sign, which is recorded from required radio transmissions.

Of 23 aerodromes in South Australia which publish that they charge fees, nine are council owned. The remainder belong to Government instrumentalities (4) or are privately owned (10 including Adelaide and Parafield). Before ownership of regional aerodromes was transferred from the Commonwealth to councils, Commonwealth regulations enabled aerodrome operators to charge certain fees to the certificate of registration holder of the aircraft using the aerodrome. The certificate of registration holder could assign liability to other persons (subject to their agreement). This regulation has been repealed, leaving the councils only the power under the Local Government Act to charge users for use of council facilities. Private owners can only charge users under contract law, and the certificate of registration holder is not a party to the contract unless directly using the service.

This financial year in South Australia about 25 per cent of user fees in regional aerodromes are unpaid. This is based on the figures for six regional aerodromes for which Avdata, an aerodrome billing agency, collects charges. No action has been taken to recover these fees because of legal advice that action against a party other than the direct user of the service is likely to fail.

The Commonwealth has declined to become involved in drafting legislation which could be adopted by all States. The States themselves have not been able to agree on a common approach. New South Wales has amended its Local Government Act to enable council aerodrome operators to charge certificate of registration holders. Tasmania is interested in the approach South Australia is taking but has not acted. Queensland does not plan to act unless the Commonwealth takes the lead. Western Australia has declined to address the issue. However, it appears that the problem of avoidance of paying user fees is increasing and this should be addressed in this State by the enactment of the Aerodrome Fees Bill 1998.

Unpaid user fees make up a large part of revenue for many regional aerodromes, which may already have low levels of income. In some cases this may affect the aerodrome's viability. The closure of a regional aerodrome has severe consequences for the community it serves. The only alternative to collection of user fees by the current or proposed method is to staff the aerodromes to ensure collection of fees at the time of use. This cost would have to be passed on to the user, thereby increasing the fees considerably. It is generally accepted that the Australian system offers the lowest charges in the world, due in large part to the manner of the collection of the fees.

State legislation is necessary to give council owners of former Commonwealth aerodromes the power which the Commonwealth had to enable the efficient collection of user fees. It is also necessary to provide consistent power to collect aerodrome user fees across the State regardless of

whether aerodrome ownership is public or private. Alternative means of collecting user fees would be more expensive and inconvenient for the user.

Consultation on the draft Bill took place in March 1998. Government agencies, aerodrome operators, aerodrome user groups and local government were consulted. In addition, comments on the draft Bill were invited through advertisements placed in the *Advertiser* and the *Australian* newspapers and the Bill was made available through Transport SA's Internet site.

Responses were received from the following organisations:

- Office of Local Government
- Local Government Association
- Avdata Services Pty Ltd
- Royal Federation of Aero Clubs of Australia
- Federal Airports Corporation—Adelaide Airport
- Australian Airports Association
- Overnight Airfreight Operators Association Inc
- Australian Air Transport Association (verbal advice)
- Department of Environment and Heritage and Aboriginal Affairs
- Department of Industry & Trade (verbal advice)
- SA Tourism Commission (verbal advice)
- Commonwealth Department of Transport & Regional Development—Aviation Policy Division.

None of the above mentioned organisations opposed the introduction of the Bill but there were some aspects of the Bill with which Avdata Pty Ltd, an agent of some aerodrome operators, was dissatisfied. It wanted the activities for which charges could be made to be extended. The initial draft was altered to take this concern into account in the case of training flights which use aerodrome airspace but do not necessarily involve landing at the aerodrome, but not for fees which could be made the subject of a contract between the aircraft user and the aerodrome operator (for example, terminal access or loading facilities).

Avdata was also concerned that the provision which allows assignment of liability for fees may work to make their recovery more difficult. However, since the aerodrome operator can decline to accept the assignment of liability if dissatisfied with the assigner's financial credibility, this should not be the case. Nothing in the Bill precludes the certificate of registration holder and the user/hirer of the aircraft from entering into a contract which would give the former the right to recover fees from the user/hirer.

An association of aero clubs was concerned about some difficulties its members may encounter in complying with the provisions of the Bill, but it was judged that, with some changes to administrative procedures, all such difficulties could be satisfactorily resolved. This association was also concerned about the absence of nationally consistent legislation applying to the collection of aerodrome fees and it is the Government's intention to continue to urge other State Transport Ministers to follow our lead. I commend the Bill to honourable members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

The definitions of certain words and phrases used in the Bill are set out here. The Bill will apply only to aerodrome related fees incurred by the use of aircraft registered under Part III of the Commonwealth *Civil Aviation Regulations* (see definition of aircraft).

