HOUSE OF ASSEMBLY

Wednesday 27 November 1991

The SPEAKER (Hon. N.T. Peterson) took the Chair at 2 p.m. and read prayers.

PETITION: HOUSING TRUST DWELLINGS

A petition signed by 81 residents of South Australia requesting that the House urge the Government to review the policy on the provision of heating appliances in Housing Trust dwellings was presented by the Hon. H. Allison.

Petition received.

PETITION: SUPERANNUATION FUNDS INVESTMENTS

A petition signed by 1 214 residents of South Australia requesting that the House urge the Government to ensure that superannuation funds investments are ethically placed was presented by Mr Heron.

Petition received.

PETITION: TEA TREE GULLY POLICE SUBSTATION

A petition signed by 1 971 residents of South Australia requesting that the House urge the Government to maintain the Tea Tree Gully Police Substation as a 24 hour substation was presented by Mrs Kotz.

Petition received.

PETITION: CHILD ABUSE

A petition signed by 181 residents of South Australia requesting that the House urge the Government to increase penalties for offenders convicted of child abuse was presented by Mrs Kotz.

Petition received.

PETITION: MODBURY DOMICILIARY CARE

A petition signed by 48 residents of South Australia requesting that the House urge the Government not to relocate Modbury Domiciliary Care to the Lyell McEwin Health Service was presented by Mrs Kotz.

Petition received.

PETITION: CREDIT TRANSACTIONS

A petition signed by 44 residents of South Australia requesting that the House urge the Government to remove the financial institutions duty on credit transactions was presented by Mrs Kotz.

Petition received.

PETITION: SURREY DOWNS TRAFFIC LIGHTS

A petition signed by 33 residents of South Australia requesting that the House urge the Government to install traffic lights at the intersection of Yatala Vale Road, Golden Grove Road and the Grove Way at Surrey Downs was presented by Mrs Kotz.

Petition received.

PETITION: ROAD FUNDING

A petition signed by 22 residents of South Australia requesting that the House urge the Government to reduce the tax on petrol and devote a larger proportion of the revenue to road funding was presented by Mrs Kotz.

Petition received.

PETITION: PROSTITUTION

A petition signed by 13 residents of South Australia requesting that the House urge the Government not to decriminalise prostitution was presented by Mrs Kotz.

Petition received.

QUESTIONS

The SPEAKER: I direct that the following answers to questions without notice be distributed and printed in *Hansard*.

TELEMARKETING

In reply to **Mr HAMILTON (Albert Park)** 10 October.

The Hon. G.J. CRAFTER: Persons engaged in the business of providing advice, hiring out or supplying and installing or maintaining prescribed security devices for the protection of persons or property are required to be licensed under the requirements of the Commercial and Private Agents Act 1986 with the endorsement of security alarm agent. A telephone canvasser who does not install prescribed devices or attend premises for the purpose of giving advice or maintaining a device is exempt from the provisions of the Act.

The Commissioner for Consumer Affairs recommends that consumers should not provide details of any security devices (if any) installed in their homes to unknown persons either over the telephone or in person. Consumers that are concerned about the conduct of telephone canvassers asking questions about the security of their homes should obtain the name of the security firm involved and report the matter to the Commissioner for Consumer Affairs for further investigation.

CEMETERY VANDALISM

In reply to **Mr De LAINE (Price)** 14 November.

The Hon. M.D. RANN: The Cheltenham cemetery is administered by the Enfield General Cemetery Trust. My colleague the Minister for Local Government Relations has advised that police officers undertake regular surveillance of the Cheltenham cemetery, and people have on occasions been apprehended in the cemetery, and charges laid. The trust has recently sought expert advice from security providers on how security might be improved. While the most effective means would necessitate a high fence with gates locked when staff are not in attendance, this would not be generally acceptable, particularly to those people who visit

the cemetery outside of normal business hours. It is also particularly difficult to see people within the Cheltenham cemetery grounds with the many tall monuments and vast maze of coloured stone, even in daylight hours. The trust will continue to place a high priority on measures to maximise security at the cemetery.

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Fisheries (Hon. Lynn Arnold)—
Department of Fisheries—Report, 1990-91.

By the Minister of Housing and Construction (Hon. M.K. Mayes)—
HomeStart—Report, 1990-91.

MINISTERIAL STATEMENT: RAZOR WIRE

The Hon. M.K. MAYES (Minister of Public Works): I seek leave to make a statement.

Leave granted.

The Hon. M.K. MAYES: Last Wednesday, the member for Newland asked me why an Australian tenderer for razor wire was not selected for the project at Mobilong Prison. As I said in my reply, some of the honourable member's facts in her statement following that question were not accurate. It is because of these inaccuracies that I believe a detailed reply is warranted, because there is an inference that an inferior product has been selected.

The background to this project is that the Department of Correctional Services requested that the perimeter of Mobilong Prison be upgraded by the provision of barbed tape fixed to the inside of the outer fence as an additional obstacle to deter and delay escape attempts. SACON issued invitations to four selected tenderers on 11 September 1991 nominating a closing date of 20 September 1991. Offers were received from Trailock Pty Ltd, a Western Australian firm, nominating an American manufacturer; Barry R. Liggins Pty Ltd, a New South Wales company, nominating an American manufacturer; Gryffen Pty Ltd, a Victorian firm, nominating an Australian manufacturer; and Boral Cyclone Fencing, a South Australian firm, acting as an agent for Gryffen Pty Ltd.

The specification was based on the Australian product nominating the trade name, manufacturer and performance characteristics. Clause 5 of the specification preliminaries qualifies the use of trade and brand names and permits the use of similar and equal products approved by the superintendent. The technical specification allows 'an equal alternative if approved by the superintendent and the Director of Correctional Services'. The American product, which was finally selected, uses 430 grade stainless steel in lieu of the 301 grade austenitic stainless steel specified and, while this product may be argued as technically non-conforming, it was considered by the superintendent in charge of the contract as sufficiently similar to warrant its selection having particular regard to the extremely wide price differential between the American and the Australian product. On 29 September 1991 the Crown Solicitor's Office was advised that the superintendent's decision was legally correct.

The statement by the honourable member last Wednesday that the Australian contractor would have had to pay a premium to BHP is completely new to SACON. In fact, the superintendent of the project has made telephone inquiries to BHP and was advised that this information is incorrect. More to the point, the tender price differential between the American and the Australian product is $95 000—that is, the Australian product is more than 50 per cent more expensive than the American product and, even if a penalty loading of 20 per cent was applicable, the price would still obviously not make the Australian product competitive.

Apart from the honourable member's question last Wednesday, there was in the *Advertiser* last week a statement by a member in another place that the selected razor wire will rust. Having regard to the environmental circumstances in which this razor wire will be installed, it is the judgment of the superintendent that this claim is incorrect. The selected razor wire is stainless steel, as is the Australian product; the essential difference between the two products is that the Australian version contains nickel and the American product does not. The addition of nickel increases the tensile strength of the wire, a factor which is not considered relevant or critical in the proposed use at Mobilong.

I should point out that the American razor wire of the type selected has been used in American Federal and State prison institutions for a considerable time. It has also been used in two projects in Western Australia and all reports are that it has performed satisfactorily. There was a minor delay of a few days on the project due to load scheduling and processing on the wharf in Melbourne. However, the razor wire was expected on the site last week, and the project will be completed early in December.

This is a completion date within three weeks of the planned completion date and given the considerable price saving—a saving to the taxpayer—this minor delay is considered acceptable by the client. One other aspect of interest is that we have since discovered that for a similar job in Queensland the Australian tenderer reduced his price significantly. One could be excused for drawing the conclusion that perhaps he was caught out by inflating his price on this South Australian project and is now tendering on more realistic terms.

QUESTION TIME

FEDERAL BANKING INQUIRY

Mr D.S. BAKER (Leader of the Opposition): Does the Treasurer, as Minister responsible for the State Bank, accept the findings of the Federal banking inquiry that the State Government was 'naive and grievously in error' for not appreciating 'the need for an independent external supervisor for their State Bank'? The State Government submission to the Federal banking inquiry sought to place a good deal of the blame for the $2 200 million losses of the State Bank of South Australia on the failure of the Reserve Bank to adequately supervise the bank.

The Hon. J.C. BANNON: That matter is a central consideration for the royal commission and I do not think it is appropriate that I or the Opposition should comment in any fulsome way on that question until those proceedings have finished and the Commissioner has made his findings. If we were 'naive and grievously in error', which is the phrase quoted by the Leader, we were in good company indeed, because it includes the company of those members of the Opposition who supported the State Bank Bill and the provisions which kept the Government at arm's length from the bank.

I also draw attention to the fact that, as a matter of policy, the bank observed prudential requirements and consultations with the Reserve Bank. As I understand it, the Martin inquiry has found that that supervision, to the extent it was carried out, was inadequate. Further detail and judg-

ment on that matter is properly the prerogative of the royal commission and not something about which I or any other member should speculate.

However, I draw to the attention of the honourable member that the committee recommends that State Governments should formally refer powers over State banks to the Commonwealth Government so that State banks can be regulated and supervised in the same manner as private banks. If the State banks choose not to do so, the Reserve Bank should exercise its power to supervise their activities outside their home State. In our case, it is not necessary for there to be a referral of powers. We have obtained the consent of and formally agreed with the Reserve Bank that it shall supervise in that way and in all those respects. Indeed, that process is occurring right here and now. Whatever the mistakes of the past, and that is obviously the topic of the royal commission, I assure the House that, in relation to that recommendation and to that question of supervision, we have certainly attended to it and it is formally in place.

Mr D.S. Baker interjecting:

The Hon. J.C. BANNON: The Leader interjects, 'Did you know about it before?' As we are paying very large sums of money for him to be represented before the commission and as he has access to all the documentation, he has no need to make such a false interjection. He chooses to do so because he hopes that will create a little more controversy. I repeat: the bank observed Reserve Bank prudential supervision. I repeat that, if we were in error, we were in error in common with every member of this place who supported the legislation under which the bank operated. I repeat: we have now concluded arrangements with the Reserve Bank for that formal supervision to take place, which can occur without the need for a referral of powers. Nonetheless, we accept totally the recommendations of the Martin committee, which we have already implemented.

GOODS AND SERVICES TAX

Mr QUIRKE (Playford): What discussions has the Minister of Health had with the Federal Opposition or with members of his department in the light of changes foreshadowed in the GST package? Members are no doubt aware of the basic thrust of the Federal Opposition, should it come into government, to push low income earners out of Medicare, to abolish bulk billing and to reduce resources to the public health system.

The Hon. D.J. HOPGOOD: It may come as no surprise to the honourable member and to the House to know that in fact no discussions have taken place. Dr Hewson did not seek audience with me. The phone did not ring at any stage, and that seems to be a little bit of a pity. Quite apart from the changes to Medicare, I particularly want to pick up the final point, as I recall the honourable member's question, dealing with services to the community.

