LEGISLATIVE COUNCIL

Thursday 21 October 1999

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

NATIVE TITLE

A petition signed by 81 residents of South Australia concerning native title rights for indigenous South Australians, and praying that this Council does not proceed with legislation that, first, undermines or impairs the native title rights of indigenous South Australians and, secondly, makes changes to native title unless there has been a genuine consultation process with all stakeholders, especially South Australia's indigenous communities, was presented by the Hon. Sandra Kanck.

Petition received.

CYCLING STRATEGY

A petition signed by 615 residents of South Australia concerning the Cycling Strategy of South Australia and praying that this Council will ensure that on all existing or future bicycle routes as defined in the Metropolitan Cycle Route Network and referred to in the Cycling Strategy of South Australia, plus Bike Direct maps published by Transport SA, the needs of the safety of vulnerable cyclists be given priority over motorised vehicles, was presented by the Hon. Ian Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Auditor General's Department—Report, 1998-99

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

Reports, 1998-99—
- Land Management Corporation
- Lotteries Commission of South Australia
- SA Water Corporation
- South Australian Totalizator Agency Board

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

Reports, 1998-99—
- Dental Board of South Australia
- Medical Board of South Australia.

QUESTION TIME

RAIL SERVICES, PRIVATISATION

The Hon. CAROLYN PICKLES (Leader of the Opposition): My questions directed to the Minister for Transport are:

1. Will the minister confirm media reports that indicate that the privatisation of South Australian rail services is a distinct possibility? What is the legislative timetable for such a plan, and has she presented this issue to cabinet for consideration?

2. Given that the outsourcing of bus services did nothing to stem the decline of patronage, does the minister acknowledge that privatising rail may have an adverse impact on patronage, and what guarantees can the minister give that there will be no job losses or wage diminution under such a plan?

The Hon. DIANA LAIDLAW (Minister for Transport): The government has never supported the privatisation of any of our public transport assets. The honourable member is well aware of that from both replies that I have given to questions in the past and the important debates that we have had in this place on the—

The Hon. Carolyn Pickles: So, you have been misquoted?

The Hon. DIANA LAIDLAW: I have not said that I have been misquoted. I said that I have never supported, and this government does not support, privatisation of our public transport assets. As the honourable member well knows, and so does the work force, the unions and anyone who has taken an interest in this matter in recent years, the government supports the competitive tendering of the components of our public transport system. With the honourable member's support, that is provided for under the Passenger Transport Act.

In accordance with the competitive tendering provisions and the Passenger Transport Act, the Passenger Transport Board has reduced the contract areas for the bus sector from 14 to seven. Tenders have been sought, and they are being assessed now. Decisions on the successful tenders will be made in January, and the successful tenderers in respect of the bus contracts will take up their new work responsibilities from April.

I have said that the bus business is our focus, because it is by far the biggest part of the public transport business in this state. Rail and tram make up a very small component of that business. There is a contract now between TransAdelaide and the PTB for the conduct of tram and rail business by TransAdelaide. I think that contract is for a period from April next year to mid-year.

Regarding I think the honourable member's third question—I apologise; I do not do shorthand, but I think I got them all down—about whether I have taken anything to cabinet, the answer is an unqualified 'No.' I can say to the honourable member also that I would not envisage focusing on this issue until we had successfully addressed the bus contracts.

The honourable member argues—and I think most unsoundly because she has not done her research—that competitive tendering has done nothing to stem the patronage decline in the bus sector. I have never denied that there has been a fall in patronage while I have been minister. What I have said, however, and with some considerable pride but not complete satisfaction, is that what we have been able to achieve is a halving of the decline in patronage. I think that, on average, it has been 2 per cent a year compared to 5 per cent and 6 per cent when the honourable member's party was last in government, and I believe that that is a considerable achievement.

While it is not entirely satisfactory, and I am certainly not entirely pleased, I do think it is only fair in the circumstances to acknowledge the fact that competitive tendering and the people who are running the system have worked well to turn around the free-fall in public transport patronage when Labor was in government. The rest of the questions are not relevant because I have not taken anything to cabinet and the government does not support privatisation of the business.

MOTOR ACCIDENT COMMISSION

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

Leave granted.

The Hon. P. HOLLOWAY: According to the Motor Accident Commission's annual report for 1998-99, the Third Party Premiums Committee recommended a premium increase of 10.8 per cent to commence on 1 July 1999 based on actuarial advice. Page 36 of the report states:

> The Treasurer directed that the premium increase be restricted to 2.6 per cent.

The report also states that, at the same time, the Motor Accident Commission's fund solvency has decreased to 5.6 per cent as at 30 June 1999, the lowest level for five years. The report states:

> The solvency of the fund has decreased to 5.6 per cent as at 30 June. The reduction is principally due to two abnormal items which, in aggregate, resulted in a $47 million increase in outstanding claims provisions. The two items were the introduction of a GST and an actuarial adjustment for prior year claims.

In light of that, my questions to the Treasurer are:

1. How much is this decline in solvency due to the introduction of the GST, and is this impact on the finances of the Motor Accident Commission covered within the financial framework of the ANTS package (the new tax system) between the commonwealth and the states?

2. Given his decision to reduce the recommended increase in compulsory third party premiums on 1 July, will the Treasurer rule out any further increases in premiums this year to offset the decrease in solvency of the Motor Accident Commission fund?

3. If the Treasurer does not intend to increase premiums on CTP insurance, what action does he plan to take to improve the solvency of the Motor Accident Commission?

The Hon. R.I. LUCAS (Treasurer): Earlier this year the government took a decision as a cabinet that, due to increasing concern about the increased costs of running motor vehicles nationally, and also in South Australia, it was not of a mind to agree to the actuarially recommended premium increase of just over 10 per cent. The government, through the cabinet, decided on an increase of 2.6 per cent, which was the figure used by the government in its budget preparations for 1999-2000 and which was released in the 1999-2000 budget documents.

That was another example where the cabinet, acting on behalf of the government, indicated its willingness, where ever it is possible, to listen to community concerns. Cabinet took a view that, in relation to this issue, given the increases in motor vehicle running costs last year, a further significant increase of that size should not be supported at that time.

All insurance companies in Australia are currently announcing or considering the impact of the GST and the related impact of the national tax reform package on insurance premiums. The Motor Accident Commission is no different from that. It has made some recommendations to the government and they are currently being considered. I am not sure what position the Hon. Mr Holloway is recommending. However, if he and the opposition are true to form, they will not recommend any position because it is a bit too hard to decide one way or another whether to support the premium increase resulting from the GST and the tax reform package to ensure an increase in solvency for the Motor Accident Commission.

The government is currently considering its position in relation to that and I imagine that, within the next few weeks, it will announce its decision, as I understand all other governments, including the Labor governments in the Eastern States, are currently contemplating the impact of the GST and the national tax reform package on their equivalents to the Motor Accident Commission.

Members in this chamber will know my view on the solvency level of the Motor Accident Commission. Prudent levels of solvency have been discussed in this chamber before with respect to the general solvency performance of other private sector insurers throughout the marketplace. A solvency level of 5 per cent to 6 per cent is much lower than the objective that the Motor Accident Commission has enunciated previously in a number of its annual reports.

I am sure that the Hon. Mr Holloway would be disappointed if I did not remind him that one of the issues affecting the solvency level of the Motor Accident Commission resulted from actions that he and the Labor opposition took when the government tried to reduce the costs. There are two sides to the solvency equation or the financial performance of the Motor Accident Commission. On one side are the premiums, and it is always easy for governments or organisations to recommend further increases in premiums. Last year the government sought to cut back on the costs of delivering particular services.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: That is right, there would have to have been some reduced benefits. That measure was opposed by the Hon. Mr Holloway and that has meant that the government could not achieve the savings it was seeking in relation to the cost levels of the performance of the Motor Accident Commission. That puts pressure on premiums, which is always the easy response from the Labor Party, whether it be in government or in opposition. The resulting increases in premium levels in the previous year led to community concern, and I am sure that is one of the factors that led cabinet to make the decision it took this year not to endorse or accept the recommendation for a further 10 per cent increase in premium levels, as recommended by the actuary and the third party premiums committee to the government.

The Hon. P. HOLLOWAY: I have a supplementary question. The Treasurer did not answer that part of my question in which I asked whether the impact of the GST on the Motor Accident Commission's finances was factored into the arrangements negotiated between the commonwealth and the states on the tax package.

The Hon. R.I. LUCAS (Treasurer): I can only invite the honourable member at some later stage to correspond with me in writing and detail what he means by that because, frankly, I am not sure what is intended by that question. When we sat down with the Premiers and the Prime Minister regarding the national tax reform package, we obviously did not talk to him about the impact on each individual organisation such as Funds SA, the financing authority, our superannuation boards and our Motor Accident Commissions in relation to the aggregate settlement of the national tax reform package. The discussions were at a much higher level than the sort of detail about the impact on a number of individual organisations within each state. If that is the question from the honourable member, I think—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Again, I think the Hon. Mr Holloway will have to better explain himself. If he is asking

whether we discussed the impact on each individual organisation, agency and department when we sat down with the Prime Minister and Treasurer, the answer is that that is not possible for the state of South Australia or any other state or territory. In the subsequent discussions and perhaps even in the discussions leading up to it at officer level, there might well have been discussions in relation to the various aggregate impacts on departments, agencies and organisations. If the honourable member is prepared to outline in greater detail what it is he is after, I will endeavour to get a response and correspond with him.

KOSOVAR REFUGEES

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about the Kosovar refugees.

Leave granted.

The Hon. G. WEATHERILL: At the time the Kosovar refugees were sent to the different states of Australia, the Premier of South Australia commented that he would like to see them stay here. Unfortunately, his federal colleagues have vetoed that. I had a phone call this morning from somebody acting on behalf of one such family, Sef and Sefa Morina. They have been told that they have to leave Australia by 26 October. In these circumstances I would have thought that the federal government would have a little more heart than it has shown. The government has asked this lady, who is eight months pregnant, to return to East Kosovo, where apparently there is still unrest. It is currently winter time, and she would have to be housed in a tent. She has asked to be allowed to stay after 26 October.

The federal government has made it very clear that it will give the wonderful sum of $3 000 to each of these families to help rebuild their lives. When she was in Kosovo, this lady's house was bombed, so she has nowhere to go apart from living in a tent in a refugee camp. I have telephoned Qantas to find out whether it would allow this lady to get onto a plane since she is so far into her pregnancy. The federal government is saying that she will leave on 26 October and, if she remains one extra day, she will be forced onto a plane and will lose the $3 000 that she would have received. When I spoke with Qantas, I was concerned that the stress of this situation could bring on the pregnancy. Not only that but being so far pregnant she could suffer from other things including thrombosis. I believe that it is a real emergency. My question is: will the Premier, as a matter of urgency, get in touch with his federal colleagues and ask them to look at this as a special circumstance to allow this lady to stay here and have her child, and perhaps then return to Kosovo?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the Premier and bring back a reply as quickly as I can.

GAMING MACHINES

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

Leave granted.

The Hon. L.H. DAVIS: On 19 August this year the Independent No Pokies member of the Legislative Council, the Hon. Nick Xenophon MLC, put out a media release titled 'Is State Government Guided by "Con the Fruiterer" Philosophy on Release of Pokie Figures?' It is well known that on that date the Hon. Mr Xenophon organised a media stunt at the State Administration Centre to highlight his campaign for the release of information on gaming losses on a venue—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: Just settle down a bit and listen. I know you are all frisky over there because you have stumbled through question time without fault today.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: He was seeking gaming losses on a venue-by-venue basis in South Australia. Mr Xenophon went to the trouble of paying an actor to play the role of Con the Fruiterer and deliver what he described in his media release as a 'particularly rough pineapple' to the Treasurer. In his press release Mr Xenophon said:

> But the government's approach—

and he is talking about the South Australian government's approach—

> of commercial confidentiality sits at odds with the New South Wales Office of Racing and Gaming which now provides pokies losses on a venue-by-venue basis.