Clause 4: Act binds Crown

This clause provides that the Crown is bound by the provisions of the Bill.

Clause 5: Act does not affect other powers with respect to fees

The Bill does not operate so as to limit or affect contractual or other powers that would exist apart from the Bill to charge and recover fees relating to aerodromes. This means that if an aerodrome operator and an aerodrome user wish to enter into a contract in which fees for the use of the aerodrome are agreed, they may do so.

Clause 6: Aerodrome operator may fix fees for arrivals, departures, etc.

A person who operates an aerodrome may fix a fee for—

- the arrival, departure or parking of aircraft at the aerodrome;
- a training flight approach to the aerodrome (see clause 3(3) for the interpretation of what is a training flight approach);
- the carrying out of an activity, or the provision of a service, at the aerodrome directly related to any of the above activities of aircraft;
- late payment of any of the above,

by publishing the fees in the *Government Gazette* and, in addition, in a daily newspaper circulating in South Australia or a periodical publication prescribed by regulation. Fees fixed in this way will come into force on the day specified by the aerodrome operator in the published notice of the fees.

Clause 7: Liability for payment of fees

Liability for the payment of a fee fixed under the Bill is placed on the holder of the certificate of registration of the aircraft (defined in clause 3(1)). The holder of the certificate of registration of an aircraft may, however, assign the liability for the payment of such fees in respect of the aircraft to another person by agreement in writing for a future period specified in the agreement. Such an agreement must be signed by or on behalf of the holder of the certificate of registration, the person to whom the liability for fees is assigned and the aerodrome operator for the aerodrome to which the agreement relates.

Clause 8: Recovery as debt

An aerodrome operator may recover a fee fixed under the Bill by action in a court of competent jurisdiction as a debt due to the aerodrome operator from the person liable for payment of the fee.

Clause 9: Regulations

The Governor may make regulations for the purposes of the Bill.

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

ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

The purpose of this Bill is to address an anomaly that exists that provides an exemption for police in motor vehicles from compliance with certain road rules but provides no similar exemption for police undertaking patrols on foot, pedal cycles or on horseback. The Bill also repeals the requirement under section 47DA to submit an annual report relating to breath testing stations; and provides that certain vehicles must give way to buses pulling out from the edge of the road.

Section 40 of the Road Traffic Act 1961 provides exemption to police using motor vehicles in the execution of their duty from compliance with certain provisions of that Act. The Commissioner of Police has drawn attention to the fact that police now carry out patrols on pedal cycles and horses, as well as on foot. Horses and pedal cycles are vehicles within the meaning of the Road Traffic Act and pedestrians must also comply with provisions of the Act. Accordingly, it is necessary to extend the exemptions set out

in section 40 to accommodate police undertaking patrols other than in motor vehicles.

Random breath testing was introduced into South Australia on 18 June 1981. This was seen as a controversial measure at the time and Parliament sought to monitor its effectiveness by requiring under subsections (5) and (6) of section 47DA of the Road Traffic Act that the Minister cause a report to be prepared within six months after the end of each calendar year on the operation and effectiveness of random breath testing. Copies of this report must be laid before both Houses of the Parliament within 12 sitting days after receipt. Random breath testing is now an established part of police procedures and generally accepted by the community. It has proved very useful in reducing the incidence of drink driving within South Australia.

Accountability to Parliament for the conduct of random breath testing is also addressed through various reporting mechanisms, including the Police Department's annual report. Continued scrutiny is also provided by the courts, the police complaint procedures and representations through Members of Parliament. It is therefore proposed to remove the need for the submission of an annual report specifically dealing with the operation of random breath testing.

Currently, buses that stop at the side of the road often have to rely on the courtesy of other road users to be able to join traffic. Particularly in peak driving periods this often results in long delays to bus passengers and results in occupational health issues for bus drivers. While all buses display a request to 'please give way' and this is often sufficient, public transport will greatly benefit by requiring that other road users give way to buses. This proposal is consistent with the draft Australian Road Rules (ARR) which require that drivers proceeding in the same direction as the bus must give way if the bus needs to move out from the kerbside to be able to proceed. On multi-laned roads it is proposed that only drivers who are in the left-most (or kerbside) lane be required to give way. I commend this Bill to members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure on a day to be fixed by proclamation.