As I understand it, the so-called package that was launched a few days ago contains at its core something which one is really pushing uphill to make popular, and that is a form of value added tax or what is called a goods and services tax, one that permanently adds to the cost of a very large number of goods and services. There is no way that that can be made popular, so the Opposition has tried to—

An honourable member interjecting:

The Hon. D.J. HOPGOOD: Yes—a total package, to wrap this unpopular move around a number of other matters which are, at least superficially, attractive, particularly to high income earners. The only way the equation can work out—and I believe this has been admitted by the Federal Opposition—is by indicating that it will reduce Commonwealth expenditure by between $10 billion and $11 billion. I invite members to do a few sums. In most of the fiscal matters, South Australia represents one-tenth of the whole of the Commonwealth. Indeed, if the whole brunt of those savings were to be absorbed in the grants to the States in taxation reimbursement, South Australia would stand to lose $1 billion. That is my health budget; that is equivalent to closing down every health unit in the State.

If members feel that that is exaggerating a bit, that that is not the way in which it would work should there ever be a situation where Dr Hewson was in a position to try to make it work, I will admit there are other ways in which the Commonwealth makes expenditure. However, for the most part—and there has been a long history of this—Commonwealths tend to preserve and to protect that area that is exclusively their preserve under the Constitution—defence and things like that—and ensure that other forms of expenditure suffer. So, we get to those other forms of topping up which the States see as very valuable.

What would happen to the HACC program under such a reduction in expenditure? What would happen to the Supported Assisted Accommodation plan under such a proposal? What would happen to disability agreements? And so the whole list goes on. If we are talking about the area of disability—and here it is not only services but capital expenditure—what of the future of the Commonwealth-State Housing Agreement? It seems to me, seeing that the honourable member has invited me to speculate on these things, that the whole question of the future of service delivery in these very important areas is very much set at risk by what is a very nasty package.

SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY

Mr S.J. BAKER (Deputy Leader of the Opposition): My question is directed to the Treasurer. How many of the South Australian Finance Trust Limited's 10 wholly owned companies listed in SAFA's 1987-88 annual report were purchased from the State Bank? Were all these companies sold before 30 June 1989 and, if not, why were none of them listed in SAFA's 1988-89 annual report? The 10 companies listed in SAFA's 1987-88 annual report were Furl, Flare, Douse Ebb, Cutter, Dinghy, Gybe, Kedge, Gaff and Hatch. At least four of them were acquired from the State Bank on 21 August 1987. SAFA's 1988-89 annual report makes no mention of them except for the statement that 'during the year SAFA disposed of several companies which had been purchased in connection with the possible development of certain financing transactions. Those transactions in the event were not pursued and the companies were no longer required.'

The Hon. J.C. BANNON: The honourable member has answered his own question by quoting from the SAFA report, which makes quite clear that the companies were purchased in order to undertake certain financing transactions. At the end they were not so required, and they were on sold. So, that is the end of the matter. In fact, when the 32 questions to which I referred yesterday were asked by a journalist and answered within a few days after that, those particular matters were raised back in March, and they were satisfactorily responded to. It is extraordinary that this is part of this ongoing attempt to undermine SAFA and its activities in the marketplace, an organisation which has been renownedly successful and which has earned lots of

money for this State, enabled us to get access to funds and, therefore, improved services in a way that just could not otherwise have been possible. What is even more extraordinary about it is that it flies in the face of the fact that the concept of the central money authority—indeed, the State Government Financing Authority itself—was launched and, indeed, was first considered as a Bill in this place under the Liberal Government.

I must say I am amazed that sitting on the front bench there is, for instance, the member for Heysen—and I know he was member for Murray then, so he might be forgiven—who was in that Cabinet and who was involved. Sitting directly behind him is the former Deputy Premier of that time, who was also a key figure in the financial management of the Tonkin Government (and it was just as well he was, from all reports, or it could have got into worse problems). Then one sees a range of other former Ministers who must surely know and understand why it was that the Tonkin Government of that day, the Liberal Government of that time, undertook these transactions. Let me refer to the Hon. David Tonkin. The arrangement—

The Hon. E.R. Goldsworthy: No tax dodges.

The Hon. J.C. BANNON: I will respond to that interjection when it is appropriate and relevant to my answer. The arrangements for raising funds for semi-government authorities other than ETSA, although they have generally worked well in the past, have become increasingly unsatisfactory. There are five main reasons for this. First, the relatively small size of borrowings by individual authorities has restricted the range of fund raising techniques available. In particular, public loans have not been practicable at least in a cost effective way. They are quite legitimate phrases; they were used by the then Liberal Premier of this State on 1 September 1982 in introducing the first Bill, which we subsequently picked up in government, to establish a central Government borrowing authority.

What has changed since then in terms of the appropriateness of that that has these questions and this innuendo served up by members of the Opposition? It is even being passed on to another member of that Tonkin Cabinet, the former Minister of Education (the member for Mount Gambier), who had his question delivered to him to ask, embarrassingly, about this matter. I was interested in this question of tax, so I thought I should do a bit of research into the history of this matter. Already I have mentioned to the House that the Tonkin Government undertook a number of lease-back and structurally financially effective arrangements, and very appropriately. They are transactions which were well supported and which were supported by the Cabinet and the Government of the day. During my research, I came across a letter of August 1982 from the then Premier addressed to the then Federal Treasurer, the Hon. John Howard. He said:

> On Thursday 24 June, at a meeting of the Australian Loan Council in your overall statement to the Commonwealth's position, you referred to changes in taxation treatment, of leverage leasing and similar arrangements, which would have effect immediately. You went on to say that immediately meant 1 p.m. on that day.
>
> You confirmed this in the press release which said 'the measures will apply'.

I take it that '1 p.m.' means 1 p.m. eastern standard time.

Mr Gunn interjecting:

The Hon. J.C. BANNON: I am certainly not interested in whether this is embarrassing the member for Eyre.

Members interjecting:

The Hon. J.C. BANNON: I will table this letter when I finish reading it.

Mr D.S. Baker: You've already shattered a convention.

The Hon. J.C. BANNON: No convention is being shattered in this instance.

The SPEAKER: Order! The Leader of the Opposition is out of order. The Premier has given a long and complete response, and I ask him to draw his answer to a close.

The Hon. J.C. BANNON: In drawing my response to a close, I summarise by quoting the final paragraph, which states:

> I would be grateful for your ruling that the contract is eligible for the taxation treatment which applied up to 1 p.m. on the 24th.

He is referring to a particular leverage leasing transaction. Again, there is nothing untoward or supremely confidential about such an approach. However, what is interesting is that this was the then Liberal Premier doing the very things that the current Liberal Opposition is saying are in some way wrong or at odds with proper practice. It is outrageous for the Opposition to continue to do this in the light of that policy. If they say that current Liberal policy has changed in this respect, I find that very strange also. I look at the Hon. Nick Greiner's statements where he has undertaken a number of financial measures, and, similarly to the one that we have discussed recently, issued a press release to that effect saying, for instance, in the case of—

Mr S.J. BAKER: I rise on a point of order, Mr Speaker.

The SPEAKER: Order! A point of order has been taken.

Members interjecting:

The SPEAKER: Order!

Mr S.J. BAKER: Sir, you have ruled that the Premier has been repetitious. He has not stuck to the subject of the question. I ask you to reflect on your own ruling that the Premier has been overly long.

The SPEAKER: Order! I suggest that members do not put words into the Presiding Officer's mouth. I said that the answer had been long and complete and I asked the Premier to bring his answer to a close. Again, I point out that it has been a long answer, and I ask the Premier to bring it to a close.

The Hon. J.C. BANNON: I am sorry, Mr Speaker, but the fact that the Opposition has raised this matter so consistently suggests that I cannot simply shrug it off; I must try and put it right on the record. Their protests have nothing to do with the prolixity of my answer but with the fact that they do not like what I am saying because it is embarrassing for them.

I conclude by saying that this practice is being followed quite legitimately not only by the New South Wales Government but by all other Governments in this country and by Commonwealth instrumentalities, such as Qantas. In fact, Qantas, which is owned by the Commonwealth Government, is the major participant in offshore tax effective transactions through cross bordering leasing arrangements for its aircraft. Is that therefore illegal? Is something therefore wrong with that? It is outrageous to suggest that that is so. I table the letter that I mentioned to demonstrate exactly that the practice that I am talking about is common to all Governments and, to the extent that they involve tax arrangements, rulings are sought.

CRYSTAL BROOK RAIL BRIDGE

Mrs HUTCHISON (Stuart): Will the Minister of Transport provide details of a problem that has been identified on the bridge over the railway line at Crystal Brook?

The Hon. FRANK BLEVINS: I have been made aware by the Department of Road Transport that a problem has occurred as a consequence of one of the abutments at the end of the bridge moving inwards. This movement has

reduced the expansion gap. The main concern is that if there is any further hot weather additional expansion will occur and this will cause the road surface to crack. The short term treatment decided upon by the deparment is to increase the expansion gap by modifying one end of the bridge. A system will be set up for approximately six to nine months to monitor any further movement of the bridge. To do this, traffic restrictions will be necessary. One lane of traffic will be blocked for at least one week while the work is undertaken. Traffic lights will be erected as well as advance warning signs. The bridge was opened in 1988, but the problem has only just come to light. I know that the member for Stuart traverses that bridge at least twice a week—

Mr Brindal interjecting:

The Hon. FRANK BLEVINS: I fly over it twice a week. I can assure the member for Stuart that the bridge is perfectly safe and that the actions taken by the Department of Road Transport will ensure a minimum of disruption to traffic while the work and the monitoring are undertaken.

SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY

Mr INGERSON (Bragg): My question is directed to the Treasurer. Were SAFTL's wholly owned companies, including Cutter, Douse and Dinghy, involved in any State financing transactions designed to reduce the tax liability of a private company and, if so, why does SAFA's 1988-89 annual report claim that 'transactions in the event were not pursued and the companies were no longer required'?

Company searches at the Australian Securities Commission reveal that Cutter, Douse and Dinghy were involved in the SAFA deal involving the State forests and that at least one senior SAFA manager, Mr Ross Harding, remained as a director of all three companies into the 1990-91 financial year. Cutter and Dinghy's sale to Babcock and Brown involves a conflict of interest for any continuing SAFA director, while the ASC search indicating that SAFTL retained all shares in Douse as late as 1990-91 conflicts with SAFA's annual report.

The Hon. J.C. BANNON: What the honourable member says in his explanation is absolute nonsense. The companies were sold to Babcock and Brown, which is involved with a number of Government and other agencies in the arrangements of structured finances, and one of the SAFA directors is on that board in order to ensure that the provisions of the structured financing arrangements are carried out.