In a number of subsequent media interviews Mr Xenophon again attacked the government by reiterating the claim that the New South Wales Office of Racing and Gaming provided pokies losses on a venue-by-venue basis. Can the Treasurer indicate whether he has been able to check the truthfulness of the Hon. Nick Xenophon's claims?

The Hon. R.I. LUCAS (Treasurer): I must admit that there was another aspect of that press release—and I do not know whether the honourable member has the press release—

The Hon. L.H. Davis: I have: I just happen to have it.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Just before I respond to that question—

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Exactly. Just before I respond to the honourable member's question, there was another aspect of the member's press release which at the time I must admit I had a chuckle about. Page 2 of that press release states:

> I understand, from a very reliable source in Treasury, that the figures have been in the possession of the Treasurer for some three months.

I am delighted to reveal that the very reliable source in Treasury was me. I am delighted that the Hon. Mr Xenophon refers to me as 'a very reliable source in Treasury'. Not too far from here, in the member's bar, I had a private conversation with the Hon. Mr Xenophon and he asked me when I was going to deliver the information from the various venues in respect of gambling losses.

The Hon. L.H. Davis: Were you having a pineapple juice at the time?

The Hon. R.I. LUCAS: No, I wasn't having a pineapple juice. I said, 'I have had the figures for two or three months and I will be getting around to doing the press release (or whatever else it is) in the next week or so.' So, I am delighted that the Hon. Mr Xenophon sees me as a very reliable source in Treasury who has revealed that I have had that information for two or three months.

The Hon. L.H. Davis: Are you sure that that's not defamatory?

The Hon. R.I. LUCAS: No, I think that was accurate. I remember the day very well. The Hon. Mr Davis referred to the press statement, but in a number of other radio and

television interviews that day the Hon. Mr Xenophon made similar claims. On 5DN and 5AD late on that morning the Hon. Mr Xenophon said, 'there's a serious message behind the stunt'; 'this government deserves to be parodied'; 'I've been asking for these figures for almost two years now'; 'I'm sick of waiting'; 'the public of South Australia are being treated like mushrooms'; 'New South Wales now gives the figures on a venue-by-venue basis, but we're struggling to even get a locality-by-locality basis.'

That is just one example of a number of claims the Hon. Mr Xenophon made that day and subsequently. I am not sure whether he has made similar claims in the parliament yet. I am still doing a check to see whether he has made those claims. As is my wont, I asked my staff to check the accuracy of the claims being made by Mr Xenophon. Was he telling the truth in relation to this issue? I have been provided with a copy of the New South Wales Government 'Hotels Quarterly Gaming Analysis December 1998', which is a quarterly document that was released by the New South Wales Government. I refer to the following statement:

> General notes to the gaming analysis
> The assessed duty profit turnovers for individual hotels are confidential and are not released.

That is in direct conflict with the statements that have been made by the Hon. Mr Xenophon in his media and publicity stunt organised on 19 August, and repeated by him on a number of occasions on that day.

The Hon. L.H. Davis: It shouldn't be Con the fruiter, it should be Nick the con.

The Hon. R.I. LUCAS: My colleague suggests that perhaps it should be Nick the con. But he made those statements repeatedly on that particular day. He has made them on a number of occasions since then. As I said, I am still having the parliamentary record checked to see whether or not he has made similar claims in this chamber in relation to this issue. There can be no more clear indication of it being an inaccurate statement, that particular note in the official government document from the New South Wales Government, which indicates that these details are confidential for individual hotels, which indeed is what the South Australian Government has said in relation to its own position.

We were prepared to look at releasing information on an aggregate basis so that you could not see the individual profitability figures of an individual hotel or club. We were prepared to do it on a regional or an aggregate basis, as we did, and we eventually released it. The Hon. Mr Xenophon, as the Hon. Mr Davis has indicated, has quite clearly, at the very least, misled the media, all of the media in South Australia, and all of the community in relation to one of his key claims on this particularly important issue for him, but also for the government and for the community.

When I spoke last week in relation to the voluntary code of practice for hotels and clubs on gaming machines, I did, somewhat tongue in cheek, I suppose, suggest that it might be worthwhile having a voluntary code of practice for commentators and politicians in relation to the whole gaming machine debate. What I urged was a rational debate based on facts and that perhaps everyone, on both sides of the debate on gaming and gambling, would abide by a voluntary code of practice to only deal in facts and not to seek to purposely, for whatever reason, mislead the community in relation to their particular view on gambling and on gaming.

The Hon. T.G. Roberts: I bet you don't stick with it.

The Hon. R.I. LUCAS: I say that on both sides; that is, those who are supportive of gambling options and gaming options in the community and those who oppose them. I think this is perhaps just a further example that we might have to start looking at some sort of voluntary code of practice that we might need to ask the Hon. Mr Xenophon to adhere to.

The Hon. T.G. Roberts: Get him to draw it up.

The Hon. R.I. LUCAS: I am prepared, as is consistent with my support for a voluntary code of practice, to see whether members such as the Hon. Mr Xenophon are prepared to abide by them, before we make them mandatory, as is his preference, in relation to a code of practice.

The Hon. L.H. Davis: Put it on the internet.

The Hon. R.I. LUCAS: We could put it on the internet as well, to see whether we can check the veracity of the claims, which are being made by everyone. I stand in that position, too. I stand in that position; where I have made mistakes in the past I have owned up to them. On both sides of the debate I think it would better if we had a balanced, reasonable, rational debate based on facts.

ADOPTION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the release of adoption information.

Leave granted.

The Hon. SANDRA KANCK: I have been contacted by Jigsaw, which is a voluntary organisation assisting people in finding members of their birth families. This non-government organisation has been in operation for 22 years, and it acts as a mediator offering people advice on how to approach members of their birth families once identifying information has been confirmed. Jigsaw is concerned that identifying information about birth parents has been handed out by the Department of Family and Youth Services to people with no advice or counselling. In one case, a woman who had spent most of her childhood in foster care was seeking information about her birth parents. Because of her time in foster care, she had a distrust of Family and Youth Services and signed papers asking that all information coming from Family and Youth Services be sent to Jigsaw, which would then offer her advice and pass on the information. But, despite her wishes, Family and Youth Services sent the information directly to her.

In another recent case an adoptee received details from Family and Youth Services about her birth mother, as well as a social worker's report which was written at the time of her relinquishment. The social worker's report said that the birth grandmother had wanted to adopt the child at birth but the birth mother was opposed to this. The birth mother went on to marry and have two more children. Recently, the adoptee arrived on her birth mother's doorstep without warning. The two children were unaware of the existence of their sibling. The family was shown the social worker's report and, as a consequence, the two later children no longer communicate with their mother, and the mother is now receiving counselling. The summary of a document 'Changes to the Adoption Act 1988 and regulations' states:

> For many people, the changes to the legislation will not affect them greatly and, if so, it is hoped that any affects will be positive ones.

Unfortunately, this was not the case for this family. It also states:

There is a strong focus on the sharing of information and the right of those affected by adoption to pursue information about their history that is relevant and important to their lives and that is not an unjustifiable intrusion on another person's privacy.

Jigsaw says that Family and Youth Services used to provide mandatory counselling services, as well as information services. The counselling service has since been stopped. My questions to the minister are:

1. Why is sensitive information being sent out directly to people with no advice or support?

2. Why is FAYS no longer using Jigsaw's counselling service for people seeking information about birth families?

3. Has FAYS put any other counselling service in its place?

4. Why is FAYS not observing its own regulations with regard to unjustifiable intrusion on another person's privacy?

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

RAILWAY LAND, PORT PIRIE

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I would like to provide a reply to a question asked yesterday by the Hon. Mr Ron Roberts about railway land at Port Pirie. Through my office, I asked for advice from Transport SA yesterday, and I am now able to confirm that the land was not sold but has been transferred to the care and control of Transport SA and that I as Minister for Transport have fee simple title to the land. The site and improvements were previously used for the servicing of trains and for maintenance, cleaning, refuelling and restocking. The Port Pirie land has been largely leased to Australian Southern Railroad since 1997 and to Spencer Plastic Recyclers Pty Ltd since 1996, and the tenant, Spencer Plastic, was an ex-Australian National arrangement which the state inherited on 7 November 1997.

I advise that the lessee is responsible for ensuring that the premises are repaired and maintained to an acceptable industrial standard including resolving the existing asbestos situation. The lease agreement is of an industrial and commercial nature, and therefore limited leverage is available to Transport SA. The site is zoned commercial 3 (for industrial activities) within the City of Port Pirie.

I have sought and gained an understanding from Transport SA that, on my behalf, officers will coordinate an on site meeting with the council and the lessee in an endeavour to resolve the situation. If the Hon. Mr Roberts or his constituent would like to attend that meeting, we would be happy to oblige. The officers will report the outcome to me in due course. For my part, I would very much like to see that meeting held promptly, possibly within the next two weeks if that is manageable.

EMERGENCY SERVICES LEVY

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Attorney-General a question about the emergency services levy.

Leave granted.

The Hon. J.S.L. DAWKINS: On Tuesday this week the Hon. Ian Gilfillan asked a series of questions about the emergency services levy and the South Australian Ambulance Service. I listened carefully to both the questions and answers from the Attorney-General. As a result, I was somewhat surprised to hear subsequent reports that Mr Gilfillan was suggesting that South Australia is now facing a real risk that a large amount of the Ambulance Service loss will be made up by a large call on the funds of the emergency services levy. Will the Attorney indicate to the Council what the real position is in respect of the South Australian Ambulance Service and its relationship to the emergency services levy?

The Hon. K.T. GRIFFIN (Attorney-General): I was somewhat surprised to hear the media reports in which somehow the answer which I had given quite innocently had been turned into something quite sinister. I must confess that on reading *Hansard* I could not understand how that occurred. I was asked a simple question and an honest answer was given, but it was then beaten up into a proposition that, because we had taken crown law advice on the sorts of expenses and the amounts of costs of the Ambulance Service, that could be recovered from the emergency services levy.

Somehow or other that became a significant threat that we were going to milk the fund. I want to put on the record that we did receive Crown Solicitor's advice on the scope of the authority in the emergency services levy act regarding services provided by the South Australian Ambulance Service, but as I recollect it we received that advice before the advisory committee had made its recommendation about the amount of the levy.

We took that advice because in the legislation which had been passed by the parliament there were strict rules about the amounts which could be charged against the levy for police, ambulance services and similar sorts of facilities and services beyond the Metropolitan Fire Service, the Country Fire Service, the State Emergency Service, surf lifesaving and so on.

We took the advice because, recognising that there were constraints imposed by the legislation, we did not want to do anything that was unlawful. We got the advice about certain expenses in relation to ambulance to ensure only that we did not break the law. One cannot read into that that we got the Crown Solicitor's advice in such a manner that now there is a threat that additional moneys will come from the emergency services levy to meet the Ambulance Service deficit. The Ambulance Service does provide certain rescue type services—at the scene of a fire, for example, or at the scene of some disaster other than the normal road traffic type tragic events—and they are the expenses, that is, for the services rendered by the Ambulance Service in those sorts of emergencies, which relate to fire, flood and other such disaster that require rescue type services.

There is nothing sinister about getting the Crown Solicitor's advice: it is totally unrelated to the arguments promoted by the Hon. Mr Gilfillan earlier this week in response to my answers to his questions. The public need have no fear that the sorts of deficits which are significantly topped up by consolidated account in the South Australian Ambulance Service will instead be translated to a call upon the emergency services levy fund.

The Hon. IAN GILFILLAN: As a supplementary question, I ask the Attorney: is it not true that the minister in charge of the emergency services levy, the Hon. Robert Brokenshire, earlier gave a firm undertaking that no ESL funds would be contributed to the Ambulance Service? Is it also true that, in spite of that statement, $750 000 was transferred from the emergency services levy fund to the Ambulance Service; and, in light of that, what confidence can

the public in South Australia have about any statement of this government, even from the Attorney-General?