Clause 3: Amendment of s. 40—Exemptions

Section 40 currently exempts police force and other emergency vehicles from certain traffic provisions of the Act. The exemptions in relation to the police force operate only for motor vehicles. The clause extends the exemptions to vehicles so that the exemptions will operate in relation to members of the police force using pedal cycles or horses. The clause also provides an exemption from provisions of the Act that apply specifically to pedestrians and pedal cyclists for members of the police force carrying out their duties on foot or through the use of pedal cycles.

Clause 4: Amendment of s. 47DA—Breath testing stations

The clause removes a special requirement for an annual report (related to a calendar year) on the operation of the provisions of the Act dealing with breath testing stations.

Clause 5: Amendment of s. 69—Driving from edge of carriageway

This clause makes an amendment consequential on the new giving way to buses provision proposed to be inserted by clause 6.

Clause 6: Insertion of s. 69AA

A new section 69AA is proposed creating a requirement to give way to buses on portions of carriageway with a speed limit of 60 kilometres an hour or less. The buses must be of a class approved by the Minister and display an approved give way sign in the manner specified by the Minister by notice in the *Gazette*. The give way obligation will apply only in relation to buses moving away from the kerbside and, if there are lanes, will apply only to vehicles in the left-most of those lanes (unless the left-most lane is a bicycle lane, in which case it will apply to vehicles in the next lane as well).

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

JOINT COMMITTEE ON TRANSPORT SAFETY

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

1. That in the opinion of this Council, a joint committee be appointed to inquire into and report upon all matters relating to transport safety in the State;
2. That in the event of the joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of Council members necessary to be present at all sittings of the committee;
3. That Joint Standing Order No. 6 be so far suspended as to entitle the Chairman to vote on every question, but when the votes are equal the Chairman shall have also a casting vote; and
4. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

Members will appreciate that safety issues associated with all modes of transport—road, rail, cycling, pedestrian and marine—are matters of considerable community concern. A Liberal transport policy released in September 1997 promised in part to establish a standing committee of the Parliament to address transport safety issues. Members would be aware that there are a number of standing committees of the Parliament dealing with environment, resources and development, legislative review, social development and statutory authorities.

The motion I move today provides for the Parliament to establish a joint select committee comprising six members, three from the Legislative Council and three from the House of Assembly. This committee is in the same form that members approved for the Joint Committee on Women in Parliament, which I moved to establish some four years ago.

In the interval since the release of the policy I have canvassed the form of the parliamentary committee's involvement in transport safety issues with many members of Parliament, road safety officers and members of the South Australian Road Safety Consultative Council. Generally, it has been agreed that a select committee structure, not a standing committee, is the best way for the Parliament to address the issues.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: That has been accepted by the Parliament for that committee. Because of the interjection I would say at this point that a reference relating to rural road safety issues was made by the Parliament when it last sat to the Environment, Resources and Development Committee in part because of the reference to transport in that committee's terms of reference. However, that committee considers, and I believe fairly, that transport issues in general do not necessarily fit comfortably with the committee's terms of reference. The Government has taken note of that and therefore is moving that this select committee structure be adopted. I know that the Chair of the Social Development Committee, the Hon. Caroline Schaefer, has considered that this reference to transport safety will fit with the Social Development Committee's terms of reference, but the committee has many matters—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: It is dealing with euthanasia, and that is what the Chamber wanted as a

reference to that committee, although it was not the Hon. Carolyn Pickles' preferred option and it certainly was not mine. There is a lot of community concern about euthanasia and that committee will be engrossed in that issue for some time. Therefore, the Joint Committee on Transport Safety is the best option at this stage to get these issues addressed by the Parliament.

Every other State bar Tasmania and Western Australia has established either a standing committee or a select committee of the Parliament to address road safety matters. In each instance the parliamentary committee structure has proved most useful in gaining a high degree of bipartisan parliamentary support for road safety reforms. It is a cry we often hear from the community in terms of bipartisan action, and whether or not we will be able to achieve it in road safety will be interesting. However, that is the experience of other Parliaments which have established such committees, and I sincerely hope it will be our experience, too.