CONTAMINATED SOIL

Mr ATKINSON (Spence): Will the Minister of Lands say when work will start to clean up contaminated soil at the ASC site at Bowden, where further public housing is planned?

The Hon. S.M. LENEHAN: Work will commence in January, and the chosen solution is to bury the soil on the site. This solution has been endorsed by the Contaminated Land Task Force, which I established to look at ways of mediation of contaminated land sites throughout metropolitan Adelaide. I am very pleased to inform the honourable member, who has shown a great deal of interest and support in this matter for his constituents, that the residents in the area bounded by Seventh, Eighth, Gibson and Trembath Streets endorse this option.

There has been very wide community consultation, and the Contaminated Land Task Force has been at great pains to ensure that local residents are involved in determining the best solution for their own area. The contamination of the land at this particular site is at a relatively low level, consisting mainly of lead, and the burial project will cost about $170 000 and will be undertaken by the South Australian-owned company, Yorke Civil Pty Limited.

SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY

The Hon. JENNIFER CASHMORE (Coles): How does the Treasurer explain his answer to the Leader of the Opposition in the Estimates Committee last September that all of SAFA's affiliated, corporate trust structures and off-balance sheet entities were fully listed in SAFA's 1990-91 annual report, including any vehicles being used for investment or funding purposes? Not only were Cutter, Douse and Dinghy, which were used by SAFA for forest funding purposes, not mentioned in SAFA's last report, but three of the other 10 companies listed in 1987-88 were wrongly omitted. Australian Securities Commission data shows that, as recently as this year, the only directors of Ebb, Furl and Hatch were senior SAFA executives, and the South Australian Finance Trust Limited was the sole shareholder, yet none of these companies was listed in the SAFA report, which the Premier claimed was complete.

The Hon. J.C. BANNON: My information is that in fact the report was complete. Certainly it has always been in the past, and I would be very surprised indeed if it was not. Mention was made of companies taking part in a structured financing arrangement were not owned by SAFA and, therefore, they would not be listed in the report.

Members interjecting:

The SPEAKER: Order! The member for Bragg is out of order.

The Hon. J.C. BANNON: I stand by the answer that I have been given, unless there is some information to the contrary. I undertake to inquire into whether that is the case. If that is indeed the case, I will correct it at the earliest possible opportunity.

BAROSSA CATCHMENT AREA

Mr McKEE (Gilles): Will the Minister of Water Resources confirm whether the moratorium on further surface and ground water development in the Barossa catchment which is to expire on 28 November has been extended and, if so, why?

The Hon. S.M. LENEHAN: I can confirm that the moratorium has been extended to 30 June 1992. The extension of this period will allow more time for the consideration of the draft water resources management plan, which was produced by the North Para Water Resources Committee. I understand that the plan is getting both wide circulation and indeed widespread support. The extra time will allow the committee to further refine the work that it has commissioned, particularly in the areas of crop irrigation usage, ground water recharge in the highland areas and artificial recharge on the valley floor. I believe that a comprehensive water resources management plan (and the community supports and understands this) is the only way to ensure that vital irrigation industry and other activities—

Members interjecting:

The Hon. S.M. LENEHAN: I am surprised at the interjection of the local member as I thought that he would have supported its retention. I will ensure that he receives a copy. He really only had to ask me—I would have made sure that he had one. As I said, this is the only way that vital irrigation and other industries in the Barossa can be preserved. It seems that we have an opportunity to ensure the preservation of the activities—the very unique and special activities—of the Barossa Valley. This is one way of ensuring that we make the correct decisions not only for today and tomorrow but also for the future and that we involve, as we have done, the local community in ensuring the very sound husbandry of this very precious resource. I am delighted to inform the honourable member that we have extended the moratorium until the middle of next year.

SOUTH AUSTRALIAN GOVERNMENT FINANCING AUTHORITY

Dr ARMITAGE (Adelaide): Will the Treasurer advise what role Babcock and Brown has played together with SAFA and the State Bank of Victoria's failed merchant banking arm, Tricontinental Corporation, in the funding and operation of the Noarlunga Hospital? Will he now inform the House of, and explain, all structured financing deals involving SAFA and State assets and all deals arranged for the Government and its agencies by Babcock and Brown?

The Hon. J.C. BANNON: I will have to take the second part of the question on notice. It is obviously a question that could be explored in any number of contexts, especially during the Estimates Committees. I am surprised that there was no interest in this issue at that time on a number of occasions. Babcock and Brown has worked with a number of governments and Government agencies.

Members interjecting:

The SPEAKER: Order! The member for Mount Gambier is out of order.

The Hon. J.C. BANNON: The honourable member was embarrassed yesterday. It would be better if he ceased to embarrass us now.

The Hon. H. Allison interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: Babcock and Brown, as I said, are involved with a number of agencies in structured financing. We must come back to the whole issue, namely, the attempt by the Opposition to suggest that there is something murky or untoward in appropriate open financial arrangements entered into to provide the best value possible to taxpayers and servicers in this State. More than $200 million in net present value benefits, in terms of the reduction in borrowing costs, has been achieved by transactions in this way. That is a very significant advantage to the State.

We are not on the front line in this respect. Mr Speaker, earlier you suggested that my reply in respect of the New South Wales Government was over long, but I could have gone on to refer to some very big transactions undertaken by the Greiner Liberal Government of New South Wales in the interest of public sector financing efficiency. We do not hear criticism of that from the Opposition: we cannot, of course, because ideologically, rhetorically and in all other ways members opposite are at one with their colleagues in New South Wales. Yet somehow, when it transfers into practice in this jurisdiction, it becomes inappropriate. As I say, the net present value of that is very great for the State.

I inform the shadow Minister of Health that it represents something like 800 nurses that we are able to fund, and that could be applied across the line to a range of services such as TAFE teachers, school teachers, police and so on. That is why these transactions are entered into—in order to get access to the cheapest possible funds. That is why SAFA was formed; that is why Liberal Premier Tonkin and his Cabinet and Government initially attempted to establish such a body—in order to do just that. That included the member for Coles, who was a member of that Cabinet—

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. J.C. BANNON: —and the honourable member who interjects, the member for Kavel. Let us have none of this hypocritical nonsense. I would suggest that, rather than focus in this unproductive way in an attempt to undermine our financial authorities, we should be hearing a bit more support from members of the Opposition.

FEDERAL COALITION POLICY

Mr De LAINE (Price): Will the Minister of Housing and Construction advise the House of the effect on the South Australian Housing Trust of the Federal Coalition's policy on public housing?

The Hon. M.K. MAYES: The electorate of the member for Price contains considerable Housing Trust stock, and this matter would be of vital interest to his constituents as it will be to the community as a whole. We are just starting to see what the Federal Leader of the Opposition has in store for us in regard to public housing; and it is about one line in an attachment to the document. The implications are devastating for the Housing Trust.

Mrs Kotz interjecting:

The Hon. M.K. MAYES: The member for Newland can sit over there and cackle on, but let me give her a few home truths about what she will have to go out and sell in her electorate—and it will be quite a surprise, I can assure you, Mr Speaker. The Hewson package proposes the scrapping of the construction and purchase of houses or the upgrading of existing stock—that is, the total scrapping of that major housing program in this State. That will have very serious implications not only in relation to Housing Trust stock, applicants, existing tenants and those people currently waiting for Housing Trust accommodation but also in relation to our building industry, because many thousands of jobs are provided in building trust homes. The whole construction program is done by private industry, so it will have a major impact on those firms and employees.

Further, the Federal Leader of the Opposition has stated that the ownership and management of housing stock should rest with the private sector. So, there is no role for the Housing Trust in a future program under the Federal Opposition if it wins government. The Federal Leader of the Opposition also intends cutting Commonwealth funding under the Commonwealth-State Housing Agreement by a massive $400 million. That is contained in just one line in the document. It is well hidden and in very small print, but when one gets to it one can see its impact. This will mean a reduction of 360 new additions per annum. That is a massive cutback in our program and will lead to an absolutely devastating situation.

Mr Lewis interjecting:

The Hon. M.K. MAYES: The member for Murray-Mallee interjects. He will have a good opportunity to go out and explain to the South Australian electorate what this means when it is on the ground. I look forward with interest to hearing his extensive and detailed explanation, because I think it will be quite a tale to go out and sell. Dr Hewson's proposal means that 360 more families will go on the wait-

ing list, that there will be 1 250 fewer jobs and that the State will receive $72 million less under the Commonwealth/State Housing Agreement. That will be a massive loss for the economy of this State. In short, the proposal rips a hole right through the Housing Trust program and, indeed, through the entire public housing program in this State. That will impact on the supply side, as well, because the State housing authority has 12.5 per cent of 63 000 units in this State, and that affects what private tenants pay in rent. It keeps an unofficial cap on private rental accommodation and the impact of this proposal will be significant to people in private accommodation.

Because of a lack of funds, we will have to sell off housing stock in order to maintain the existing stock at a reasonable level. We have calculated roughly that 1.5 per cent of the trust's housing stock—the equivalent of 1 000 houses—will have to be sold each year just to replace the funds that the Commonwealth will not supply because of the cut-back in funding. I repeat: each year 1 000 houses will have to be sold to maintain our stock. That will be devastating to the industry and to the State.

Members interjecting:

The Hon. M.K. MAYES: The member for Mount Gambier might interject but there is a significant housing stock in Mount Gambier alone and this proposal will have a very significant impact on his local economy and on his tenants. The impact on those people unlucky enough to be on the public housing waiting list will be extraordinary. Members opposite raised the question of the waiting list, and I will be interested to hear how they explain this proposal to the constituents of South Australia. It will be an enlightening debate.

Members interjecting:

The Hon. M.K. MAYES: The Leader and the Deputy Leader can interject all they like. I will be interested to see how they explain this proposal because it will have serious implications, not only for public tenants and private tenants but for the housing industry as a whole in this State.

Members interjecting:

The SPEAKER: Order! The member for Mount Gambier and the member for Gilles are out of order. The member for Heysen.

TOXIC ALGAL BLOOM

The Hon. D.C. WOTTON (Heysen): My question is directed to the Minister of Water Resources. Further to her reply in this House yesterday, can the Minister say what directions she has given to her own department regarding action to be taken in this State should a bolus of toxic algal bloom of anabaena be flushed into the South Australian section of the Murray River by a heavy downpour in the upper catchment of the Darling River system?

The House is aware that a 1 000 metre long algal bloom is suspended in the Darling River, posing a serious potential threat to the State's public health. Historical evidence indicates that droughts in the catchment area of the Darling usually break with heavy downpours, producing a sudden flash flood from the tributaries. In turn, this would push a large slug of toxic water ahead of the main flush into the Murray at Wentworth and on into South Australia. I am also told that, in the meantime, reservoir storages everywhere should be kept topped up with fresh water, and the Murray River levels should be dropped as soon as the rains occur in the north-west of New South Wales and in Queensland, keeping the slug of toxic water compact, and allowing it to be flushed quickly out to sea.