The Hon. K.T. GRIFFIN (Attorney-General): Every confidence. I will need to check what statements the Hon. Mr Brokenshire has made. I do not—

The Hon. T.G. Cameron: You answered the first question; what about yourself?

The Hon. K.T. GRIFFIN: Well, I am not aware of statements that the Hon. Mr Brokenshire made. I do not recollect that he made a statement such as that referred to by the Hon. Mr Gilfillan but I will check it. In terms of the emergency services levy, the guarantee is in the law. I can say no more than that. So far as I am concerned, when I tell the honourable member something, I believe it to be accurate and truthful.

EFFLUENT PONDS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment, a question about the Waikerie council effluent ponds.

Leave granted.

The Hon. T.G. CAMERON: During my recent visit to the Riverland—and I note that the cabinet was also in the Riverland at the same time and, if the cabinet members were receiving the same information about the emergency services levy as I was receiving, they would have a very clear idea of what the people in the Riverland think of it—Jan Cass, the Mayor of the District Council of Loxton Waikerie, raised the issue of the Waikerie effluent scheme. The town's current effluent scheme was built on a flood plain in the late 1960s. At the time it was built, the Waikerie council strenuously objected to its site placement and wrote to the Director and Engineering Chief of the EWS stating so.

Mayor Cass informed me that, when the Murray River floods, effluent escapes into the river and there are concerns for those people who access water further down the river. She is probably referring to the City of Adelaide. The council is keen to have the lagoons relocated from the flood plain and is prepared to contribute to the cost of doing so. However, it believes that, as the state government was responsible for the effluent lagoons being located in the flood prone area in the first place, the government should assist financially with the cost of removal. My question to the minister is: considering it was a state government that insisted on the original placement of the effluent pond against the wishes of the Waikerie council, will the government now undertake to negotiate with the Waikerie Loxton council to ensure that a fair financial contribution is forthcoming for the removal of the effluent ponds?

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

LEGAL PROFESSION

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

Leave granted.

The Hon. A.J. REDFORD: In the *Advertiser* of Thursday 9 September 1999 an article entitled 'Court rules union boss in contempt' reports on some legal proceedings in the Federal Court involving the State Secretary of the Australian Manufacturing Workers Union, Paul Noack, and another union official, Ms Max Adlam. As I understand the report, Mr Noack was found by the Federal Court to be in breach of earlier court orders and I understand that the court is yet to determine a penalty for the breach. As such, I do not want to canvass any issue that is before the court, nor do I want to make any comment on the merits or otherwise of any matter before the court. However, I am concerned that we might be seeing a new American type presentation to the media by one of the lawyers—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Cameron might have his view but I want to focus on one small issue. As I said, I am concerned that we might be seeing a new American type presentation to the media by one of the lawyers acting in the matter. In that regard, Mr Stephen Howells, a barrister—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: Sorry, I missed that.

The PRESIDENT: Order! Interjections are out of order.

The Hon. A.J. REDFORD: As I said in response to an interjection, I want to confine this to a very narrow issue, and that is that Mr Stephen Howells, a barrister acting for Ms Adlam from one of the Eastern States, made a number of comments to the media. He is reported as saying:

> Ms Adlam has instructed me to seek the most severe penalties. It [the decision] is a shocking indictment of Mr Noack's treatment of women and the truth.

It is important to bear in mind that these comments were not made to the court but to the assembled media throng. Indeed, the *Australian* of the same day reported:

> He had been instructed to seek 'the most severe penalties' available, indicating that he would be seeking a jail term for Mr Noack when submissions on penalties for the contempt were heard on 22 September.

I must say that, when I am engaged in the practice of law, I make my statements to the court and not to the media, and that has been the practice of the South Australian legal profession for time immemorial. As I understand it, the Bar Association, both here and interstate, has rules relating to comments by barristers or counsel to the media in relation to matters before the courts.

The Hon. T.G. Cameron: He should be reported to the Bar Association.

The Hon. A.J. REDFORD: I will take the honourable member's interjection on board. I understand that, in some circumstances, his conduct might be considered to be highly unethical. In light of the above, my questions are:

1. Does the Attorney-General think it is appropriate for lawyers to make comments about cases before the court to the media rather than to the court?

2. Is there any evidence that Mr Howells breached any Bar Association rules?

3. If so, will the Attorney-General refer the matter to the Legal Professional Conduct Board with a view to preventing this sort of conduct in the future?

The Hon. K.T. GRIFFIN (Attorney-General): I do not think it is appropriate to make those sorts of comments to the media, particularly during the course of a case. All members here would know that politicians generally decline to make public comment on current cases. Some might infringe the rules occasionally but, generally, the principle is adopted that, within the two chambers, we do not get into the business of commenting on current cases, particularly on the merits and even with respect to penalties.

I have always taken the view that it is inappropriate for me as Attorney-General to make any comment about current cases, either as to the merits or, as in this instance, the question of penalty, because there is always the prospect of an appeal. I think it is also both unsavoury and inappropriate that any legal representative should comment to the media about what he or she is seeking to achieve for that lawyer's client. It is even more of a problem if it relates to a criminal penalty. I certainly agree that it is an inappropriate way to behave. I saw the reference at the time and I was surprised that the legal practitioner would take that—

The Hon. T.G. Cameron: He is a Queen's Counsel and should know better!

The Hon. K.T. GRIFFIN: Any lawyer should know better than to conduct their case in the public arena rather than in the courtroom. In respect of whether or not it is a breach of the Bar Association rules, I am not aware of whether it is or not, but that is an issue that certainly can be pursued. In relation to whether or not the issue should be referred to the Legal Practitioners Conduct Board, all I can indicate in relation to that is that, in light of the issue's having been raised by the honourable member, I will give consideration to that possibility and I will bring back a reply in due course.

MAITLAND AREA SCHOOL

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Education, a question about the Department of Education and Training's Maitland Area School review.

Leave granted.

The Hon. T.G. ROBERTS: In December 1998 the Minister for Education received a letter from the Goreta Aboriginal Corporation. It outlined a number of issues raised at a community meeting held at Point Pearce on 23 November 1998. The issues related to the achievement of Aboriginal students and the successful completion of secondary school and alleged inappropriate practices by staff in dealing with Aboriginal students. The view was expressed that Maitland Area School did not cater for the needs of Aboriginal students.

The issues raised by the Goreta Aboriginal Corporation are not new, and similar concerns have been raised in a number of forums over an extended period of time. In correspondence to the Goreta Aboriginal Corporation, the minister advised that a comprehensive review would be conducted into the matters that had been raised. The review team was chaired by Executive Director Country, John Halsey, and other members were Shirlene Sansbury, nominated by the Point Pearce Aboriginal community; Dr Alice Rigney, nominated by the Superintendent, Aboriginal Education; Roger Johns, Chairperson, Maitland Area School Council; Bev Rogers, Principal, Fremont-Elizabeth City High School; and Trevor Tiller, District Superintendent, Lower North. I am in possession of a copy of the draft of the report, and that is where I have obtained the quotes.

A structured interview was set up for the review. I will not go into the whole methodology of the review, but it is important to add that, in the document in relation to Maitland Area School, it puts the school in context, which I will do with a short quote, as follows:

> Maitland is a service town centrally located on Yorke Peninsula . . . Approximately 50 per cent of the students come from Maitland town and the other 50 per cent from surrounding small communities and farms. Approximately 12 per cent of students are of Aboriginal origin. Most of those students live at Point Pearce, a nearby Aboriginal community.
>
> The percentage of school card holders attending Maitland Area School is 25 per cent. This is the lowest percentage of school card holders in any school in the district. As an indicator of social disadvantage, this figure suggests that the Maitland community is comparatively affluent. The percentage of school card holders at Point Pearce Aboriginal school is 100 per cent. Again, if school card percentages are used as an indicator of disadvantage, then it is clear that the Point Pearce school community is the most economically disadvantaged of all school communities in the Yorke district.

The school provides an educational service to Maitland and the surrounding areas and takes in the catchment schools of Point Pearce, Maitland Lutheran School, Price Primary School and Point Pearce Aboriginal School. There are close links between these schools.

I have raised the issue of achievement levels in this place on another occasion. At that time I questioned the way in which Aboriginal children are encouraged to stay at school to at least get to Year 12. The review picked up that many of the Aboriginal children disappear at years 8 and 9 and do not return to school, and it is trying to work out a system that will encourage Aboriginal children to stay on. I have been given a lot of reasons by the Aboriginal community as to why they do not continue their education, but I will leave it to the review to investigate and draw its own conclusions.

The review does not give me a lot of heart that there will be many resources placed in the hands of the people who will be sitting on the board to set up a new management structure—that they will get the resources required to achieve the outcomes. My questions are:

1. What resource support—that is, special education teachers, Aboriginal support staff and so on—will be allocated to restructure Maitland Area School to achieve the aims of the Maitland Area School review?

2. Will the principals of the Maitland Area School and the Point Pearce Aboriginal School have to cope with traditional review recommendations of management structures only without the support of the infrastructure and resource support that is required?

The Hon. R.I. LUCAS (Treasurer): I will refer those questions to the minister and bring back a reply.

GAMING MACHINES

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

Leave granted.

The Hon. NICK XENOPHON: The New South Wales Office of Racing and Gaming, in an order form in a circular headed 'Complete club and hotel listings by gaming machine profits' (and I am more than happy to tender it), states:

> The department of gaming and racing now publishes a complete list of clubs and hotels in order of gaming machine profits as a supplement to the quarterly and annual gaming analyses. The hotel list for the quarter ended 30 September 1998 is now available, and we have printed a new combined quarterly list for August/September 1998 for clubs/hotels. If you would like to find out the ranking of every single club and every single hotel then use this order form to purchase your list.

I also refer to the report of the Productivity Commission into Australia's gambling industries which states (chapter 6.41) that, based on a screen for problem gamblers, and given a survey carried out by the Productivity Commission, there are 24 831 problem gamblers in this state; further (page 23 of the overview of the commission's report), that between 65 per

cent to 80 per cent of problem gamblers are related to their playing of poker machines; and, further, that each problem gambler impacts on the lives of between five to 10 others. My questions are:

1. Does the Treasurer concede that the release of information for hotels and clubs with poker machines in New South Wales is much more detailed and comprehensive than anything his office has released?

2. Given the findings of the Productivity Commission to date as to the level of problem gambling in South Australia, does the Treasurer concede that there are some 15 000 to 20 000 problem gamblers in this state as a result of their use of poker machines and, based on the commission's more conservative findings, at least another 75 000 South Australians adversely affected, which warrants urgent and serious consideration by his government in terms of dealing with that level of problem gambling?

3. Does the Treasurer concede that the pineapple delivered to him on 19 August was particularly tasty?

The Hon. R.I. LUCAS (Treasurer): I think someone might have to assist the Hon. Mr Xenophon to wipe a little bit of fruit salad off his face after the publicity stunt on 19 August and his not too subtle endeavour to try to wriggle his way out of it in this question.

The honourable member in the statement that he has quoted from the New South Wales Office of Gaming and Racing document makes it quite clear that there is no individual turnover profitability information produced per hotel or club in New South Wales. What they in fact have done, and the honourable member clearly knows this, is they have ranked in terms of profitability or turnover the particular hotels, clubs and venues in New South Wales. They made it quite clear—and he and his staff would have known quite clearly—on page 2 of the document that the assessed duty turnover profit figures for individual hotels are confidential and are not released.

That is completely different from the claims made by the Hon. Mr Xenophon on 19 August in his press statement, and in subsequent statements, and is different again from his endeavours this afternoon by way of his question here this afternoon where he is referring to rankings or ratings in terms of the hotels, venues and clubs in New South Wales. They do not release confidential information on a venue-by-venue basis in New South Wales. As to the subsequent parts of the honourable member's question, I will correspond with him and answer his question, and I will also refer to the bit about the pineapple.