Such an outcome—this high degree of bipartisan parliamentary support—is an important advance in addressing road safety issues as such matters are becoming more complex and potentially more controversial. Increasingly, each initiative raises difficult trade-offs in relation to civil liberties, issues that seem to be particularly important to people living in country areas and commercial travellers who have time and various other restraints. Essentially, the 'easy' measures in terms of road safety are behind us, although I suspect that no member who was in this place in 1991 will forget the heat generated by the legislation based on the then Federal Government's 10 point black spot funding package.

My advice from Victoria, New South Wales and Queensland confirms that where such parliamentary committees operate they have helped to educate the public about the value to a community and to families arising from an environment where there is a strong road safety focus, and they have helped the public understand the role of enforcement in road safety.

This Government has always placed a high priority on road safety. In 1994 the Road Safety Consultative Council, chaired by Sir Dennis Patterson, was established, together with the Chief Executive Officers' Group, embracing transport, police, education and health. The consultative council and the Chief Executive Officers' Group have both been most effective, first, in preparing this State's road safety strategy to the year 2000 and, then, in lobbying for extra funds. The Government has granted $1.7 million extra funds for road safety to be invested in both advertising and enforcement campaigns focusing in particular on drink driving, speeding and seat belts.

The road safety strategy sets very rigorous targets for the reduction of road deaths in this State. Last year the total number of deaths was the lowest since records have been kept. This year we are not doing nearly so well, with some 82 fatalities for the period 1 January to 27 May 1998 (as at 2 p.m. today)—32 more than for the same period last year. I seek leave to incorporate in *Hansard* a table setting out the fatalities, fatal crashes and casualties in the period 1 January to 27 May 1998, and for the corresponding periods in 1997 and 1996.

Leave granted.

		Fatal	Casualties		
	Fatalities	Crashes	Serious	Minor	Total
1.1.98 to 27.5.98	82	70	—	—	—
1.1.97 to 27.5.97	50	47	624	2 585	3 209
1.1.96 to 27.5.96	76	71	701	2 820	3 521

The Hon. DIANA LAIDLAW: The above table indicates that although there are fewer fatal crashes more people are dying in each of those crashes. However, one redeeming feature is that there has been a reduction in serious and minor casualties.

I will quote from reports by the Assistant Police Commissioner, Operations and Support, Bob Howie, who highlighted that the deaths this year have some interesting features. While well up on last year, they are about in line with the deaths two years ago for the corresponding period. It is sobering to consider that the factors we have been highlighting in road safety terms—speed, alcohol and people not wearing seat belts—are still deemed to be major contributors to road deaths. About half the fatal crashes we have had this year have involved people who have died while not wearing seat belts, and that is an issue of considerable concern to us all.

It is also apparent that this year there have been more daytime and weekday crashes. Assistant Commissioner Howie has speculated that, although the random breath testing operations that the police have been conducting in the evenings have been most effective, perhaps they should now be turning to daytime deployment of such resources.

It is important to note, too, this it is the view of the police that, given the severity of damage to vehicles, people have been driving well beyond the speed limit in the designated areas where the accident has led to a death. The Assistant Commissioner also highlighted that about 20 or 30 people a week are detected travelling more than 40 km/h over the posted speed limit.

It is clear also that we must do more in terms of seat belts and restraints. We as a Parliament must undertake to address these issues. Many of the issues that the Assistant Commissioner has highlighted have been the focus of the rural road safety strategy in draft form, which is before the ERD Committee. They are also the focus of the national road safety strategy, which will require legislation in this place later this year. As I mentioned, if we really want to reduce the number of deaths on our roads, the community will need to understand that there will be trade-offs, particularly with regard to civil liberties, time constraints and travel constraints generally.

I want to highlight that this motion deals not just with road safety issues but with transport safety in general. When the Department of Transport was pulled into the new Department of Transport, Planning and the Arts, and when the Parliament passed the rail safety legislation, it became apparent that there is more to transport safety than just road safety. I highlight again areas of safety concern—cycling, rail, pedestrians and marine. The Hon. Terry Cameron has taken considerable interest in jet ski safety. They are all matters that this Parliament could address.

With regard to the references of the select committee, one issue that is raised almost weekly with me in correspondence from the public or members of Parliament is an issue that we addressed in our transport policy in September last year, that is, the standards of driver training in South Australia. It is recorded that we have the best driver training procedures anywhere in Australia, based on competency, and those standards and procedures are being adopted by all other jurisdictions.