The Hon. S.M. LENEHAN: I refer the honourable member to an article in this morning's *Advertiser* which supported the opinion which I shared with the House yesterday. As I explained yesterday, we are sitting on 81 per cent capacity in our reservoir storages. I do not want to mislead the House, but I advise that that compares with a level of 72 per cent at the same time last year, so it is still significantly in advance of what was at our disposal this time last year. I also shared with the House yesterday that the Murray-Darling Commission is looking closely at the matter and the Menindee Lakes system will be brought into play to ensure the dilution of any toxic algal bloom that might be washed downstream.

However, I want to put on the public record that, while I take this matter very seriously, I do not share the pessimism reflected in the honourable member's question. I do not believe that we should be engendering fear and scare in the community. I am not suggesting that the honourable member is doing that. I am taking action—

Members interjecting:

The SPEAKER: Order!

The Hon. S.M. LENEHAN: Well, I was asked a question. It is interesting, isn't it? I am most certainly taking precautionary measures. I indicated to the House yesterday that a number of officers from the E&WS are involved in monitoring the situation, working closely with their New South Wales colleagues at a number of places, both in New South Wales and in South Australia. We are continually testing samples at the South Australian State Water Laboratory situated at Bolivar. We are continually monitoring the situation. We are maintaining our reservoir levels at 81 per cent and the department is continually looking at a number of remedial actions which can be brought into play should the worst possible scenario eventuate. However, I do not believe that that is the case, and the latest information I have received would indicate that that is not the case.

As I gave a commitment to the House yesterday, I will give a commitment today: should there be any changes in the situation, should there be any further information that I think is important to share with the House, I will do so by way of ministerial statement at any point that I receive that information. I can give the House the guarantee that we are looking into a number of remedial actions. I have already delineated a number of those. I thank the honourable member for raising this matter. I hope he takes it as seriously as I do.

ADELAIDE ENTERTAINMENT CENTRE

The Hon. J.P. TRAINER (Walsh): Will the Minister of Housing and Construction report on measures that can be taken at the Entertainment Centre to improve facilities for members of the public who attend in wheelchairs with companions who are not in wheelchairs?

Members interjecting:

The SPEAKER: Order!

The Hon. J.P. TRAINER: I was contacted by a constituent, Mrs G. Werner, who regularly gives a lot of her time to assisting people in wheelchairs. She arranged for a quadraplegic friend to go to the Entertainment Centre, and told me that she encountered the same problem as the writers of some letters to the Editor have faced since the Entertainment Centre opened. For example, on 27 August a person wrote:

Because one of the family uses a wheelchair, we were unable to sit together. We observed a young man in a wheelchair who was also separated from his partner, and another family who suffered our predicament of being separated due to a wheelchair.

On 24 October a person from Evanston Park wrote offering their thanks to the builders of the Tea Tree Plaza Hoyts complex. The person said:

I am a paraplegic. The theatre has considered the many disabled people by leaving a space at the end of rows so that you are able to sit in your wheelchair next to the friend you are with. It is a great pity the new Entertainment Centre has not thought to do the same thing. Instead, you are on one level and your friend has to sit at a lower level in front of you.

The Hon. M.K. MAYES: I thank the honourable member for his question, which I regard as very serious. It is a pity that the Deputy Leader did not, considering his interjection. It is a very important aspect, which has to be dealt with. Access to the building is up to standard for people with wheelchairs who require clear access. On one occasion when I was there I observed that wheelchair patrons were gathered at the front of the staging area and to the side for access. I will take up the matter with the management of the centre to see what can be done to accommodate people at a concert or a sporting event so that families can be together when one member is confined to a wheelchair. I regard it as a matter of prime importance, and SACON has been examining all buildings occupied by Government offices to ensure there is access for people in wheelchairs or with disabilities, so they can enjoy the same services and have the same opportunities as those who are not disabled.

TOXIC ALGAL BLOOM

Mr LEWIS (Murray-Mallee): What advice has the Minister of Health received from the Health Commission, and what contingency plans has the Minister requested, in the event of the toxic blue-green anabaena algal bloom being flushed into our section of the River Murray system? The anabaena algae is toxic, as the Minister would know. I am informed that already hundreds of sheep and cattle have died from drinking the water and that several people have become seriously ill from drinking it or wading in it. Boiling the water or treating it with chemicals such as blue stone does not reduce the toxicity. In fact, killing the organism makes the problem worse. The toxic chemical is produced and released into the water on the death of the organism. Health authorities have stated that the water cannot be consumed; it can cause blisters and ulcers if it comes into continued contact with the skin.

The Hon. D.J. HOPGOOD: The term is 'cyanoblastic'—and I stand to be corrected if I am wrong, but I think I am correct. A number of our experiences have demonstrated that, if this is present in large enough quantities, the only thing we can do is to isolate it from the supply; there is really little else we can do. However, if it is present in small quantities in enclosed areas, some degree of chemical dosage may, in certain circumstances, have some effect. The advice we would give to the engineers—and that is our job as a commission: it is for the engineers to determine how reticulation should occur—would be that, should it get to the point to which the honourable member refers, all we can really do is to isolate it from the reticulation system.

I am drawing on my memory as a former Minister of Water Resources—and indeed on what I imagine my colleague would want me to say at this point: we have a flexible system of storage and reticulation in this State through the Murray system and through the various supplies that are available in the Adelaide Hills. For example, as I recall, the Myponga system is not connected with the Murray system. That is why the regime of treatment differs in the Myponga system from that in the rest of the system; for example, as I understand it, the degree of turbidity in the Myponga system is lower than in the other system because of the injection of turbid water from the Murray, and that can create more problems in some circumstances. However, it illustrates the fact that part of the system is already isolated from the possible source of concern.

I must join with my colleague and simply say that at this stage all the efforts have to be expended on ensuring that the problem is isolated to the area which is currently affected. The Menindee Lakes system is there, and the engineers know well how to play with levels and how to ensure that certain slugs of water are drawn off in certain areas so that the system is no longer affected. Of course, we are very fortunate that we have, as a result of the efforts that have occurred through the mid-1980s and up to the time of the present Ministers in this State and around the other Murray States, a much better and more flexible system of operating with water quality than we had previously. Quantity is something that the old Murray River Commission was well able to deal with. The whole new thrust of water quality is one in which a good deal of time and effort has been invested to ensure that when these things do occur, as from time to time they do, we do have the capacity to isolate our domestic, industrial and, indeed in some cases, agricultural supplies, from the actual source of the problem.

GOODS AND SERVICES TAX

Mrs HUTCHISON (Stuart): Will the Minister of Aboriginal Affairs advise how the Federal Liberal Opposition's goods and services tax package would affect Aboriginal people and communities? It has been acknowledged that Aboriginal people are the most disadvantaged in the nation on virtually every index of poverty.

The Hon. M.D. RANN: I thank the honourable member for her continued interest in the welfare of Aboriginal people, and that is why I was surprised to hear laughter from the other side of the House. This issue highlights the fact that the GST would involve winners and losers: the winners would be the wealthy and the losers would include working people in Australia, as well as Aboriginal Australians who, of course, are amongst the most underprivileged in the whole range of social indices. Once again, the Opposition is targeting the most disadvantaged Australians to pay for its promises to high income earners. Cuts of $90 million to Aboriginal programs would be made under the Liberal formula, as they have announced it, in areas of crucial need such as Aboriginal employment, Aboriginal education and Aboriginal housing.

This is especially disappointing following the Royal Commission into Aboriginal Deaths in Custody, which clearly showed the need for Government programs to address the chronic disadvantage faced by Aboriginal people. There is a massive 31 per cent cut to community development support for Aboriginal people and a 15 per cent cut to Aboriginal legal aid, which show that Mr Hewson will take away the necessities of life to pay for this GST tax. There is a $25 million cut to Aboriginal housing and a $20 million cut to the CDEP, one of the most successful employment and training programs in Aboriginal affairs, which I think shows the true cynicism of a Federal Opposition that boasts about getting people back to work, and then takes away the key initiative that is proving to boost the self-reliance of Aboriginal communities.

The Federal Opposition wants to keep Aboriginal people in the welfare trap to pay for the privileges of the few. I was disgusted and sickened to see the depths of cynicism to which Mr Hewson's cronies are prepared to stoop. I read

the press release by the shadow Minister of Aboriginal Affairs (Dr Michael Wooldridge) headed 'Aboriginal communities gain from Coalition tax reform', in which, conspicuous by its absence, was any mention of the $19 million worth of cuts. Instead, Dr Wooldridge declared in the first couple of lines of his press release that 'Aboriginal communities would be the big winners with the GST'. That is how sick and distorted they are in trying to deal with underprivileged people.

Mr Hewson and Dr Wooldridge have the audacity to say that most of those people on CDEP will not pay tax without mentioning the cuts to CDEP. Dr Wooldridge has the audacity to boast a 6 per cent rise in Abstudy without revealing that Abstudy will be made much harder to get under the Hewson package. He also neglects to spell out that food, which is already at high prices in remote Aboriginal communities, will now be 15 per cent more expensive. I see the nervousness of the Leader of the Opposition, because we all know that it is decision time for him in the next couple of days. Will he drop the member for Murray-Mallee and the member for Goyder and bring the member for Coles back to the front bench where she belongs?

The SPEAKER: Order!

The Hon. M.D. RANN: However, he will not escape the fact that this tax that he supports at Federal and State level will have a real effect on working people and on the most disadvantaged.

STATE GOVERNMENT INSURANCE COMMISSION

Mr MATTHEW (Bright): My question is directed to the Treasurer. How will SGIC be voting at the Bennett and Fisher board meeting on Friday? Will it be supporting the existing board? Will it be merely a passive observer, or will it be supporting the three new nominees for the board? At last year's Bennett and Fisher annual general meeting, SGIC's General Manager, Denis Gerschwitz, voted SGIC's shares, which were needed to support the company's 1989 purchase of a property belonging to Mrs Summers at 31 Gilbert Place for $4.5 million, more than twice the valuation, against the wishes of three respected financial institutions, GIO (N.S.W.), AMP and NRMA.

The Hon. J.C. BANNON: And with the advice of other assessors which, of course, the honourable member does not mention in relating simply one part of a dispute that has been going on for a considerable time and parroting remarks made by the Hon. Legh Davis in another place. That is fine, that may be the opinion of the honourable member, but it is a pretty unbalanced way to ask his question.

The general policy of SGIC is that it is a passive investor where it holds equity shares and, therefore, in general terms, would support the *status quo* which, of course, was one of the arguments adduced in the particular matter that the honourable member has mentioned. I am not aware of what policy SGIC intends to pursue in this case. I do not intend to direct SGIC in this matter, nor do I think it appropriate that I do so.