ELECTRICITY BUSINESSES

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a ministerial statement.

Leave granted.

The Hon. R.I. LUCAS: I apologise for the fact that there is no written ministerial statement, but I understand that late yesterday the Hon. Sandra Kanck released a statement headed 'Treasurer caught with his pants down'.

The Hon. L.H. Davis: That coupled with the rough end of the pineapple! I don't know what they are getting up to!

The Hon. R.I. LUCAS: Mr President, I suspect that if my name was Nick Xenophon I would be issuing legal proceedings against the Hon. Sandra Kanck for the statements that she has made outside this chamber in relation to me. I suspect that if my wife and family come home in tears at the humiliation that has been heaped on their husband, partner and father as a result of this unfortunate headline from the Hon. Sandra Kanck then that responsibility rests with her. I might say that I think there is an interesting double standard in all of this. I suspect that if a male politician was to have issued a similar statement about the Hon. Sandra Kanck there may well have been all sorts of claims being made by members of parliament and community leaders about sexist claims and sexist statements.

Members interjecting:

The Hon. R.I. LUCAS: The statement from the Hon. Sandra Kanck is 'Treasurer caught with his pants down'. I am not overly sensitive or litigious and therefore I can indicate to the Hon. Sandra Kanck that I will not be issuing proceedings against her as a result of that statement and statements she also made in support of that claim.

The Hon. Diana Laidlaw: Or claims of sexism.

The Hon. R.I. LUCAS: As I said, if the shoe had been on the other foot I am sure there would have been many protests. There would not have been any chuckling about pineapples or anything like that because there would have been fury, I suspect, from certain members of parliament, and indeed representatives in the community. But, as I said, I am not sensitive or indeed litigious.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Some might say boring. The more important statement I want to refer to in the honourable member's press statement is that she says:

> The Treasurer also claimed at budget time that opponents of the ETSA sale will be severely embarrassed by these figures as they have claimed ETSA would continue to provide $300 million per year into the budget. The recent Auditor-General's Report indicates the electricity business contributed $290 million to Treasury last financial year.

The Hon. L.H. Davis: That is an actual quote?

The Hon. R.I. LUCAS: It is put as an actual quote. 'Who should be embarrassed?' is the statement sign off by the Hon. Sandra Kanck. Indeed, in trying to find out where on earth the Hon. Sandra Kanck—who, with due deference to whatever skills she might have, matters of financial interpretation and economic credibility are probably not at the top end of that skill base—obtained that information, I had a quick look through the Auditor-General's Report. In volume A.4—2 there is a bar graph, produced, I presume, by the audit staff, on the contribution by electricity businesses. That shows that, in 1998-99, about $290 million was contributed by electricity businesses, which is significantly down on the 1997-98 bar graph of about $350 million or $360 million. So, there is, indeed, a significant reduction.

The Hon. Caroline Schaefer: Just a cool $70 million!

The Hon. R.I. LUCAS: Yes, a cool $60 million or $70 million. I ask the Hon. Sandra Kanck—and, indeed, anybody else who has read beyond the headline of her statement—to what does the bar graph refer? The bar graph includes dividends and tax equivalents that do go to state government or Treasury as she claims, a statutory sales levy (which no longer exists, of course, as it was relevant only for the earlier years), and then there is a fourth item called 'Other costs recovered', which includes interest and restructuring costs. Those figures for interest and restructuring costs do not come to the state Treasury.

In her press statement, the Hon. Sandra Kanck said:

The recent Auditor-General's Report indicates the electricity business contributed $290 million to Treasury last financial year.

In other words, to the budget. That is the claim. That claim is just simply not true, because the interest payments are, indeed, interest paid on the debts of the electricity businesses, to their financiers. It goes to the banks and the financial institutions. It does not go to Treasury. It is simply untrue for the Hon. Sandra Kanck to claim that the interest payments on the Electricity Trust debt go to state Treasury as she claims in her press statement. It is also simply untrue to claim that the other restructuring costs are payments made to Treasury. They were payments made to lawyers, accountants and external consultants. They are payments that did not go to state Treasury. It is simply untrue for the Hon. Sandra Kanck to indicate in her press statement yesterday that that $290 million went to state Treasury and to the state budget.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Paul Holloway says that the electricity businesses have debts and that the interest payment should have gone to state Treasury instead of to the financiers. The shadow minister for finance said in this Council that the money should have gone to Treasury! That is just a simple indication of the financial naivety—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and the economic incompetence of the shadow minister for finance and the Deputy Leader of the Opposition.

The Hon. P. Holloway: It is poor accounting practice.

The Hon. R.I. LUCAS: The honourable member says that it is poor accounting practice for the payment of interest from the electricity businesses to financiers to go to the financiers and not to Treasury. That is a further indication of the financial naivety and economic incompetence of the shadow minister for finance!

The Hon. P. Holloway interjecting:

The PRESIDENT: Order, the Hon. Paul Holloway!

The Hon. R.I. LUCAS: There are a number of other errors in the Hon. Sandra Kanck's statement, which was drawn to my attention only today, and I may make further statements about some of those errors next week.

CRIMINAL LAW CONSOLIDATION (SEXUAL SERVITUDE) AMENDMENT BILL

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

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

That this bill be now read a second time.

The Bill amends the Criminal Law Consolidation Act 1935 to repeal the laws on procuring sexual intercourse and to replace them with more wide ranging laws against sexual servitude. The Criminal Law Consolidation Act provides for four offences. These are:

1 To procure another to become a common prostitute.
2 To procure a person who is not a prostitute to become an inmate of a brothel for the purposes of prostitution in or outside South Australia.
3 To procure another to have sexual intercourse by threat or intimidation.
4 By false pretences or fraud, to procure someone who is not a common prostitute or a person of known immoral character to have sexual intercourse.

The maximum penalty for each offence is seven years' imprisonment.

The language of the present law is archaic and involves a moral judgment of the victim of the offence. The scope of the offences is limited to sexual intercourse and prostitution. The methods (threats or intimidation, false pretences and fraud) are too narrow to encompass the kinds of undue influence and deception often used to entrap vulnerable people into prostitution. In particular, the present law does not specifically recognise or give greater penalties for traffic in children for commercial sexual purposes.

This Bill addresses the ways in which people can be forced to become part of the sex industry against their will. It addresses the commercial sexual exploitation of children, and the slave-like conditions often imposed on drug addicts or illegal migrants in the prostitution industry. These issues were considered by the Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General in its Report on Slavery Chapter 9: Offences against Humanity, November 1998 (the MCCOC Report).

The MCCOC Report recommended a definition of sexual servitude based on two concepts. The first is a victim's incapacity to cease providing commercial sexual services or to leave the place where such services are being provided. The second is that such incapacity is caused by threats of force or deportation or any other kind of threat, made to the victim or to another (for example, the victim's child).

The MCCOC Report recommended the creation of a range of sexual servitude offences:

· offences aimed at people who cause others to be in a condition of sexual servitude or who conduct or take part in the management of a business involving sexual servitude
· preparatory offences to catch those who, in recruitment, conceal the fact that the engagement will be one involving the provision of sexual services
· aggravated offences, with increased penalties, for offences committed against children.

This Bill is based on the sexual servitude provisions of the Commonwealth Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999, which was enacted following the release of the MCCOC Report. To do this the commonwealth used its external affairs powers (Constitution, section 51(xxix)). The commonwealth act specifically leaves room for complementary state legislation.

The commonwealth act implements international conventions (to which Australia is a party) that require trade in slaves (chattel slavery) to be an offence. It repeals archaic and complex 19th century imperial acts relating to chattel slavery and replaces them with modern Australian statutory offences of slavery and sexual servitude. Because chattel slavery is more likely to occur in an international context outside the territorial jurisdiction of state and territory criminal law, this bill does not deal with it. It does, however, deal with what the MCCOC report describes as:

> . . . modern instances of servitude or slave-like conditions [which] centrally involve state and territory interests. For example. . . servile sex industry practices are intimately tied up with local prostitution prohibition or regulation. . . and trafficking in children concerns local youth welfare and child protection authorities.

The sexual servitude provisions of the commonwealth act are aimed at the growing international trade in recruiting people, mostly young women and children, from another country and

relocating them in Australia to work as prostitutes. Once in Australia, these recruits often work in servile conditions for little, if any, reward. Often they have no control over the hours they work, the number of customers they service or the safety of the sexual practices they must participate in. Usually they must repay huge sponsorship debts for their airfares, documents and accommodation before they can receive their earnings—a fact of which they are often unaware before arriving in Australia. Organisers of such schemes derive large untaxed profits and have links with organised crime and major drug traffickers.

The commonwealth act focuses on the traffickers rather than on the people subjected to the trafficking at the international level. It covers conduct by nationals or non-nationals who act wholly outside Australia or partly outside and partly inside Australia.

This bill also targets traffickers but at the domestic level. It covers conduct that occurs in South Australia. The bill makes it an offence to use unfair or improper means to influence someone to enter into or stay in the commercial sex industry. Three main groups of offences are created by the bill. They are: sexual servitude and related offences—compelling or by undue influence getting another to provide or continue to provide commercial sexual services (proposed section 66); deceptive recruiting for commercial sexual services—offering another employment knowing and without disclosing that the person will be asked to provide commercial sexual services and that their continued employment depends on their doing so (proposed section 67); and use of children in commercial sexual services—using children to provide commercial sexual services or benefiting financially from this (proposed section 68).

The bill defines sexual servitude as 'the condition of a person who provides commercial sexual services under compulsion'. Commercial sexual services are defined as 'services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others'. These definitions are wide enough to include strip shows, lap dancing and, in some circumstances, using a person for the purpose of producing pornographic material, as well as what is traditionally understood to be prostitution.

Methods of compulsion or undue influence recognised in the bill include fraud, misrepresentation, the use or threat of force or any other kind of threat, including threats of lawful action (for example, action that might result in deportation), restricting a person's freedom of movement, or supplying them with illicit drugs. The question of whether a person's conduct amounts to compulsion or undue influence depends on the circumstances of each case. A person who is reckless as to the result of such conduct is taken to have intended it.

Deceptive recruiting for commercial sexual services is also prohibited. For example, the bill would make it an offence to advertise for hostesses at a club when the intended (but undisclosed) function is for them to strip, engage in lap dancing or have sex with club patrons, and refusal to do so will cause them to lose their job.

Greater penalties attach to offences committed against children. In addition, there are some specific offences to protect children. These include employing or permitting a child to provide or continue to provide commercial sexual services; asking a child to provide commercial sexual services (if it is a serious request); and benefiting financially from a child's involvement in commercial sexual services.

The prosecution does not have to prove that the alleged offender knew that the victim of the offence was a child: it is up to the alleged offender to prove that he or she had reasonable grounds to believe that the person was over 18 years old.

The penalties imposed by this Bill are arranged in the following way:

- Penalties are graded according to the age of the victim, with the age bands depending on the type of offence. For sexual servitude and related offences, there is a maximum penalty of life imprisonment for offences against children under 12 years, a mid-range penalty for offences against children over 12 years, and a lesser penalty for offences involving an adult victim. For deceptive recruiting offences, the maximum penalties refer only to whether the victim is a child or an adult. For offences specifically concerned with the use of children in commercial sexual services, the maximum penalties are higher if the child victim is under the age of 12 years.
- Sexual servitude and related offences involving compulsion attract greater penalties than those involving undue influence. For example, the maximum penalty for compelling a child over the age of 12 years to provide commercial sexual services is 19 years, whereas the maximum penalty for exercising undue influence to achieve this same result over a child in the same age bracket is 12 years.