However, the correspondence I have received suggests that we should look vigorously at what is required of drivers at any age when they learn to drive regarding skills that would equip them for night-time driving, country driving, wet weather driving and general maintenance of vehicles. I would

very much like the select committee to look at this issue first up.

However, I highlight that there are many other issues of concern, regardless of whether they be in the area of rail safety, which is a big issue now that there is privatisation of rail across Australia, with many operators, not just Government-run operators, being involved. There will be increased competition for business.

The Hon. T.G. Roberts: Does that make standards a problem?

The Hon. DIANA LAIDLAW: Transport SA has been involved in an extraordinary procedure to draw up rail safety regulations, and that pile is about a foot high. I am concerned that in each State these rail safety regulations are being drawn up for safety purposes, and we are in danger of repeating what has always been a problem with rail since Federation, that is, having an *ad hoc* system of regulation. If we are not careful, in this age of competition we as regulators will be well behind if we provide a most inefficient form of safety regulation for quite a number of users. We will be repeating the legacy of rail that has haunted rail for a century—the different gauges, communication systems and pricing structures, and now different safety regulations—when we should be doing better. It is a big issue that we should consider.

I also highlight that, in terms of disadvantaging rail—and I do not want to dwell on this now but it is something that the Parliament should consider—it is the intention of each State jurisdiction at this stage that any operator who is accredited, for instance, in South Australia must also get accreditation to meet the rail safety regulations in other States. Therefore, they have not only the complex task of meeting these volumes of safety regulations but also must be accredited in each State and pay the accreditation fees, which are on a cost recovery basis. This has unwittingly got out of hand and, as I said, we are potentially disadvantaging rail in the competitive business with road, acknowledging at the same time that we have increased competition within the rail sector itself.

I would like to think South Australia was taking a lead in rail safety issues and in tidying up these rail safety regulations to gain as much uniformity as possible across the country so that rail can compete much more effectively than the States have ever provided it with an opportunity to do so in the past.

Those are just some of the issues in which the Parliament could take an active and constructive role in the transport area. These issues are beyond those of road safety alone, and that is why the motion addresses transport safety.

In concluding, I highlight that, as part of this initiative, I envisage that the Road Safety Consultative Council—and this has been canvassed with the Chairman, Sir Dennis Paterson—would not continue in its current form but would be reformed as an advisory committee on road safety matters, reporting to the Executive Director of Transport SA. At this stage, I would not wish to lose any of the constructive work that has been achieved over the past four years among the agencies, particularly the police, the private sector, the health sector and transport. Given the changes proposed for the way in which we receive advice and adopt concerted action across agencies in the private sector, it is the Government's goal to see that its high priority on safety issues—road safety in particular—will be increased and not diminished in the future.

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

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (COMMENCEMENT) AMENDMENT BILL

The Hon. K.T. Griffin, for **the Hon. R.I. LUCAS (Treasurer)**, obtained leave and introduced a Bill for an Act to amend the National Electricity (South Australia) (Commencement) Amendment Act 1998. Read a first time.

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

That this Bill be now read a second time.

The National Electricity (South Australia) Act 1996 was passed by the South Australian Parliament in June 1996. The Act makes provision for the operation of a national electricity market. It was intended that the Act be proclaimed once the jurisdictions had agreed that the National Electricity Market (NEM) was ready to commence.

The NEM was due to commence on 29 March 1998. This did not eventuate due to a number of major issues that were still be to resolved by both the National Electricity Management Market Company (NEMMCO) and the jurisdictions (New South Wales, Victoria, Queensland, ACT and South Australia) and it will not start until some time after 20 June. The delay in the commencement of the NEM is entirely separate from the Government's announcement of its reform and sale program for ETSA and Optima Energy.

Pursuant to section 7(5) of the Acts Interpretation Act the National Electricity (South Australia) Act 1996 will, if not proclaimed earlier, come into operation on 20 June 1998. In the absence of a market, proclamation of the Act would equip National Electricity Code Administrator (NECA) and NEMMCO with powers that would conflict with existing jurisdictional arrangements pursuant to current South Australian legislation. To prevent this occurring it is necessary to amend the National Electricity (South Australia) Act 1996. The proposed amendment expressly excludes the operation of section 7(5) of the Acts Interpretation Act 1915. Thus the National Electricity (South Australia) Act 1996 will not come into operation on 20 June 1998. Instead, the Act will come into operation once the Act has been proclaimed by the Governor of South Australia.