LORD MAYOR OF ADELAIDE

Mr FERGUSON (Henley Beach): Will the Deputy Premier investigate whether the member for Albert Park has breached any Act by passing himself off as Mark Hamilton, a possible candidate for the position of Lord Mayor of the City of Adelaide? On page 6 of today's *News* there is a photograph of the member for Albert Park, with the suggestion that he will be putting in a nomination for Lord Mayor.

The SPEAKER: Order! The Chair finds some difficulty with the Deputy Premier's having a responsibility to this House for such an article. I rule the question out of order. The honourable member for Morphett.

Members interjecting:

The SPEAKER: Order!

SOUTH AUSTRALIAN YOUTH TRAINING CENTRE

Mr OSWALD (Morphett): I direct my question to the Minister of Family and Community Services. Why has he failed to respond to complaints by the former Matron of Nursing at the South Australian Youth Training Centre about the provision of nursing services, the lack of equipment and the lack of resources at the institution? I am advised by the former Matron, who is a registered nurse, that she wrote to the Minister on 26 August 1991 setting out a list of the deficiencies in the provision of nursing services. Six weeks after lodging her complaints, her contract was terminated and she was forced to leave the department after only 16 months in the job. She has been replaced by an agency nurse working Monday to Friday during daylight hours. Some of the medical deficiencies about which the Matron advised me that she had written to the Minister and the departmental review included:

blankets on beds are only changed every three months, and those boys coming in with ringworms and other skin infections are not given clean blankets on entry and are moved from one bed to another during that three-month period;

a doctor does not give a regular medical examination to boys entering the institution, and the local GP who visits has no ongoing responsibility for the health of the inmates;

residential care workers are not trained in nursing duties but are expected to carry out the work;

full medicals are not regularly done on inmates because of cost;

untrained staff administer medication and are not trained in basic sterile dressing procedures;

boys have been known to be sutured without sterile instruments;

oxygen is not available as a safety precaution in the event that a boy is admitted and is suffering withdrawal from alcohol, pills or other drug abuse or if a boy fits from epilepsy.

On 7 June 1991 the Health Commission supported the need to provide each new resident with clean blankets to prevent cross-skin infections.

The SPEAKER: Before calling the Minister, I should like to draw the Chamber's attention to the very long questions and very long answers in Question Time today. Question Time is provided for the benefit of all members to get the subject of their question on the record and to get answers where they can. The longer the question and the longer the answer, the less access members have to Question Time. The honourable Minister of Family and Community Services.

The Hon. D.J. HOPGOOD: I will check that matter for the honourable member. I understood that a response had been made to those queries but, if not, I will ensure that there is a swift one. All I can say is that, having visited that institution, I have not found any real deficiencies in hygiene. The honourable member admits in his question that a GP

regularly visits the place. I am not quite sure what the honourable member means by the GP's having no ongoing responsibility for the health of the inmate, when the GP visits. I am sure that any inmates who require the services are referred to that individual. If hospitalisation were necessary, then, of course, the GP would almost certainly have no further responsibility, because the individual would be admitted to the Children's Hospital or to one of the other health units, and the staff medicos at that unit would then take over. I will check out the matter to ensure the person who wrote that letter obtains an early response, if that has not already occurred, and that the tenor of the response is made available to members.

AGE OF FOETUS

Mr ATKINSON (Spence): Will the Minister of Health say whether the Government has a settled view about when a human foetus becomes a viable human being? Under section 82a (8) of the Criminal Law Consolidation Act, which was enacted in 1969, gestation of 28 weeks is *prima facie* proof that a child was capable of being born alive. This section is administered by the South Australian Health Commission at the Queen Elizabeth Hospital, among other places.

Under the definition section of both the 1990 and the 1991 drafts of the proposed Disposal of Human Remains Bill, human remains required to be buried or cremated under the Bill include the body of a stillborn child, and a stillborn child is defined as a foetus of at least 20 weeks gestation. The World Health Organisation threshold is 22 weeks gestation.

The Hon. D.J. HOPGOOD: No, neither does the Government nor the Health Commission. The responsibility of the Health Commission is to deliver services sanctioned by law. That law is determined by honourable members here and in another place. The honourable member has drawn a contrast between a law that has been in force since 1969—indeed, in some forms it was in force well before that—and a law which may come into force, depending on the desires and votes of honourable members. I am sure that I can rely on the collective wisdom of the two Chambers to determine, when we address ourselves to that further piece of legislation, whether or not it needs to be brought into line with the Criminal Law Consolidation Act as brought down by Mr Robin Millhouse when he was Attorney-General in 1969.

PERSONAL EXPLANATION: *NEWS* REPORT

Mr HAMILTON (Albert Park): I seek leave to make a personal explanation.

Leave granted.

Mr HAMILTON: In today's *News* my photograph appears, and the accompanying article states:

Mr Kevin Hamilton, a lawyer, will contest the council seat vacated by Mr Brian Anders.

Mr Lewis: You are not a lawyer.

Mr HAMILTON: I thank my colleague for that. I am not a lawyer and I have no intention of running for any position other than the seat of Albert Park at the next State election.

GRIEVANCE DEBATE

The SPEAKER: I pose the question that the House note grievances.

Mr BLACKER (Flinders): I wish to raise an issue of major concern to everyone involved in the provision of education on Eyre Peninsula, namely, the proposal to dispense with the resource centre presently established at the Eyre District Education Office in Port Lincoln. Before referring to some correspondence that I have received on this matter, it is important that I detail some of the history of the resource centre. It became apparent, 15 years or so ago, that it was impossible for the Government of the day to provide an adequate collection of educational resource materials at every school, and it was therefore proposed that a resource centre be established at the Eyre District Education Office so that resources could be lent out to schools as and when required. That system has worked very effectively over the past 14 years whereby research material by way of video, audio and printed matter in all specified specialist areas in all forms of education has been available on a loan basis to each of the schools throughout Eyre Peninsula.

This resource centre effectively provides resource material on a loan basis to some 30 or more schools on Eyre Peninsula. Under the wisdom or otherwise of the GARG proposals, it has been decided that the resource centre will be disbanded and the resources split up amongst the schools. That will be quite ineffective as it will be impossible for every school to establish its own resource material for each curriculum course that it runs. Instead of having one effective resource centre, with access to resource material that every school on Eyre Peninsula can use on a loan basis from time to time, all the resource material will be split up between 30 or more schools.

That will be totally ineffective, because all students will not have access to that material and all teachers will not have access to the specialist materials that they require. Not only will that be a retrograde step for every person in the field of education but it also will further disadvantage groups in the community that are already disadvantaged. I have a copy of a letter that I have received from Miss Suzanne Mills, a senior tutor at the Aboriginal Early Childhood Education Program, and she makes special reference to this matter. The letter, which is addressed to the Minister of Aboriginal Affairs (Hon. Mike Rann), states:

Dear Mr Rann, It is of great concern to the students and staff of the Aboriginal Early Childhood Education Program (AECEP) in Port Lincoln that, as a result of recent GARG proposals, the resource centre at the District Education Office in Port Lincoln has been targeted for closure. This resource centre has been functioning in its own right for some 14 years and has provided an excellent service to many people, including AECEP students and staff. It has been the only really effective local source of a suitably wide range of resources for our student teachers in Port Lincoln. It has provided:

- materials and resources for use on teaching practice and in assignments;
- collections of children's literature;
- videos and films;
- audiovisual equipment;
- materials (for example, maths) for students to gain 'hands-on' experience;
- professional journals;
- text books;
- employer information, such as policy documents;
- access to laminating, Kroy lettering, etc; and
- special education resources.

The letter is too long for me to fully read at this stage, but it is important to note that this matter is of concern to everyone. I call on the Government to reassess this program

and make sure that the students, teachers and staff on Eyre Peninsula have reasonable access to resources that would not otherwise be available on a cost efficient basis. It is an impractical situation to expect those resources to be shipped at considerable cost to the schools on Eyre Peninsula from Adelaide based resource centres. That is not on. They can be dispersed from Port Lincoln by Education Department cars which regularly travel the length and breadth of Eyre Peninsula, thereby enabling the transport of these resource materials free of charge to the schools. I call on the Government to reconsider this proposal.

The SPEAKER: Order! The honourable member's time has expired. The honourable member for Spence.

Mr ATKINSON (Spence): When my time expired yesterday I was talking about the sad history of the Ovingham railway overpass, and I had reached the stage of the Bannon Labor Government's election in 1982. At that time the local member became the Minister of Transport, and his elevation to the Ministry put the Ovingham railway overpass back on the political agenda. Indeed, the overpass had been a little-known aspect of the ALP's transport policy in that election. The local member, the then Minister of Transport, sought a report on the progress of work on the overpass. In 1983 the bridge at Hawker Street, Bowden, was closed because it was alleged that it was in poor condition. As a result, for much of 1983 and 1984 the suburbs of Bowden and Brompton were something of an enclave.

Eventually, the Hindmarsh council agreed to the demolition of the Hawker Street bridge and to its replacement with a level crossing, but it did so on condition that the Ovingham overpass be built. In March 1985 priority to proceed with the overpass was restored and plans to erect the overpass were redrawn. In April 1985, two different schemes were proposed for constructing the Ovingham railway overpass: one was costed at $6.5 million and the other at $7.5 million.

In October and November 1985 plans for the overpass went on public display at the Hindmarsh Town Hall and the Prospect Town Hall, and the estimated start for its construction was 1988. However, in May 1987 distribution of copies of the planning report regarding the overpass was stopped, and that is really the last stage in what might be called the stations of the cross for the Ovingham overpass.

There is no further news regarding it, apart from the question I ask annually in the Estimates Committee. In my opinion the Government should review the proposed Ovingham overpass and make up its mind about whether or not it will be constructed. I think we should have an overpass, a park on the land held for the overpass, or perhaps that land should be sold and put to some good purpose.

In the minutes that I have remaining I want to talk about the need for a pedestrian-actuated crossing over Port Road from Garnet Street, West Croydon to the Welland Plaza shopping centre. I first requested this crossing in 1988, before I entered Parliament, and the then Minister of Transport, Mr Keneally, was good enough to have the matter investigated in October and November 1988. He subsequently wrote me a letter in which he said:

> The investigation included a 10 hour pedestrian and vehicle count, an analysis of accident statistics, a study into the adequacy of the existing controls together with on-site observations. The results showed that the number of pedestrians crossing in the subject vicinity are below those required for the provision of a pedestrian-actuated crossing. I am therefore unable to accede to your request.

What the Minister did, however, was to install signs bearing the words 'pedestrians' and 'aged'. In 1989 I wrote to the present Minister, who had the matter looked at again. He wrote to me and said:

> The results show that a pedestrian-actuated crossing is not warranted due to the low number of pedestrians crossing at this location. No accidents involving pedestrians occurred during the five year period from 1 October 1983 to August 1988.