The maximum penalty of life imprisonment is imposed only in respect of offences where a person forces a child under 12 into or to continue in sexual servitude, or uses a child under 12 to provide commercial sexual services. This is consistent with the penalty for the existing offence of unlawful sexual intercourse with a child under the age of 12 years (section 49, Criminal Law Consolidation Act).

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

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Repeal of s. 63

Section 63 creates an offence of procuring a person to become a common prostitute. The section is repealed and new offences are substituted where compulsion, undue influence, deceptive recruiting or a child is involved.

Clause 3: Amendment of s. 64—Procuring sexual intercourse

Section 64 creates an offence of procuring a person to have sexual intercourse by false pretences etc. It excludes victims who are common prostitutes or persons of known immoral character. The exclusion is removed.

Clause 4: Insertion of ss. 65A—68

The new sections are as follows:

65A. Definitions relating to commercial sexual services

This section contains definitions for the purposes of the new sections.

66. Sexual servitude and related offences

An offence of inflicting sexual servitude is created with a maximum penalty of life if the victim is a child under 12, 19 years if the victim is a child of or over 12 and 15 years in any other case. Sexual servitude is defined as the condition of a person who provides commercial sexual services under compulsion. Commercial sexual services are services provided for payment involving the use or display of the body of the person who provides the services for the sexual gratification of another or others. A person compels another if the person controls or influences the victim's conduct by means that effectively prevent the victim from exercising freedom of choice.

A related offence is created of getting another to provide or to continue to provide commercial sexual services by undue influence with a maximum penalty of life if the victim is a child

under 12, 12 years if the victim is a child of or over 12 and 7 years in any other case. A person exerts undue influence on another if the person uses unfair or improper means to influence the victim's conduct.

The sexual servitude offence is regarded as an aggravated offence with a court being able to convict of the lesser offence involving undue influence in a case where the aggravated offence is charged.

The question of whether the conduct amounts to compulsion or undue influence is one of fact and matters that may be relevant to that question are listed in subsection (5).

67. Deceptive recruiting for commercial sexual services

An offence of deceptive recruiting for commercial sexual services is created with a maximum penalty of 12 years if the victim is a child and 7 years in any other case. The offence involves failing to disclose information about a requirement to provide commercial sexual services to a victim at the time of offering employment or some other form of engagement to provide personal services.

68. Use of children in commercial sexual services

This section creates a series of offences relating to the use of children in commercial sexual services as follows:

- employing, engaging, causing or permitting a child to provide commercial sexual services (life if the victim is a child under 12, and 9 years in any other case);
- asking a child to provide commercial sexual services (9 years if the victim is a child under 12, 3 years in any other case);
- having an arrangement to share in the proceeds of commercial sexual services provided by the child, or exploiting a child by obtaining money knowing it to be the proceeds of commercial sexual services provided by the child (5 years if the victim is a child under 12, 2 years in any other case).

Clause 5: Amendment of s. 74—Persistent sexual abuse of a child

This clause makes a consequential amendment to section 74. It includes an offence against the new section 68 as a sexual offence to which the provisions of section 74 apply.

Clause 6: Amendment of s. 76—Corroborative evidence in certain cases

Section 76 provides that a person must not be convicted of certain offences without corroborative evidence. The amendment applies this requirement to an offence against the new sections 67 and 68.

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

LIQUOR LICENSING (REGULATED PREMISES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 September. Page 53.)

The Hon. T.G. CAMERON: This bill introduces a number of minor amendments to the Liquor Licensing Act 1997 in relation to the consumption of liquor on regulated premises. In the 1997 act, the definition of 'regulated premises' was widened to include a public conveyance defined as an aeroplane, bus, train, tram or other vehicles used for public transport or hired by the public. This, in part, was to provide for control over alcohol consumption on booze buses. However, this move inadvertently resulted in self-drive vehicles (such as houseboats, mini-buses and rental hire cars, etc.) being included in the definition, which was never the original intention.

This bill resolves this situation by moving to exclude such conveyances from the definition of 'public conveyance' in the act. The 1997 definition of 'regulated premises' also covered consumption of liquor at sporting and other events. The legislation is amended to allow places such as sporting and large functions to be declared by regulation not to be regulated premises.

In normal circumstances I would have strong reservations about supporting moving something out of an act into regulation but, when one looks at what is going on here, I believe it does make sense to change the bill to allow sporting and large functions to be declared by regulation not to be regulated premises. Quite simply, it makes sound commonsense. The two essential clauses in this bill are: clause 2, which amends the definition of 'public conveyance' to exclude conveyances that are available for self-drive hire from the field of the definition; and clause 3, which provides that a limited licence is available for the consumption of alcohol in situations when it would otherwise be illegal.

The intent of this amendment is not to restrict the public's enjoyment of the consumption of alcohol. All in all, the bill introduces several sensible amendments to the current act, which ensure that licensing laws in this state remain progressive whilst at the same time sensible and fair. SA First supports the second reading.

The Hon. M.J. ELLIOTT: The Democrats support the bill. Three minor and uncontentious changes are proposed to the Liquor Licensing Act: the first applies to the principal act in that liquor must not be consumed in regulated premises unless licensed (section 129), and 'regulated premises' are defined to include a public conveyance (section 4). Of course, section 4 also defines 'public conveyance' as a hire vehicle. Therefore, when one travels in a hire vehicle one cannot drink. This amendment seeks to address that unintended consequence of previous changes to the legislation. The second minor change to section 4 relates to any regulated premises to which one must pay an entry fee.

This could include Belair National Park, which is not intended and so the definition is to be changed by the bill. What is to be caught is an event which one pays to attend rather than a public place at which the event is to be held. Regulations further allow any place to be exempted from the definition.

Finally, a limited licence is available for one-off occasions or a series of occasions. The sale or supply of alcohol is authorised under section 41. However, that section does not authorise patrons to take their own alcohol to these events and has never allowed that. The Democrats have no problems with those amendments and support the bill.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (APPEALS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 October. Page 110.)

The Hon. IAN GILFILLAN: This is the same bill which was before us in the previous session. Although it is now presented afresh to a new session we, the Democrats, have not changed our opinion of the bill. We oppose the bill as, in our view, it seeks to impose—perhaps unwittingly—double jeopardy on criminal defendants. Rather than go through the basis of the argument which we put forward in the previous session, I refer members to my contribution of 4 June 1998, which is recorded in *Hansard* of that date at page 858. I repeat: the Democrats remain opposed to this bill and will vote against the second reading.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) (DEFINITION OF JUDICIAL OFFICE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 October. Page 111.)

The Hon. T.G. CAMERON: This bill will define the Office of the Commissioner of the Environment, Resources and Development Court as a judicial office. Because the Judicial Administration (Auxiliary Appointments and Powers) Act 1998 does not include in its definition of 'judicial office' the Office of the Commissioner of the Environment, Resources and Development Court there is no provision to appoint auxiliary judicial resources to that court, namely, permanent. This bill, as I understand it, will allow the appointment of temporary judicial resources to the Environment, Resources and Development Court for terms of up to 12 months, with the possibility of a further 12 month appointment.

The appointment of temporary resources in courts is necessary in my view to alleviate increases in workloads, such as extended judicial leave, increased litigation or new cases arising from amended legislation. This bill will bring the court into line with the other courts in this state. Due to the congestion of the state's courts, and the reluctance associated with permanent appointments, this will serve to alleviate the congestion of the courts system from which this state suffers. However, temporary appointments may lead to decisions being made by the court that vary greatly from appointment to appointment which, in turn, may lead to diametrically opposed rulings on different matters.

However, as is the case with the law, these problems can always be resolved on appeal. SA First supports this bill. We acknowledge that the Environment, Resources and Development Court is a bona fide lower court of this state and it should be treated as such. As long as the right of appeal from the court (as specified in section 33 of the Environment, Resources and Development Court Act 1993) is permitted to clear up any irregularities, there should not be any problems with temporary appointments to the court. We support the bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the bill. A number of questions have been raised during the second reading debate and I will now deal with those. The Leader of the Opposition asked: what provision exists to prevent the unnecessary appointment of extra staff with a consequent blow-out in salary costs? The answer is that, as in the case of other auxiliary appointments, reliance is placed on the court to use any auxiliary reserves judiciously. The extent of additional costs associated with any auxiliary appointment depends on the extent to which the appointee's services are actually used by the court.

This is a matter for the presiding member of the court and will depend on unpredictable factors, such as the availability of other officers of the court from time to time and fluctuations in the court's workload. I know of no reason, however, to anticipate any blow-out in costs as a result of the proposed power to make auxiliary appointments to this court. Of course, if it emerges that there is a significant longer term increase in the workload of the court, auxiliary appointments would not be the solution to that.

The Hon. Mr Gilfillan raised the question of the constitutionality of the use in the ERD Court of commissioners who are not appointed for life or until retirement. This is a state appointment and there is no requirement to comply with the provisions of chapter 3 of the commonwealth constitution. However, state courts cannot be constituted, so they would be inappropriate tribunals to have federal jurisdiction conferred upon them. It has never been argued in the High Court that the appointment of temporary or part-time judges makes a court an inappropriate tribunal. All states and territories have provision for the appointment of such temporary or part-time judges. The appointment of an acting judge to the Supreme Court of the ACT for a short term was recently held to be valid in the case of Eastman.

It has never been argued in the High Court that the appointment of a commissioner, mediator, arbitrator or similar officer, even as part of a state court, made the state court an inappropriate tribunal to have federal jurisdiction conferred upon it. Provisions for the appointment of such officers are common to most states and territories. I am confident that the provision is valid. In any event, the incident is not one that arises from this bill since the ERD Court Act already provides for the appointment of commissioners on a part-time basis for a term of up to five years. The validity of this provision has not been challenged. The effect of the present bill is merely to permit on an auxiliary basis what is already permissible in ordinary appointments.

The honourable member asked whether I have changed my view on the temporary appointment of judges. A more general concept of temporary appointment needs to be distinguished from auxiliary appointments. I remain of the view that judicial appointments should ordinarily be of a permanent nature or at least for a substantial fixed term so that judicial independence is not put at risk. I consider auxiliary appointments, however, to be less problematic than any general proposal to appoint the judiciary on any less than a permanent basis.

It is true that an auxiliary appointment to a judicial office is, in a sense, a short-term judicial appointment and may be open to objection on that basis. However, it is a practical step towards dealing with temporary increases in court work loads or temporary decreases in judicial resources in order that delay and inconvenience to litigants can be kept to a minimum. It is preferable to long delay and to unnecessary permanent appointments.

Further, I note that very commonly in practice the persons appointed as auxiliaries are retired judicial officers so that any problem with the short-term nature of the appointment is avoided. In my view, the questions raised by the Hon. Mr Gilfillan relate to the current provisions of the ERD Court Act and of the Judicial Administration (Auxiliary Appointments and Powers) Act. The fundamentals of those acts will not be affected by this bill. This bill merely makes it possible for commissioners to act on an auxiliary basis.

It should also be noted that section 3 of the principal act provides that it is the Governor who may, with the concurrence of the Chief Justice, appoint a person to act in a specified judicial office or in specified judicial offices on an auxiliary basis. Whoever is appointed must ordinarily be eligible for appointment to the relevant judicial office on a permanent basis or would be eligible for appointment to the relevant judicial office on a permanent basis but for the fact that he or she is over the age of retirement or has retired from office as a judge of any of the courts and, now, a commissioner of the ERD Court. If there are retired commissioners

from the ERD Court and it is deemed appropriate to make an appointment of such a former commissioner as an auxiliary appointment, it must receive the approval of the Chief Justice before the appointment is made.

There are safeguards in the system, and the way in which it is now administered is an assurance that only former judicial officers are presently appointed to auxiliary positions, and in that there is a safeguard. It is particularly relevant in the context of retired judges of the Supreme Court, retired judges of the District Court and retired magistrates, but we wanted to ensure that it was also available for former commissioners of the ERD Court on the basis that one had recently reached retirement age and, if he has skills, which he does have, which the court may wish to use, we can go through the process of appointing that person as an auxiliary.