The amendment also gives the participating jurisdictions (New South Wales, Victoria, Queensland and the ACT) until 20 June 1999 to enact their corresponding law to the National Electricity (South Australia) Act 1996. Each jurisdiction has nominated a relevant minister (the 'designated Minister') to oversee that jurisdiction's entry into the NEM.

Under clause 6.1 of the National Electricity Market Legislation Agreement, legislation to amend the Act requires approval in writing by each jurisdiction's designated Minister. Pursuant to clause 6.1 of the National Electricity Market Legislation Agreement the Treasurer has obtained support through written approval from each of the other designated Ministers to amend the Act.

South Australia showed leadership among the States in enacting the National Electricity (South Australia) Act in 1996. The National Electricity Law contained in this Act has since been applied by legislation passed by the other jurisdictions. As lead legislator, South Australia is now required to amend the Act to enable the NEM to start after 20 June 1998.

I commend the Bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 2—Commencement

This clause excludes the application of section 7(5) of the *Acts Interpretation Act 1915* to the commencement of the *National Electricity (South Australia) Act 1996*.

Section 7(5) of the *Acts Interpretation Act* provides that an Act or a provision of an Act that is to be brought into operation by proclamation will be taken to come into operation on the second anniversary of the date on which the Act was assented to by, or on behalf of, the Crown unless brought into operation before that date.

Clause 3: Amendment of Schedule

This amendment is consequential on the amendment proposed to section 2.

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

LIVING HEALTH

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement by the Hon. Dean Brown in relation to Living Health.

Leave granted.

SEA-CARRIAGE DOCUMENTS BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 751.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Hon. Carolyn Pickles for her indication of support for this Bill. The honourable member asked yesterday that I elaborate on the reference in the second reading explanation to inequitable and anomalous situations resulting from the current legal situation, and she requested that I provide one or two examples.

As outlined in the second reading explanation, at common law the buyer of goods transported by sea, being either the consignee or endorsee of the bill of lading, is not a party to the contract of carriage between the carrier and the shipper. Therefore, at common law the buyer cannot sue the carrier for breach of contract.

It was in this context that reference was made to inequitable and anomalous situations resulting. Under common law, if the goods are damaged or destroyed during the course of shipment the buyer who has suffered loss is unable to sue, whilst the shipper being the only person who has the contractual right of action has no incentive to sue as it has suffered no loss and may be unable to obtain substantial damages in any case as it has suffered no loss.

The Imperial Bills of Lading Act 1855 of the United Kingdom, on which the current South Australian legislation contained in section 14 of the Mercantile Law Act 1936 is modelled, was enacted in the middle of the nineteenth century to overcome the commercial difficulties created by this situation. As explained in the second reading explanation, the problem with the existing law is that the scope of the application of the legislation is too restrictive for modern conditions.

Under section 14 of the Mercantile Law Act 1936, the transfer of rights and liabilities occurs only if property passes 'upon or by reason of' consignment or endorsement of the bill of lading and only if the shipping document used is a paper bill of lading. As a result of modern commercial shipping practices and technological advances in the shipping industry, these criteria are no longer satisfied in many modern carriage of goods by sea transactions, resulting in parties being unable to access the protection envisaged by the legislation.

The second reading explanation referred to a number of instances where buyers do not acquire the rights and protection envisaged by current bills of lading legislation, namely, bulk cargoes, the increased use of non-transferable sea carriage documents (in particular, sea waybills and ships' delivery orders) and the development of electronic data interchange. It is common in some trades for property to pass on loading (for example, when the cargo passes the permanent manifold connecting the terminal to the loading vessel) or for property to pass on a specific event at arrival (for example, on passing the vessel's manifold during discharge). With the speed of modern vessels, goods now commonly arrive at their destination and are delivered to the buyer (passing property in the goods to the buyer) before the bill of lading is endorsed to the buyer.

The current legislation is too restrictive to apply to such situations, which are now commonplace. Thus, the proposed Bill modernises South Australian law to bring it into line with modern legal and commercial practices and to recognise technological advances in the shipping industry. The Hon. Carolyn Pickles has also queried the cost implications of the proposed legislation. A regulatory impact statement was prepared and approved by the Standing Committee of Attorneys-General in March 1996. The statement indicated that the cost to Government of granting the rights under the proposed legislation is limited to the costs of enacting the legislation. Any disputes as to the operation of the proposed Act would be subject to normal judicial processes.