I think we ought not to have pedestrian-actuated crossings merely on the basis that accidents have occurred: these crossings should be there to prevent accidents. There is a much greater need for the Welland crossing than there is for the pedestrian-actuated crossing outside my office at Allenby Gardens.

The SPEAKER: Order! The honourable member's time has expired. The honourable member for Adelaide.

Dr ARMITAGE (Adelaide): In this five minutes I wish to clear up a few misapprehensions of members on the other side of the House in relation to the health policy of the Federal Liberal Opposition (soon to be the Federal Liberal Government). These misapprehensions are clearly evident after listening to the member for Playford's question to the Minister of Health earlier today. The substance of the member for Playford's question was that the Federal Opposition's goods and services policy would push low income earners out of Medicare. This comes from a member of a Party which recently insisted that there be a $2.50 co-payment when people go to the doctor! It is absolute hypocrisy and is sheerly intellectually impure.

Under the Liberal Party policy, which I will outline in a minute, low income earners will be not only protected but will be helped by allowing them to go into private health insurance. The Party of the member opposite, however would insist that they pay $2.50 extra every time they go to the doctor! Either the member for Playford has not looked at the Liberal Party policy or he clearly does not know the policy of his Federal counterparts. I suggest that before the member for Playford comes in and picks ideological flowers out of the air he might like to look at the facts.

What will actually happen under the goods and services tax is that health and all health related items will be zero rated—in other words, no health product will have the 15 per cent goods and services tax levied on its production and, if it is, it will be repaid; and there will be no further tax on the actual service provided. In other words, no goods and services tax will be collected on sales, and all goods and services tax paid on business production costs will be rebated. That applies not only in relation to health but also in relation to education, the Government provision of non-commercial activities, the sale of a business as a going concern, welfare, religious and charitable institutions and exports. Let us make quite clear that there is no goods and services tax on any health related item.

Despite the member for Playford's attempts at a scaremongering campaign, I am pleased to advise that bulkbilling will be retained for more than 4 million pensioners, health care card holders and the disabled.

Members interjecting:

Dr ARMITAGE: The member for Henley Beach interjects, but I tell him that, under the Federal Liberal Opposition plan, no-one will pay the $2.50 co-payment which the Federal Health Minister has been so pleased to introduce. He is pleased about it because he will be able to fund his Holy Grail—the Better Cities campaign. Everyone is suffering because of Rev. Howe's thoughts about the way society should be. For those people who are not bulk billed doctors will be able to charge only the Medicare levy, as they often do now for indigent patients. However, patients

will have to go to the slight trouble of taking the bill to Medicare and sending the refund cheque to the doctor.

The essence of this policy is to encourage individuals to look after themselves. Private health insurance will be encouraged. This will be done by allowing new tax rebates of up to $400 for low to middle-income earners to take out private health insurance. That is the immediate rebuttal of the member for Playford's assertions that we are rejecting low-income earners. Far from it. In fact, we are giving them an incentive to look after their own health, to get into private health care, and not to have to go on long waiting lists.

Under this system, high income earners will not get any benefit. They will not get any private health insurance relief because of a tax penalty in the form of a surcharge on their Medicare levy. In other words, there will be a penalty on people who earn more than $50 000 and who do not take out private health insurance. It is a progressive tax, not a regressive tax. We will also allow gap insurance, so people will be able to cover for the difference between the Medicare levy and AMA advised charges. I am surprised that members opposite are attempting to denigrate this policy, which will mean benefits to all South Australians.

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

Mr De LAINE (Price): The Civil Aviation Authority is planning to relocate the Adelaide Air Traffic Control Centre to Melbourne. The proposal is to control all air traffic into and out of Adelaide Airport at West Beach by remote control from Melbourne. I am informed reliably that air traffic controllers around Australia are concerned that this new and virtually untried procedure may be adopted. I realise that civil aviation is not within the State Government's jurisdiction but, because of the possible implications for business, tourism and passenger safety in South Australia, I wish to place the matter on the public record and ask that the State Government take up the matter with the Federal Government.

The reasons for relocation to Melbourne are fairly vague. The main reason seems to be that, by rationalisation and relocation to Melbourne, the major airlines will save 10c per passenger. This figure is ridiculous when the safety of passengers and the cost of fares are taken into account. On the other hand, the reasons for retaining the approach control unit here in Adelaide are very clear. To shift control to Melbourne would certainly reduce safety margins and increase the cost to regional airlines and local operators. It would also mean reliance on totally untried technologies and it would diminish the efficiency and flexibility now displayed by the Adelaide air control branch. These qualities were recognised in the Civil Aviation Authority's 1991 aviation award of excellence, which was won by the Adelaide control centre.

The local air traffic controllers realise the potential problems caused by noise in certain areas and under certain conditions. With their local knowledge, they can and do work towards minimisation of noise for the sake of people living in close proximity to the West Beach flight paths. With Adelaide's wonderful climate, greater flexibility is available through visual air traffic control. This is very important, especially during periods of heavy traffic concentrations, such as during the week of the Adelaide Formula One Grand Prix. That is an important aspect of retaining local autonomy.

It appears that three major factors have been overlooked or ignored in the decision to relocate. One factor is training. On a daily basis aircraft come from Parafield to train and obtain accreditation. While not used often, the search and rescue services are very important, and local knowledge of climatic conditions and geography and personal rapport with other airport personnel, as well as other local authorities, is vitally important. Another aspect that has apparently been overlooked is the mix of light aircraft and large jet aircraft that uses this facility. It is a unique situation. Another factor is the close proximity of the RAAF air space from the Edinburgh base.

Another aspect which should be of prime consideration is the potential for damage to fibre optic telephone cables. Potential for damage to or cutting of these cables is virtually non-existent under the present set-up because the cables are underground and wholly on airport land. They run between the air traffic control unit near Tapleys Hill Road to the control tower some 400 metres away. If the facility is relocated to Melbourne, the fibre optic cables would be exposed to damage or cutting, either accidentally or otherwise, over its entire length of 650 kilometres. Last year workers in the United States accidentally cut a high capacity fibre optic telephone cable and caused wholesale disruption to air passenger travel for up to seven hours. The Civil Aviation Authority's General Manager of Air Traffic Services (Mr B. Brooksbank) said in a letter to the Adelaide air traffic controllers:

> There are cogent arguments that retaining the Adelaide Air Traffic Control Centre will give more flexibility to our operations and hence a better service to our customers.

Four major professional review teams, including the Civil Aviation Authority's own expert project evaluation team, have all recommended that the Adelaide Air Traffic Control Centre should remain in Adelaide. Their recommendation was that the Civil Aviation Authority should adopt a collocation of control towers and approach control units at one site. I ask the Premier to take this up with the Federal Government.

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

Mr BRINDAL (Hayward): Some time ago I asked question No. 265 of the Minister of Education concerning the amount of money paid for a parcel of land which had previously been the Oaklands Park Primary School site. In reply to my question, the Hon. Greg Crafter responded:

> A value of $3.8 million was arrived at after taking into account advice from the Valuer-General and a private consultant on the estimated value following rezoning.

Many of the issues relating to that land and the adjacent parcel of land known as the Marion Triangle are well known to the House, so I will not repeat them. The main purpose of my speaking in this debate concerns the Oaklands Park Primary School site and a matter that I consider to be in the public interest and of some urgency. I wrote to the Premier on 26 September 1991 outlining my concern about transactions in the area and, as I have said, the House knows that the Ombudsman and the Major Crime Squad are investigating facets of that complaint. The Premier wrote back to me on 21 October 1991, stating:

> The Department of Premier and Cabinet was involved primarily because of its capacity to deal with a number of competing interests from Government agencies including the South Australian Health Commission, the Police Department and the Motor Registration Division regarding accommodation proposals. Moreover, the Department of Premier and Cabinet had been involved in preliminary negotiations with various commercial parties, including SGIC, Westfield and Baulderstone/Hornibrook . . .

The Premier was very detailed in his reply, and went on to say:

> SGIC's strategy was to obtain a substantial parcel of land in the area so that a development could take place, which would be for the benefit of South Australians.

I was therefore most distressed to receive from Mr Geoffrey Slater, the Chairperson of the Marion Youth Project, a letter which stated:

> . . . we have been advised of a South Australian Health Commission decision to consider the purchase of the old Oaklands Park Primary School site for the establishment of a health village in the Marion area. This is an alternative development plan for the mentioned site, which is currently being utilised to house the following service providers:
> - Child and Adolescent Mental Health Services,
> - Child and Family Health Services,
> - Family Planning Association Youth Clinic,
> - the Marion Youth Project.

The Health Commission quite rightly wanted the site to be used for the benefit of South Australians. However, the Chairperson went on to tell me that the current owner, SGIC, is asking an excessive price for the land involved, and that in turn restricts the possibility of a positive use of the existing resource being achieved. I ask all members in this House whether it is conscionable that the people of South Australia, who own a valuable parcel of land, should sell that land to a commercial interest which acts on behalf of the people of South Australia and which in turn seeks to return that land by sale to the people of South Australia at an exorbitant cost? A health village in the Marion area is a good and commendable community use of that site. I commend it to the House.

I record my abhorrence of a Government which is so keen to pick up a quick dollar that it will get rid of valuable land to the exclusion of the health of residents in the area. I call for this Premier and this Government to immediately make amends, to negotiate with the SGIC and to see that the Health Commission is sold the land at an advantageous profit. I consider it most unreasonable that the SGIC should be allowed to make profits at the expense of the people, especially when it picked up the land from the people in the first place. If this is the way this Government operates, and I have every confidence that it is, we need a new Government.

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

Mrs HUTCHISON (Stuart): It gives me great pleasure to speak at this time and to share with members a very important book launch that I attended today in Parliament House. I know that you, Mr Speaker, were privileged also to be present at that book launch. The person whose book was being launched is well known to all of us in this House. Indeed, I feel he has now become a legend in his own time. I refer, of course, to the member for Napier. The honourable member shares with us a vision, *A Certain Vision*, or as he puts it, 'Does it really read that much better the second time around!' It really is quite a blinding vision. The author is a great man, I feel. He is a compassionate man, in his own words, a very caring man, and that is borne out by the fact that the proceeds from the sale of the book will go to Anglican Community Services at Elizabeth.

I am reliably informed that, as at this time, sales of the book have raised $906. It is obvious that sum may be increased, and I am quite sure that all those people involved in Anglican Community Services at Elizabeth will be very grateful for that money from the sales of the book. When the honourable member was asked, 'Did it read much better the second time around?' he agreed that he certainly felt it did, but he was not quite prepared to say why he felt that was so.

At a very large gathering in the Blue Room at Parliament House, the book was launched by that respected political analyst, Randall Ashbourne, who made some very pertinent remarks about the honourable member.

Mr Brindal: Very pertinent!