When that person sits is not a matter for the government of the day. It is really a matter for the senior judge of the particular jurisdiction to ensure that, from that pool, if there is a pool, of persons who have already been appointed as auxiliaries, a person can be brought in for the purposes of dealing with a short-term period when additional resources are required.

The Hon. Ian Gilfillan: Could someone be brought in who did not have that previous experience?

The Hon. K.T. GRIFFIN: Technically under the act, but that is not a matter that brings this bill into criticism. If that is a criticism, it is a criticism of the principal act, because the principal act already allows that. It requires that, if the person is not a retired judicial officer or a commissioner, the person would otherwise have to be eligible for appointment on a permanent basis or, if retired, would otherwise have been eligible but for age for appointment. That possibility is provided for already. This does not extend except in respect of commissioners, subject to the safeguards referred to in the principal act.

Bill read a second time.

In committee.

Clause 1.

The Hon. IAN GILFILLAN: I appreciated the explanation given by the Attorney in relation to the limitation on auxiliary appointments to people who have qualifications. He indicated that, as far as judicial appointments are concerned, the measure is covered by sections of the principal act. Is it available to the government to appoint a person as an auxiliary, part-time or short-term commissioner without having otherwise been qualified in various terms? In other words, I am looking for the assurance that this legislation puts some restriction on the government as to who could be appointed to act as an auxiliary or short-term commissioner.

The Hon. K.T. GRIFFIN: There is already power under the ERD Court Act for part-time commissioners, and they can be appointed for terms up to five years, so there can be short-term appointments under that provision anyway. However, under that measure, under this bill and under the principal act, for a person to be appointed as a commissioner and to sit in a jurisdiction of the ERD Court—that is, planning and development or water resources—the auxiliary would have to be qualified in the same way as a full-time appointment of a commissioner. If a full-time commissioner has to have qualifications in planning to sit on a case under the Development Act, an auxiliary commissioner has to have the same qualifications, unless that commissioner was a retired commissioner. But even then, to sit on a case under the Development Act, the retired commissioner, appointed as an auxiliary commissioner, would have to be qualified to sit on that sort of matter.

The Hon. IAN GILFILLAN: By what process and to whom would a challenge be made that a commissioner appointed in this way complied with those conditions? I accept what the Attorney has said and I do not have any quarrel with that, but by what means can that be tested?

The Hon. K.T. GRIFFIN: In respect of all the appointments, whether of judges, magistrates or commissioners, it seems to me that the only way that that would be subject to any challenge is really at the point where the parties appearing before the person challenged the validity of the appointment. That is the only way you could do it now, I suggest, even under the principal act, whether it is with respect to judges or magistrates. There is no other mechanism for properly challenging.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: Yes, it would have to be; it could not be anything else.

Clause passed.

Clause 2 and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (MAGISTRATES COURT APPEALS) BILL

Adjourned debate on second reading.

(Continued from 19 October. Page 112.)

The Hon. T.G. CAMERON: This bill seeks to amend the Magistrates Court Act 1991 and the Supreme Court Act 1935 to provide that all appeals in minor criminal cases from the Magistrates Court are dealt with by a single judge of the Supreme Court instead of by the full bench of the Supreme Court. Currently, anyone may appeal a decision of the magistrate in a minor criminal offence to the full bench of the Supreme Court. By amending the acts, this bill will abolish the procedure of appeal to the full bench from the Magistrates Court and will provide that appeals shall be dealt with first by a single judge of the Supreme Court. That decision would not in any case be appealed except by leave of a single judge or the full bench of the Supreme Court.

SA First, while realising that there needs to be a more efficient distribution of judicial resources, at this stage does not support this bill. We will be supporting the second reading and I will listen to members' contributions between now and when we go into committee. The reason why SA First at this stage is not supporting the bill—and I will see whether the Attorney-General clarifies the situation further—is that it seeks to make it impractical for a person in a minor criminal offence to appeal to the full bench of the Supreme Court by first requiring an appeal to a single judge. This bill will, in effect, abolish the right to appeal to the highest court in the state, which is a fundamental right of any accused. The option of appeal to the full court is available to anyone and should not be limited on the severity of the offence.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indication of support for the bill. Could I say in response, first to the Hon. Mr Cameron, that the bill does not limit the right of appeal to the highest court in the state, that is, the Supreme Court. What it does is limit the right to go to the full court, the Court of Appeal, but only to the extent that, instead of going directly to the full court, it is by way of a single judge of the Supreme Court. If

the matter is of a complex nature, there is no reason why the judge at first instance may not then refer the matter onto the full court rather than going through a full hearing process. In certain circumstances, there can be an appeal from the decision of the single judge. So, I note the concern expressed by the honourable member and hope that what I have just indicated and what I am now about to identify may help to allay his concerns.

The Leader of the Opposition asked who had been consulted in preparing the bill. I advise that the bill was developed in consultation with the Chief Justice and that comment was solicited from the Law Society of South Australia, the Director of Public Prosecutions and the Chief Magistrate. In addition, the bill was circulated to the Bar Association, the Legal Services Commission, the South Australian Council of Social Services, the South Australian Council on the Ageing, the Victims Support Service, the Commissioner of Police and the Aboriginal Legal Rights Movement, among others. None—I repeat none—of these expressed any opposition to the bill.

The question was also raised whether this bill is consistent with trends interstate. As will be appreciated, the provisions of the various statutes dealing with rights of appeal from magistrates courts or their equivalents vary widely from state to state, perhaps as much for reasons of history as of policy. In Victoria, appeals against conviction in the Magistrates Court are limited to questions of law. These appeals go directly to the Supreme Court and any such appeal precludes any appeal to the County Court. The Supreme Court is constituted of a single judge in hearing such appeals, and there is a further appeal from the single judge to the full court. Appeals against a sentence of the Magistrates Court go to the County Court, which is the intermediate court (like our District Court) but, if the County Court imposes a sentence of imprisonment when the magistrate had not done so, there is a further appeal by leave to the Court of Appeal, which may be constituted as three judges. In practice, such appeals are very rare.

In civil matters, where there is an appeal directly to a single judge of the Supreme Court, which may either make a final decision in the matter or remit it to the Magistrates Court, there is a further appeal to the full court. In New South Wales, provision is made for the review of a conviction, penalty or other order of a magistrate by the Local Court constituted of another magistrate. A person may also apply to the minister to refer a matter to the Local Court for review, unless the person appeals to the District or Supreme Court or to the Land and Environment Court. There is also provision for an appeal from the magistrate to the District Court. There is an appeal directly from the Magistrates Court to the Supreme Court upon certain specified grounds only. An appeal on a question of law is as of right but, on a question of mixed law and fact, only by leave. This would suggest that New South Wales has also been concerned to limit the use of the Supreme Court in these matters. The Supreme Court may finally dispose of the case or may remit it to the magistrate. The appeal to the Supreme Court has the effect of precluding any appeal to the District Court except in limited circumstances.

In Queensland, there is a general right to appeal from a justice to the District Court, although the right is more limited in the case of indictable offences tried summarily. The District Court may in a criminal matter state a case on a question of law to the Court of Appeal. However, no appeal lies from a Magistrates Court which, in Queensland, has civil jurisdiction only to the Supreme Court, and there is no provision to state a case to the Supreme Court on a matter of law. Instead, the Magistrates Court may state a case direct to the District Court. There is an appeal from the District Court to the Court of Appeal by leave of the Court of Appeal, both in civil and criminal matters, except that leave is not required in the case of judgments involving certain money sums.

I suggest that, from these examples, one cannot clearly discern any distinct trends interstate. It is difficult to make direct comparisons. However, examples can be found of attempts to limit multiple appeal options and to set leave requirements in respect of access to superior courts in summary or minor matters. While I cannot say that this bill follows any trend, I do not believe it is at odds with comparable provisions in other states.

The Hon. Mr Gilfillan expressed concerns about the effect of the bill in respect of particularly complex or controversial criminal cases which might proceed all the way to the High Court, especially where the defendant is impecunious. As the honourable member said, the High Court will only hear such appeals in cases where it sees fit to grant special leave, and it is fair to say that most of the matters coming before the Magistrates Court would be unlikely to attract such leave, but of course some will. I suggest that such cases would most often be dealt with in one of two ways: either the Magistrates Court would reserve the question of law for determination by the Supreme Court (rather than determining it itself) as provided for in section 43; or, as provided by clause 4 of the bill, a single judge dealing with the matter on appeal would refer the case for hearing and determination by the Full Court.

A case in which it is apparent that a complex issue of law is raised would be the classic case for the use of this power. The process is already available under section 42(3), so that even where a defendant has elected to appeal to a single judge the case may, if complex, be referred to the Full Court. I believe this is not uncommonly done and is often done with the consent of the parties. For this reason, I believe that it is quite unlikely that the four-stage process outlined by the honourable member would occur.

The honourable member also referred to the matter of 'criminal defendants on serious charges'. I point out that this bill has no application in the case of major indictable offences, and that in the case of minor indictable offences it is for the defendant to elect whether to be tried summarily or in a superior court.

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: Yes, and it will remain so. I also suggest that, in the case of an impecunious defendant facing a legally complex and controversial prosecution worthy of the attention of the High Court, legal aid would be likely to be available in many cases. For all these reasons, I believe the bill is unlikely to lead to the evils feared by the honourable member.

The Hon. Mr Gilfillan also asked how often at present the right to elect for the appeal to be heard directly by the Full Court is exercised by appellants. It appears that no statistical record is kept by the court, but in its experience the event is so rare that the figure can be estimated at less than 1 per cent. I thank all members for their support for the second reading of the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. IAN GILFILLAN: I would like to thank the Attorney for stressing the matters raised in my second reading

contribution. If not exactly statistically precise data, his answer to the question as to how many appeals have taken place, as I understood it, was that it was less than 1 per cent. That really puts it in some context, that my concern is minute enough not to be worthy of any further concern by us. With that, and because of the other explanations he made, I indicate that the Democrats' concerns have been put to rest. We will support the bill through its remaining stages.

Clause passed.

Remaining clauses (2 to 6) and title passed.

Bill read a third time and passed.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 20 October. Page 158.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank His Excellency for his speech in opening this parliament, and I also thank him and Lady Neal for their enthusiasm and energy in promoting South Australia, in mixing and meeting with everyone, and in opening up Government House to more and more people to visit and enjoy. I make special mention of an initiative that his Excellency and Lady Neal have undertaken, and that is to support South Australian visual artists. The first drawing room now features work by contemporary South Australian artists; the second larger drawing room continues to feature work by older artists and more traditional work. I know that this initiative, in terms of such a public display of the work of South Australian visual artists with contemporary work, is very much appreciated by the wider arts community.

I want to address the matter of land use. The Hon. Mike Elliott, in speaking a couple of weeks ago on matters of interest, raised the issue of land use planning and transportation in particular. In speaking to this subject today, I note the motion on the Notice Paper of the Hon. Nick Xenophon. He is very keen to see that members of parliament are more accountable in terms of their overseas trips when paid for by the taxpayers.

I report that in August and September I visited the United States. I used my parliamentary allowance, not my ministerial allowance, for this purpose. I am happy to openly report on the trip because it was an absolute inspiration to me individually and in my role as Minister for Transport, Urban Planning, the Arts and the Status of Women. So, in part, this will be a brief parliamentary report, but reported publicly in this place.

I visited Portland where, over some 40 years, there has been a revolution in land use planning and transportation. Portland has been the inspiration for what is a very strong movement in the United States now and in Europe under the title of smart cities. This smart city concept also embraces smart growth. Portland, as the major city within the state of Oregon, but not the capital city, is leading in these issues, but I should highlight that legislation in Oregon requires all of its cities to address land use issues very actively and in a legislated way, with urban growth boundaries, transportation initiatives, long-term planning, and the like.