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

LIQUOR LICENSING (LICENCE FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from May 26. Page 751.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Hon. Mr Holloway for his indication of support for the Bill. He raised some questions, to which I provide the following answers. At the time of the 1997-98 budget, business franchise fees on petrol, tobacco and liquor were estimated to raise $456.8 million. Business franchise fees collected in July 1997—that is, before the High Court decision was brought down—together with replacement grants from the Commonwealth, net of subsidy payments and liquor licence refunds, are now estimated to yield $415.4 million in 1997-98, made up as follows: business franchise fee receipts, $46.3 million; replacement grants, $428.6 million (and I will give the notation to that in a moment); less subsidies paid for petrol and liquor, $55.7 million; refunds for unexpired liquor licence fees, $3.85 million; and that equals net 1997-98 receipts of $415.4 million.

I refer back to the replacement grants and say that the figure which I gave compares with the Commonwealth estimate of $422.2 million. Year-to-date grants received, including for the period since the Commonwealth budget was brought down, are consistent with the higher estimate being

used by South Australia. Compared with the original budget estimate for business franchise fees of $456.8 million, there is now an expected shortfall of $41.4 million, revised down from the earlier estimate of $50 million. Downward revision to the shortfall estimate results mainly from abnormally high tobacco receipts in February, which appear to be delivering a permanent rather than a temporary revenue gain.

The $41.4 million shortfall reflects three main influences: first, action taken by tobacco companies immediately prior to the High Court decision, which had the effect of permanently reducing South Australia's share of replacement revenues in the initial weeks of the replacement arrangements by an estimated $18 million. Large quantities of tobacco product were shifted out of bond in July, in anticipation of the High Court decision, enabling this product to avoid liability either for the franchise fee or the replacement excise surcharge.

Secondly, arrangements entered into with petrol companies at the commencement of the replacement revenue arrangements, enabling petrol surcharge payments to be deferred by one month, also resulted in a timing loss in 1997-98 of the order of $15 million.

Thirdly, the remaining source of revenue shortfall, estimated at about $8 million, mainly reflects decisions taken to refund liquor franchise fees for unexpired licence periods, the requirement for the States to compensate the Commonwealth for the administrative costs it incurs in collecting surcharge revenue, together with timing differences between franchise fee collections and replacement surcharge collections.

These explanations of the expected shortfall of $41.4 million in 1997-98 are explained in detail in the budget papers to be released tomorrow. Implied growth rate of 26.6 per cent in replacement grants to the Commonwealth before netting off subsidy payments between 1997-98 and 1998-99 reflects: first, that the replacement arrangements in 1997-98 applied for only part of the year, that is, from 6 August 1997 to 30 June 1998, whereas the 1998-99 estimate relates to a full financial year. Secondly, the level of replacement grants received in 1997-98 was depressed by abnormal and timing effects identified in the explanation of the estimated $41.4 million shortfall.

Bill read a second time.

CRIMES AT SEA BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 752.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank the Leader of the Opposition in the Legislative Council for her indication of support for this Bill. She asked at what stage other jurisdictions are with their legislation and whether all States would legislate. We were the first cab off the rank with this legislation, very largely because we were the lead State in putting this together. All States and the Commonwealth have agreed to legislate. The response we have received as to where other jurisdictions are as at this morning is as follows: New South Wales expects to have Cabinet approval for drafting soon. It is not under consideration in Victoria at present; it probably will not be able to be considered there until some time in 1999. A Bill is being drafted in Western Australia, and a Bill will be introduced in the budget session in Tasmania in August. A Bill is being drafted in Queensland and the Northern Territory expects to have Cabinet approval for drafting soon.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: There is nothing there—no crimes at sea require to be dealt with. The Commonwealth is committed to legislating, but we have not had a response yet as to when it expects to do so. The Leader of the Opposition wonders what kind of crimes happen at sea these days. The police advice is that they rarely encounter crimes at sea, apart from Boating Act offences. One example, however, which the police provided some time ago was of a stabbing and mutiny aboard a large Korean vessel in the southern ocean in 1992. The Star Division of the police boarded the vessel and a crew member who was arrested pleaded guilty to a State offence. Another situation that presented problems for the police in the early 1990s was the threatened interruption of oil exploration activities off the coast by Greenpeace. The threat did not eventuate.

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

ADJOURNMENT

At 6.18 p.m. the Council adjourned until Thursday 28 May at 2.15 p.m.