Mrs HUTCHISON: Very pertinent, as the honourable member opposite said, calling him 'compassionate'. Mr Ashbourne also offered some thought provoking observations regarding the author's continued political career, which has now caused chaos in political circles. There is a suggestion that he may perhaps be considering his position after the new boundaries are released this Friday. The member for Napier is refusing to confirm or deny his long-term aims: in fact, he is quite coy about it, but I am pleased to say that he has ruled out a challenge at this time for the leadership, although he was very careful to point out that it is only 'at this time'.

I would like to cite the author's own words from the preface to the book, and these words really epitomise the man, his compassion and thought for others:

> From the outset, let me state that this book is not to be seen as a springboard to the leadership of the Australian Parliamentary Labor Party. I am perfectly happy with the leadership of Premier John Bannon. However, if my caucus colleagues should wish to draft me to the highest office then of course I would reconsider.

He is thinking all the time of other people. The preface continues:

> The reason for putting these speeches and thoughts together is to provide a vision for all new members of Parliament and possibly some older hands. It is my fervent wish that this book, along with Parliamentary Standing Orders and *Erskine May*, will enable members to be in a better position to achieve greater fulfilment in their parliamentary careers.

At all times the honourable member is thinking of other people, and I commend him and congratulate him on the launch of his book. On behalf of all those people who would benefit from the proceeds of this book, on a more serious note. I say that the honourable member is to be commended.

PERSONAL EXPLANATION: TOXIC ALGAL BLOOM

The Hon. S.M. LENEHAN (Minister of Water Resources): I seek leave to make a personal explanation.

Leave granted.

The Hon. S.M. LENEHAN: Earlier this afternoon in Question Time, the member for Heysen asked me a question regarding the present state of the situation with regard to toxic algal bloom in the upper reaches of the Murray River and asked what would happen in the worst possible scenario. I am very pleased to inform the House that the flow has almost ceased entirely and the bloom is not currently moving. However, in the worst possible scenario, as painted by the member for Heysen, if this did occur, the bloom could and would be held in Lake Weatherall. Of course, this would have the effect of totally isolating the toxic algal bloom from the Menindee Lakes system. The present flow rates will enable Lake Weatherall to hold five years of flow. In other words, the bloom could be isolated in Lake Weatherall for a period of up to five years.

A number of other points are relevant for the information of the House. A second option would be to feed South Australia's water requirements from Lake Victoria. I am also informed that the Murray-Darling Ministerial Council and Commission are closely monitoring the situation. No decisions would be taken with respect to the handling of toxic algal bloom and the maintenance of the integrity of the South Australian water supply without my express permission as the lead Minister in South Australia. I can assure all members that I would not be agreeing to any action that

in any way disadvantaged South Australia and the integrity of our water supply system.

ECONOMIC AND FINANCE COMMITTEE

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That, on the commencement of the Parliamentary Committees Act, the following members be appointed to the Economic and Finance Committee: Messrs M.J. Evans, Ferguson, Groom and Hamilton.

This motion requires some small explanation. Since the explanation of this motion will be no different from the other three motions standing in my name, I will not comment further on this. Members well know the history of this matter: about two years' work in the Parliament has gone towards a new committee system. Appropriate legislation has now passed the Parliament which will enable all this to happen.

When guiding the Bills through this place a while ago, I indicated a timetable, and I did so on the best advice that was available to me, which was that we would take the opportunity on one sitting day this week to elect the members to the new committees and that the matter would be set up and we would proceed. At that time, no-one took exception to my remarks, although I must say that you, Mr Speaker, diligently searched me out once I had finished my remarks at that time and indicated to me some logistic problems in relation to that matter. Therefore, at that time we determined that the proclamation would have to be dated in such a way as to ensure that those logistic problems could be addressed appropriately. It was thought that it would be possible to proceed with the election at this time.

It is not possible, as far as I can see, for me to move a motion other than that which I have in front of me, because the Liberal Party finds itself not in a position to supply the names of those members whom it would wish to elect to the committee. The reason for this escapes me, and I cannot quite understand why it should be that after this length of time it is not possible for us to proceed to the finalisation of this matter, given that the Labor Party is in a position to nominate its members to the committee. Indeed, one of the non-aligned members of the House—indeed you, Mr Deputy Speaker—has also indicated that he is prepared to accept nomination in this way.

I could speculate, but that would unduly take up the time of the House, and I will leave it for members in other forums to speculate why we find ourselves in this position. I commend the motion to members. I point out that it is not the intention of the Government that a committee should be elected without members who sit opposite us in membership of that committee and, if any honourable member opposite seeks to adjourn this motion, reluctantly we will not oppose that adjournment.

Mr S.J. BAKER (Deputy Leader of the Opposition): I am very disappointed with the remarks of the Deputy Premier about the formation of the committee. It is obvious—and I will not say a great deal, because I will not breach confidences—that concerns were expressed originally when the Bill was being debated as to the rush. I expressed concern in relation to the rushed setting up of these committees, given the impending changes to electoral boundaries and the extent to which members could serve adequately on those committees; that was no secret amongst members of the House of Assembly.

However, let us be quite clear about this Bill. The Labor Party should have been quite sensible and said, 'We agree with you: we can't really set them up until February. If we have to wait a week to do it properly, then let's wait a week to do it properly. Let's get the best people available onto the committees.' However, that is not what the Labor Party did: it said, 'We've got problems in our own ranks'. We knew of the hysterics amongst members; those resentments were made known to us. We know that people resented the fact that some of the old hacks and has-beens were being retained on the committees and we know what is going on. We know what the Labor Party did to prevent any further spill within the parliamentary Party: it locked itself in with a motion, instead of agreeing to a deferral which was quite reasonable.

I know that, if I asked the Independent members of this House what is their stance on the committees, they would say that they would want the best people available, and they would want those people who had the capacity to spend their time on these committees, the people who could actually undertake the deliberations that these committees deserve. However, that was not the case. When we said that it would be sensible to defer the motions, given that changes are likely to take place, some discussion occurred. Caucus said, 'We can't have that, we will have a riot on our hands.' So, this is the interim motion. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That, on the commencement of the Parliamentary Committees Act, the following members be appointed to the Environment, Resources and Development Committee: Mr De Laine and Hon. T.H. Hemmings; and that a message be sent to the Legislative Council in accordance with the foregoing resolution.

Mr S.J. BAKER (Deputy Leader of the Opposition): The Deputy Premier has mentioned the next day of sitting, and I am not sure what position that places us in—whether this issue must be considered again tomorrow. I am not sure that we have done the right thing. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

LEGISLATIVE REVIEW COMMITTEE

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That on the commencement of the Parliamentary Committees Act, the following member be appointed to the Legislative Review Committee: Mr McKee; and that a message be sent to the Legislative Council in accordance with the foregoing resolution.

I give an undertaking to the honourable member that, should the House find itself sitting as a quite separate sitting day on either tomorrow or Friday, the matter will be further adjourned to the new year part of the session.

Mr S.J. BAKER secured the adjournment of the debate.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. D.J. HOPGOOD (Deputy Premier): I move:

That, on the commencement of the Parliamentary Committees Act, the following members be appointed to the Social Development Committee: Messrs Holloway and Quirke; and that a message be sent to the Legislative Council in accordance with the foregoing resolution.

Mr S.J. BAKER secured the adjournment of the debate.

MOTOR VEHICLES (LICENCES AND DEMERIT POINTS) AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Transport) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959; and to make a consequential amendment to the Road Traffic Act 1961. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill deals with two distinct matters: strategies to enforce the principle of 'one person—one licence', which is associated with the introduction of a National Heavy Vehicle Driver Licensing System and the introduction of a uniform set of traffic offences which form the basis of a National Points Demerit Scheme.

These proposals arose from the Road Safety Initiatives Package agreed to by the State and Territory Transport Ministers at the meeting of the Australian Transport Advisory Council (ATAC) in May, 1990.

Although Cabinet approved the adoption of the ATAC endorsed National Points Demerit Scheme, the approval was conditional on maintaining a Points Demerit Scheme in the State which continued to deal with offences not covered by the National Scheme, but which attract demerit points in this State.

The Bill includes some amendments to the South Australian Points Demerit Scheme which seek to correct inconsistencies in the number of demerit points prescribed for certain offences when compared to the National Scheme.

The first part of the Bill deals with issues concerning the licensing of drivers of heavy vehicles. It is generally known that some drivers of heavy vehicles hold a number of licences, issued in different States and Territories. In the event that one driver's licence is cancelled, the driver simply continues to drive on another. In some instances, drivers have been known to obtain driver's licences in false identities for much the same reason.

The Bill proposes that the Registrar of Motor Vehicles be empowered to either cancel the South Australian driver's licence of a person who holds multiple licences, or require the person to surrender all other interstate driver's licences held by the person. In addition, the Bill provides the Registrar with the authority, for the purpose of ensuring that learner's permits or driver's licences are not obtained in false identities, to require applicants to provide proof of identity, age and address, and the authority to refuse the issue of a permit/licence if the applicant declines to do so, or if the Registrar is not satisfied as to the identity and address of the applicant.

The Bill also proposes that it be compulsory for all drivers of heavy vehicles to carry their driver's licence at all times when driving heavy vehicles. This proposal is considered necessary as many drivers of heavy vehicles have avoided prosecution by providing a false name and address to an officer who has reported the driver for a breach of road law. The Bill defines what is meant by a 'heavy vehicle', so that the compulsory carriage requirement only applies whilst the driver is driving heavy vehicles, and does not apply when the driver is driving small trucks/buses, motor cars or motorcycles.

The second part of the Bill deals with the introduction of a uniform National Points Demerit Scheme, together with some amendments to the South Australian Points Demerit Scheme.

The Bill proposes two distinct groups of offences, one of which deals with the national set of offences, and the other dealing with offences not covered under the national scheme, but which attract demerit points in this State.

Under the proposed Points Demerit Scheme, holders of a South Australian driver's licence would incur demerit points if they are convicted, in this State, of any offence for which demerit points are prescribed. They would also incur demerit points if they were convicted, in another State or Territory, of an offence listed in the national set of offences.

Drivers licensed interstate who are convicted of an offence in this State would also incur demerit points. However, if they are convicted of an offence in the National Scheme, corresponding legislation interstate should in effect result in those points being recorded against them in the State or Territory in which they are licensed.

Although a driver who incurs twelve or more demerit points in a three year period would continue to be liable to disqualification, it is proposed that the Registrar of Motor Vehicles only be required to take action to disqualify those drivers who are either licensed in this State or who are not licensed anywhere, or those drivers who are licensed interstate, but have incurred, in this State, twelve or more of the demerit points not covered by the national offence/schedule.

A demerit point exchange system will be established by the various licensing authorities, whereby demerit points incurred for an offence listed in the national schedule, can be transferred to the relevant licensing authority.

Although all States and Territories have agreed to participate in a National Points Demerit Scheme, the necessary legislation will not be in place in all of the States and Territories until after the proposed commencement date of this Bill.