Seattle in the past five years has imposed urban growth boundaries, as has Indianapolis and many other cities. These issues are particularly relevant to the mix of portfolios for which I am responsible. I have taken a very keen interest in them on a personal level for a long time mainly, I suppose, because, as a woman, I know that women more than men use the community for a whole variety of purposes. They continue to be responsible—and whether they wish to exercise all of this responsibility is another matter—for most family-related and home-related activities. I am interested in these issues from an arts perspective and how arts can work to build better communities; as well as publicly celebrate those communities to develop a sense of identity and public pride. I am interested in the issues from the perspectives of public transport, roads, jobs, wealth creation and urban planning.

One of the matters that was so clear to me in Portland relates to something that has been dear to me in Adelaide for a long time, namely, the size of our city. I have never been one who has bemoaned the fact that we are smaller in size than the eastern seaboard cities and that we must always look beyond our city for exports, for jobs, for productive investment. I think the size of our city is in fact a strength and it has a human scale which many cities around the world are today losing. I think that this human scale is extraordinarily important and should be maximised and should be celebrated.

The issues that Portland has been addressing are very similar, of how we keep a human scale, how we keep a community focus, how we become smart not only in the way we develop in land use planning terms but also in the industries that we attract and encourage to expand in this state. As Minister for Urban Planning it was my pleasure in April to release for public discussion a green paper entitled 'A Better Place to Live: Revitalising Urban Adelaide', which brings together development issues, populations, demographic change; it focuses on those issues over the last decade or so and looks to the future on how we wish to develop our city.

From the other portfolio perspectives for which I am responsible this green paper issue of how we revitalise suburban Adelaide and how we discourage sprawl is really a key to human scale and our future prosperity. There is a real danger in any country or city that does not limit sprawl, because what we are doing in our failure to limit sprawl is we are not treating our productive land, or in fact our land as a whole, as a precious resource.

The issues that I deal with are very much related to this issue of sprawl. In public transport terms, the way in which we have allowed Adelaide to spread north and south without taking account of who we are encouraging to live further from centres of infrastructure is a particularly difficult issue to tackle. In Adelaide we have one standard fee for public transport. We can travel from north to south of the city, some 80 kilometres, for one standard fare. We have more people living further away than we ever envisaged in terms of a subsidised metropolitan public transport system, and the demands are enormous today to extend that subsidised system.

There is no demand, I note, to bring in a zoned fare but it will be something that we will have to address if we are to deal effectively with regional centres within our metropolitan limit, so that people do not feel that their only option is that they must travel to the city to get all that they need and that therefore they must travel some distance, and that if we introduce zoned fares they must then pay a considerable sum, as a penalty for living further from the city. Zoned fares are not on the agenda for this government, but what should be on the agenda is the way in which we are giving people, particularly people on lower incomes, little choice but to live further from centres of population usage and jobs and, at the same time, in terms of the affordable housing debate,

allowing people on lower incomes trying to build up a family, or pensioners, to live outside a network which supports subsidised public transport.

So, if we look at the demographics and population and income levels, the people on the lower incomes in our city are generally living towards the outskirts of the city without the supports that many of us would consider are absolutely necessary for the more vulnerable in our community and for people with larger families, or with an ageing population. I do not think we will ever be able to—and nor in fact would I argue that we should—completely subsidise public transport at one standard fare, for some 120 kilometres across the metropolitan area, yet that is what the push will be and that is what we will see in terms of a city 120 kilometres in length if we do not start addressing this issue of urban sprawl.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I am going to bring these things together in a moment. I just want to address the subsidised public transport system and those pressures. At the same time we have a public transport system that is under-utilised throughout most of the system because we have never encouraged a density of population along our corridors, and anywhere in the world, if one looks objectively at successful public transport systems, it is where there is a pool of people that will support that system, and a pool of people where it is convenient for them and it is a better option than going by the motor vehicle. But we have never encouraged that land use planning with a public transport system, and we have a highly subsidised, grossly under-utilised public transport system, where the people who most need it are not able to access it.

At the same time, we have what I think is a very distressing circumstance, and that is an urban sprawl into prime agricultural land, whether it be the Adelaide Hills, the Willunga Basin, and north to Virginia. We are seeking to isolate those packages of land for retention for agricultural purposes but I do not consider that we are doing it in a planned way, that is, building up land use planning and densities where we have invested in the past in the infrastructure for our city.

I say that because from the transport perspective I am acutely aware that the road system that we have in this state is ageing. The majority of our roads were built some 30 or 35 years ago. We are now seeking to optimise use and maintain that structure, but it is ageing and much of it needs to have a new base as well as asphalt surfacing.

But we have not only a road issue in terms of ageing infrastructure; the same can be said for our power, our water and our gas. It would seem to me that any business—and I think government is a business, but with a social and community responsibility, more so than business—would always maximise its assets. A business does not necessarily go on and buy more and more new assets and add to the pool of assets. It maximises its assets and makes sure they work for the business. I do not believe we are doing that well in this state.

At the same time we are closing schools, and I think that has been a particularly distressing exercise for this government to deal with. I know why they have done it, because the pressure is on the outer suburbs where there is a growing population and growing demand, and we in this state over the past five years have just not had all the money we would wish to meet all community expectations, and the only way to meet the demand in the outer areas has been to close schools where there has been a declining population. But, if we had been thinking through this issue of land use planning and the development of our city, and maximising quality of life, quite some time ago we would have started looking at not only our road assets but our schools and the like to build up the populations to support those schools and optimise our investment in those assets, just as we have mentioned we would do with public transport interchanges and railway stations.

We have an issue with the city centre—and I will not go into these debates again, because we have heard them on endless occasions in this place and in the other place—of how we maintain an employment and residential base and that we do not see more businesses go to the outskirts of the city and further afield. This is a problem for public transport, which is all directed, in terms of our fixed corridor assets, on the city centre. So, it makes sense in terms of not only our cultural assets but our transport assets that we should be building up jobs and the number of people who live here to, again, utilise fully our public transport assets. We have big issues in terms of open space across the community, and I am not at all surprised that people have been clamouring for a plan for open space management.

Affordable housing is related to this issue, too, because the argument from the housing sector so often is that the only affordable housing is on the outer limits of our city and, therefore, this is the choice that people are positively making. When you look at the overview of the issues I have just highlighted, it is important to note that some $20 000 of taxpayers' investments essentially is used to subsidise every block of land in the outer regions of the greater Adelaide metropolitan area. That is a sum that takes into account not the quarter acre block but the smaller block that we are now seeing as the basis for subdivision in this state.

That hidden subsidy—that $20 000, which would be the cost of the new roads, sewers, schools and the like—should be a cost that is taken into account and, at least, it should be debated openly. We should be working out whether that is the best use of that dollar or that subsidy or whether we could not be better utilising those funds to encourage people—first home buyers and the like—to look at options of living in the city or medium distances from the city and better utilising our existing assets as a consequence.

The Hon. A.J. Redford: We could even decentralise. I know it's out of fashion.

The Hon. DIANA LAIDLAW: I would not argue that we would want to decentralise within the greater metropolitan area, but certainly beyond that. Mount Gambier is a great example.

The Hon. A.J. Redford: Port Lincoln.

The Hon. DIANA LAIDLAW: Yes. There are many examples we could look at for maximising our assets, advantages and lifestyle—and looking at the $20 000 subsidy I mentioned not only for inner city and medium distance living and the associated lifestyle but possibly even for encouraging people to live beyond the greater Adelaide area. I thank the Hon. Angus Redford for that interjection. That was one of his best interjections ever. I present these issues, because I have found them taxing. I have found it difficult to get people to look at the whole picture, particularly in the public sector, and not at their little domain. This issue relates directly to the quality of life that we prize here. We prize it, but I do not believe that we are protecting it, because we are not addressing these issues. This is one reason why I want to thank the Premier, the Hon. John Olsen, for giving me a bigger workload than I actually need. I now have this mix of

portfolios of transport, urban planning, arts and women. This portfolio brings, for the first time ever in this state, a focus on quality of life issues—urban infrastructure, agricultural land surrounding our city, and the way in which we wish to develop in the future.

We have an option to do nothing, but I would say that the alternative of doing nothing will be completely unacceptable, because the issues I have presented will be just further exaggerated. As we look to the future, I do not think we should be leaving those issues to run amok without seeking to address them in the best interests of everyone in this state. I believe very strongly that we need to find new and effective ways to ensure that the growth and development in our metropolitan area is sustainable, that it benefits all residents and that the exceptional liveability of our city is maintained.

Urban sprawl is defined as low density development on the edges of town which is poorly planned, land hungry and car dependent and which has little regard to its surroundings. It is a wasteful use of land. It certainly costs money—and I have highlighted that in terms of the subsidy cost—while we are also neglecting the maintenance of past investments, and that is highly irresponsible. There are social costs as well and, when you look at unemployment and other social issues—for example, tensions in families, single parents, domestic violence and child abuse—it is just horrible to think that so many of these problems appear to be more exaggerated at the outer limits of our city than elsewhere in our city.

The Hon. Carmel Zollo: There's good reason.

The Hon. DIANA LAIDLAW: I know there's good reason. That is an interesting interjection. I understand the reasons for it, but people do not always understand that it comes back to land use planning to address many of these issues, because the people who most need the supports are being given housing choices far from those other choices and without the necessary public transport access to reach those supports when they need them.

The Hon. A.J. Redford: It is a lot more than planning.

The Hon. DIANA LAIDLAW: Yes, but it is greatly a matter of planning. I am getting the figures together for Adelaide, although I do not have them at present. It is relevant for my research to have examples from the United States, where some cities, such as Portland and Indianapolis, are far more advanced with their 'smartcity/smartgrowth' concept. In the United States of America in the 1990s, for every 1 per cent growth of population, there has been a 10 per cent to 20 per cent increase in land consumption.

I have been informed that in Maryland, if growth continues at the recent pace, it will consume as much land in the next 25 years as it has in the previous 300 years. I am told that in Albuquerque, New Mexico, if the current rate of development and growth continues—and that is land use growth, not necessarily population growth—that city will have to come up with $32 billion to spend on roads, drainage systems, and water and sewer lines over the next 20 years. Such a scenario for Adelaide is just beyond the realms of reality, and we cannot present such circumstances to the people in this state in the future.

It is also important to recognise that in the United States of America alone 400 000 acres of farm land is consumed each year by sprawl. These are not just lifestyle, environment or agriculture issues: they are important in terms of competition, viability, prosperity and employment. I highlight just one example from Atlanta that was featured in the papers while I was in the United States. Hewlett-Packard, a big photographic equipment company, had planned to build another 20 storey building and encourage more workers. The company spoke to its work force and they said that they were spending too long in their motor cars and were not prepared to look at the option of travelling for three-quarters of an hour in congested conditions simply to get to and from work. They wanted to move to where congestion and pollution did not reign supreme as it did in Atlanta. So, Atlanta lost that business after the company spoke to its work force about the way in which people wished to lead their life in the future.

Portland has had 40 years' head start on us in addressing the 'smart city/smart growth' issues, but what was exciting for me to learn was that so much of what we are doing here addresses the same issues. We have not pulled it together across government or in partnership with the community to achieve the wise outcomes that we should have for future generations.

We have the Parklands 2000 consultancy which is looking at second generation parkland issues. We have the cycling strategy which is working effectively to double cycle use. Pedestrian safety is now a strong focus within Transport SA. Some six years ago I do not think that we noted that there were any pedestrians—our only responsibility was the motor vehicle. Our Safe Routes to School program is very effective. We are working with councils on setting 40 km/h speed limits in residential streets as the people try to reclaim a sense of community in those streets and say that residential streets are not only for car use.

In the Passenger Transport Board, TransAdelaide and Serco we have a strong focus on increasing patronage. This year, areas where it is deemed that we can gain the greatest growth will be furnished with information signs and shelters and a whole range of infrastructure that we know is necessary to encourage people back to public transport as a safe and accessible alternative to the motor vehicle. We started Travel Smart programs where we speak with families and encourage them to look at how to plan their journey, save time and use their car less.

We have a strong City of Adelaide focus. We are dealing with the peri-urban issues in the Adelaide hills with a plan amendment report. I released this month the Residential Design Bulletin, and we certainly have long-term plans for investment in public transport infrastructure. So, most of the elements are there. We need to pull them together to make sure that they work toward our long-term benefit as a livable, sustainable and socially just city.

As I said, Portland started to look at this issue 40 years ago. It was from Portland that South Australia gained the inspiration for its container deposit legislation. Portland has been advanced in a lot of its thinking for a long time. In speaking to many senior civic and business leaders and public sector representatives in Portland, I was particularly interested to learn how this exercise started. When I said that I thought it might have been a social experiment, they laughed.

The whole focus on urban sprawl and how to deal with it, the rejection of it, and the consequent trade-offs was promoted by a moderate Republican. During his candidature some 40 years ago he realised that his elector base comprised farmers who were becoming agitated about the way in which their land was being eaten up by urban sprawl. They were agitated by the conflicts caused by people moving to the fringe and hobby lifestyles, protesting at productive enterprise on farms.

He also had a constituency of property owners in the city who were losing value on their investment because people

were moving away from the city. People did not want to live there and they were not using businesses in the city. He had these issues debated, and Portland has embraced 'smart city/smart growth' concepts ever since. Portland has now legislated an urban growth boundary. I am interested in the fact that not only has Portland done this but the whole of Oregon has embraced these issues, and they are being advanced across America. I understand that 'smart city/smart growth' concepts will be an important part of the next presidential election for both Democrats and Republicans in the United States. In Austin, Texas—

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: No. They are all thinking. We are thinking here, but we have not yet pulled it together to gain us real advantages. They have looked closely at land that has been deemed to be developed and assessed whether it has really been developed. They have invested in reclaiming contaminated land to make sure it can again be used productively. They have not isolated their farmers on the fringe of towns. Where farmers are fighting for their viability and feeling threatened by urban growth and hobby farmers, they are working with them to see how they can remain viable—there is a whole network structure—and making them aware that their only alternative is not to sell up, subdivide their land and increase the pressure of urban sprawl.

They have legislated for a 20 per cent decrease in car use. They have a scale of centres, including right down to the corner shop. They have invested in public transport and green space, and what is interesting is that they are planning for the year 2040. So, Portland, like other cities in Oregon, has involved the community by putting the issues forward and indicating the alternatives. If you do not address these issues, what are the alternatives? The people of Portland have rejected the alternatives, because they involve more congestion, spending more time in vehicles, reduction of agricultural land and more pollution—which results in a city with a dead heart. These are things that Portland did not want to see for its city as it looked, initially, towards the first 40 years (this year) and as it now looks towards the year 2040.

I want to briefly highlight that in Portland the emphasis in transport has been on public transport investment. They have limited their investment in road transport. This did not come about immediately but after they addressed a whole range of other issues and looked at their overall investment policies. I highlight this issue because it is for the government overall to decide how best to use taxpayers' money to optimise our assets. What should we invest in as new assets and what can we use more constructively than we have in the past? It is about valuing all people and recognising that there will be heated debate on some of these issues, because the NIMBY system in Portland runs as rife as it does in Adelaide. It is about recognising that, when faced with the alternatives, it is important to consider the trade-offs, and in Portland they have been embraced.

I am keen to advance these issues. Over time, I have spoken to a wide range of people about these matters. I have tried to promote them in the green paper on revitalising Adelaide: 'A Better Place to Live'. Public comment has closed on that specific paper but it should never be closed on the issue.

The South Australian Farmers Federation, the Conservation Council and the Property Council are all considering the same issues and, I believe, they are all poised to work together constructively to address these issues for the benefit of Adelaide, all from their own perspectives. It is interesting to note the amount of common ground when one starts talking to what are seen generally as disparate interest groups. I will encourage debate on these issues. I hope that we will see that in this place, in the wider community and in partnership with local councils.

I should indicate that I have met with the metropolitan mayors and CEOs, and there is strong understanding that these issues must be addressed in the wider metropolitan area and not only from a short-term, insular perspective. I acknowledge the contribution made by the Hon. Mike Elliott to these matters and look forward to working with everyone from the Property Council, the Employers' Federation, the Farmers Federation and the unions, and even with the Hon. Mr Elliott, on these matters in the future.

The Hon. A.J. REDFORD: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. CAROLINE SCHAEFER: I thank the Governor for his speech opening the Third Session of the Forty-Ninth Parliament. I take this opportunity to thank both Sir Eric and Lady Neal for their active participation in the affairs of this state. They have taken it upon themselves to be not only heads of state but also ambassadors and, indeed, marketers of South Australia and all its attributes. We in South Australia have been very fortunate in that we have had, by and large, excellent heads of state, and one wonders whether any new process could possibly improve the calibre of people we have had, certainly in my memory.

The Governor has spoken of the strong economic growth of our state: exports are up by 6.5 per cent against a national downturn. Much of this growth has again come from rural South Australia. An outstanding example of this is the growth of the Riverland at 30 per cent per annum for the past four years. This illustrates just how resourceful South Australians are. When I came into parliament in late 1993, the Riverland was suffering a serious economic decline. Valencia oranges were being buried in paddocks. Navel oranges are now being exported around the world and, in particular, to the United States, which is, in itself, one of the largest orange exporters in the world.

It is easy to think that the boom is centred around the wine industry, but the Riverland has also a substantial growth in its almond industry. When I visited the area with the Hon. John Dawkins earlier this year, one of the impediments to further expansion, which was expressed by many, was a lack of infrastructure. People were being hampered by a lack of electricity supply and a lack of road infrastructure, etc. I therefore commend the government for setting up the Regional Infrastructure Fund, which will help pay for some of those costs in regional South Australia. In my view, it is nowhere near a large enough fund but, if we can at last reduce our debt to a manageable level and if the economy continues to grow, perhaps the Treasurer will be able to increase that fund.

It would be ignorant in the extreme to suggest that all is well and booming in rural South Australia: of course, it is not. Our deepest sympathy must go to many in our northern pastoral areas who have the double problem of prolonged drought and a wool market which has plummeted and which is likely to remain very low into the foreseeable future. I am pleased that Deputy Premier Kerin has announced a community task force chaired, as I understand it, by Mr Graham Gunn, to look at some survival strategies for these

people and those in the marginal cropping areas adjoining them.

The pastoral areas of Australia are particularly well managed by their occupants, but they are environmentally sensitive and have always been suited almost exclusively to wool growing. It will require a great deal of goodwill and lateral thinking on the part of all concerned to reach a solution. I was pleased to learn that the federal government is also implementing a strategy which will take in all the range lands, not just in South Australia but also the larger areas of range lands in New South Wales and the overlapping parts into other states. Rural South Australia is changing rapidly and for all of us the pace of change borders on frightening.

For as long as I can remember the lack of communication services has been a constant bugbear for rural people and, of course, it has always been a catch 22: the most isolated people have the greatest need and tend to have the worst services. How many times have people said to me, and I am sure to others in this place, 'Do not talk to me about getting onto the web when I do not have the internet and I do not even have ISDN cabling', or, 'It is so slow I can't be bothered using it'? That is why I am absolutely delighted that the Premier, Minister Armitage and Minister Buckby have jointly announced the Pathway program, which will mean that every school and every school child in South Australia will have internet access at the same speed and the same price as their city counterparts, and they will have it next year.

There will also be considerable spin-offs for local businesses and local providers. In my view, this is a really exciting development, especially for remote regions and most especially for their children. I understand that Minister Armitage announced yesterday the implementation of a training program to help country people reach internet proficiency. As I have said, these innovations have the ability to change the way rural South Australia does business. They are being given the tools and I hope that they will grasp the opportunities.

One area which is also suffering from drought, isolation and lack of business opportunities is the Far West Coast. I visited that part of our state last weekend and I can assure members that many of those people will not be wearing out their headers this year. Farming is becoming more efficient and, even in a poor year such as this, many will still reap seed and/or cover costs. Unfortunately, one price being paid for this increased efficiency is larger holdings, larger machinery and fewer jobs. To retain their communities, many country areas are looking for other more labour intensive industries. Ceduna has the chance of just such an opportunity: the geophysical anomaly in the Yumbarra Conservation Park. I do not propose to speak at length on this issue today since I intend to speak fully during the debate, but I know that the hopes of that entire community are pinned on at least being able to investigate whether or not there is something there.

Another very positive plan with which I have the pleasure to be involved is the Food for the Future Council. As many members know, it is an ambitious plan to increase the value of food in this state to $20 billion by the year 2010. That will mean jobs and income for rural South Australia. Since we began collating data two years ago, the value of food to South Australia has grown by $2 billion, so we are well on the way to reaching our target. To achieve our goals we will have to concentrate on value adding, on increasing exports, on high value niche products and on convincing our producers that we need to grow for the market, not grow what is easy and then try to sell it. We call it from plate to paddock rather than from paddock to plate.

We are endeavouring to help the producers who are willing to become export ready and then to remove bureaucratic impediments to their export readiness. As such, we are encouraging alliances between producers, processors and freight companies. The Food for the Future Council is made up of senior ministers, that is, the Premier, Minister Kerin and Minister Evans, senior bureaucrats, and leaders of private industry with an interest in the food industry.

One of the great achievements in the last 12 months has been the formation of Food Adelaide, which is an alliance of exporters who already have a full-time officer in Tokyo and are looking at putting another officer in Korea. These people are devoted to encouraging trade in food—our food—into those countries. We are already starting to reap the benefits from that program. We are also attempting to promote champions, that is, people whose expertise, advice and example can be followed by others who wish to trade overseas.

As many members know, I escorted a market awareness group to the Hotels Expo in Hong Kong, and we went to both the modern supermarkets and the wet markets in Hong Kong. Another group went with Minister Kerin to Israel. During Tasting Australia we sponsored a number of buyers into our state so that they could speak with the people who produce and market the food they want to buy.

I commend those who were involved in organising the week of Tasting Australia. It certainly showcases the excellent, clean, green environment that we have, our readiness to export excellent food overseas and our ability to train our food preparers. It also shows that we are probably the gourmet state of Australia. During Tasting Australia it was announced that our Regency Park training college had been registered as the only cordon bleu school in the world outside France.

A number of working groups have been formed within the council to concentrate on industry culture and promotion, quality food, export facilitation, technology and innovation, and strategic investment. Each of the working groups is chaired by someone from private industry and is staffed by officers from various departments. That is probably the thing that excites me most about Food for the Future, that it is not a department in itself. It is an across-government plan, and the work is done by private industry with whichever government department has the requisite expertise to develop the proposals. As convenor, I work with departmental people who react to the plans of the working groups, and I am constantly impressed by both the standard of their work and their enthusiasm for this plan.

One of the impediments to the development of our food plan in South Australia is water. As this week's discussion paper has pointed out, we do not necessarily use all the water that is available to us, even though we are the driest state in the driest continent. In fact, quite a lot of the water that is allocated to us is not used, and it is certainly not used for its best production value. I hope that all members will continue to keep an eye on the Food for the Future Council, that they will read the water plan discussion paper and that they will have their input early because I believe that our strategic use of water in the most cost effective and efficient manner will have far-reaching implications for the future of South Australia and, in particular, rural South Australia.

As I have said, rural South Australia is changing irreversibly. Some of us would rather that did not happen, but we

cannot go back and there are always opportunities in adversity. I hope that we can all move forward and take up these opportunities. I support the motion.

The Hon. G. WEATHERILL secured the adjournment of the debate.

ADJOURNMENT

At 5.16 p.m. the Council adjourned until Tuesday 26 October at 2.15 p.m.