It is anticipated that South Australia, Victoria, New South Wales and Queensland will commence the exchange of demerit points from 1st January, 1992.

It will therefore be necessary to identify participating States in the Regulations under the Motor Vehicles Act. The Regulations can then be amended to include other States and Territories as they have the necessary legislation in place to join the scheme.

A demerit point exchange system will make drivers more accountable for their actions, and hopefully more safety conscious, particularly those who regularly drive across State or Territory borders.

Some of these drivers have incurred a large number of demerit points, but have escaped responsibility for them, where the total of demerit points in any particular State or Territory has not reached twelve or more, and the driver has therefore not become liable to disqualification. Under a national scheme, these drivers will be dealt with by the licensing authority in the State or Territory in which they are licensed.

Although the existing legislation provides for a right of appeal against a disqualification imposed under the points demerit scheme, some amendments are proposed to the existing legislation in order to ensure that the principle of no loss of licence without due process, as proposed in the national scheme, is maintained.

Under the existing provisions, a driver who has incurred twelve or more demerit points may appeal against the disqualification. On allowing an appeal, the Magistrate is required to order that the number of demerit points which brought about the disqualification be reduced to eleven.

This in effect means that the appellant is no longer liable to disqualification.

However, the national scheme provides that a driver should not again become liable to disqualification until a further two or more demerit points are incurred. Consequently, the Bill provides for the Magistrate to order that the total demerit points be reduced to ten, rather than eleven.

The Bill also provides the Magistrate with the power to include any additional demerit points incurred by the appellant between the time that the appellant became liable to disqualification and the hearing of the appeal. If the appellant had incurred further demerit points, and these were not taken into account by the Magistrate, the appellant would immediately become liable for disqualification and the appeal would have served no useful purpose.

As previously mentioned, the Bill separates offences attracting demerit points into two categories, those within the National Scheme and those peculiar to South Australia.

During the preparation of this Bill it became apparent that there was an inconsistency in the number of demerit points prescribed in the national schedule of offences when compared to the number of demerit points prescribed for certain offences in the South Australian scheme.

The national scheme proposes that six demerit points be prescribed for the offence of exceeding a speed limit by 45 kilometres an hour or more. The offences of reckless or dangerous driving, exceeding .15 blood alcohol concentration, refuse breath test and refuse blood test are regarded to be of at least equal seriousness, and it is proposed that six demerit points be prescribed for these offences.

The Bill also contains a consequential amendment to the Road Traffic Act 1961, transferring the offence of 'failing to give way to emergency vehicles' from the Regulations under the Road Traffic Act, to the Act itself, for the purpose of prescribing demerit points for a breach of this provision.

Clauses 1 and 2 are formal.

Clause 3 amends section 75aa by providing the Registrar of Motor Vehicles with power to require a person who holds both an interstate licence and a South Australian licence or learner's permit to elect to surrender one or the other. The South Australian licence or permit will be cancelled if the person does not voluntarily hand in the interstate licence.

Clause 4 amends section 75a by striking out a reference to section 98b which will be obsolete in view of the new Part IIIB provisions (see clause 8).

Clause 5 amends section 77b by providing the Registrar of Motor Vehicles with power to require an applicant for a licence or learner's permit to provide evidence of identity, age or address and to refuse to issue the licence or learner's permit if not satisfied as to those matters.

Clause 6 amends section 81b. The amendment is consequential to the amendment that recognises interstate demerit points for the purposes of the demerit points scheme.

Clause 7 inserts a new section 98aaa. The new section requires drivers to carry their licences with them at all times while driving a heavy vehicle (namely, a vehicle with a gross vehicle mass over 15 tonnes or a prime mover with an unladen mass over 4 tonnes).

Clause 8 substitutes Part IIIB—the demerit points scheme. The scheme is similar to the current scheme except that it provides for the recognition of demerit points incurred outside the State, adjusts the number of demerit points for various offences and allows a person who is successful in an appeal against disqualification to get a further 2 demerit points (rather than 1) before automatically suffering a disqualification. The new Part clarifies and simplifies various provisions.

The new section 98b provides that demerit points are incurred by a person on conviction or expiation of an offence as set out in the third schedule (the schedule is substituted). It also allows a court to order a reduction of the demerit points incurred by a person in respect of a particular offence if satisfied that the offence is trifling, or that any other proper cause exists.

The new section 98bb provides for the recognition in this State of demerit points incurred in any other State or Territory. This is a provision that is new to the scheme.

The new section 98bc sets out when a person is liable to be disqualified through incurring demerit points. As in the current provisions disqualification occurs on incurring 12 or more demerit points within a three year period. In relation to interstate licence holders, disqualification only occurs if the demerit points are incurred in relation to offences that carry demerit points in this State but not in any other State or Territory. This is a new provision included to take account of the national demerit points scheme. A disqualification resulting from other offences is to be handled by the jurisdiction in which the person holds his or her licence.

The new section 98bd requires the Registrar to send out a notice of disqualification when the relevant number of demerit points have been incurred by a person. It also requires the Registrar of Motor Vehicles to inform a person who is half way to being disqualified under the scheme. The provision states that the Registrar may, but is not required to, give notice to a person who the Registrar is satisfied is not usually resident in this State. A disqualification of a person who does not hold a licence is generally to be handled by the jurisdiction in which the person usually resides.

The new section 98be sets out how a disqualification is to take effect and how demerit points are then to be discounted. A disqualification generally takes effect on service of the notice of disqualification. All demerit points that relate to the offence that pushed the aggregate to 12 or more and all demerit points that relate to offences that were committed before that offence are then discounted. This is the same as in the current scheme.

The new section 98bf provides for an appeal against disqualification. The appeal is similar to that which currently exists except that on a successful appeal the aggregate of the appellant's demerit points is to be reduced to 10 rather than 11. The grounds of appeal are the same—undue hardship or not in the public interest to disqualify. A person is not allowed to appeal if the demerit points on which the person is liable to be disqualified formed part of an aggregate that was reduced by the court on a previous appeal. The court's powers to impose conditions on a licence are clarified. On a successful appeal the section provides that the court is to order a discounting of the appellant's demerit points so that the aggregate of the points is reduced to 10. This includes demerit points in respect of all offences committed before the determination of the appeal including any offence that the appellant may subsequently expiate or be convicted of.

The new section 98bg makes it an offence for a person to contravene any conditions imposed on the person's licence by the court. This offence also carries 2 demerit points.

The new section 98bh provides that a court is not to take into account demerit points when imposing a penalty on a person.

Clause 9 amends section 142 by providing an evidentiary aid in relation to the new offence of failing to carry a driver's licence while driving a heavy vehicle.

Clause 10 substitutes the third schedule which sets out the number of demerit points carried by offences against

the Road Traffic Act. It divides the offences into ones that fall within the national scheme and those that only incur demerit points if they are committed in this State.

Schedule 1 sets out the new third schedule.

Schedule 2 contains transitional provisions. Clause 1 ensures that demerit points incurred by a person before the commencement of the measure continue to be held by the person. Clause 2 provides that any increase in demerit points only applies in relation to offences committed after the commencement of the measure but that any decrease also applies to offences committed before the commencement of the measure if the person expiates or is convicted of the offence after the commencement of the measure.

Schedule 3 contains a consequential amendment to the Road Traffic Act. Demerit points are to be incurred under the new scheme in relation to the offence of failing to give way to an emergency vehicle. This offence is currently included in the regulations. The amendment moves the offence to the Act.

Mr INGERSON secured the adjournment of the debate.

DISTRICT COURT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1967.)

Mr INGERSON (Bragg): This Bill is one of several that has been put together by the Attorney to reform the South Australian justice system. In recent years, significant improvements have been made in the system by the courts, the Parliament and Government. The Government has recognised the important work that the judiciary has done and is continuing to do to improve the administration of justice in this State.

The Government has restructured this system to involve three courts: the Supreme Court, which should remain basically unaltered; the District Court, which will now be constituted under its own Act and which should remain the main court for civil and criminal trials and for appeals from administrative decisions; and the Magistrates Court, which will also be constituted under its own Act. The District Court Bill was recommended by a committee chaired by the Senior Judge in 1984. As the title suggests, the Bill is set up to constitute and define the District Court.

Experience has shown that it is not conducive to the sound and efficient administration of justice that these three systems go hand in hand. The Hon. Trevor Griffin in the other place, while arguing for changes in the court system, has, with the agreement of the Attorney, amended the initial Bill to such an extent that at this stage there are very few areas of disagreement in respect of the proposal, which the Opposition and I hope will quickly and more adequately streamline the courts system. However, we are still concerned about a few areas, and the Law Society, in particular, believes there are certain areas about which expressions of concern should be put on the record—I will refer to those in a moment.

The Bill deals further with matters of court practice and procedure which will be regulated by the rules of court. The Opposition intends to move an amendment in this area because it feels that the rules of court should be looked at not only by judges who are directly involved with those rules but by the group of people concerned with practising the law. This amendment, which simply allows for another supervisory group to look at rule changes, is very minor, and we hope that the Parliament will accept it. Of course, the Parliament will retain overriding control by virtue of its subordinate legislation powers. So, whilst obviously the Parliament will have the final say with regard to these rules, the Opposition feels generally that there should be another group between the court and the Parliament.

The criminal jurisdiction of the court has been altered to remove a number of anomalies. At present, jurisdiction is defined in terms of the maximum penalty that may be imposed in respect of an offence. The District Court may deal with any offence where the maximum penalty does not exceed imprisonment of 15 years. Over the years, this has produced some fairly strange anomalies. We recognise that this change is essential but, again, as the Hon. Trevor Griffin in the other place has pointed out on behalf of the Opposition, we are concerned about the differences created between the old and the new system. The Government considers also that certain offences should always be tried in the Supreme Court. Those offences are clearly set out in the Bill, and generally the Opposition agrees with that principle.

With respect to the civil jurisdiction of the courts, no changes are made to classes of action that will be heard; however, it will be seen that the jurisdiction is no longer defined in monetary terms. Again, this matter was debated at length in the other place. Whilst the Opposition proposes some small amendments, they really relate to a difference of opinion between the Government and the Opposition about the amounts concerned.

The new Administrative Appeals Division of the District Court is established by this Bill. Many appeal tribunals, to be presided over by a District Court judge, are established under various Acts of Parliament. This matter was debated at length in the other place and has been amended. Many administrative appeals run into all sorts of time problems; we feel that the existing amendments will give greater flexibility to the use of judicial resources, and we support that move. The Law Society in its submission to the Opposition on the original Bill mentioned several points, and amendments have been made accordingly, but we believe that there are still several areas that need to be considered in this House. In respect of jurisdiction, the Law Society states:

> The society applauds the principle of making justice generally more accessible. However, it is concerned that, with a jurisdiction concurrent to that of the Supreme Court, complex litigation may be drawn out of the Supreme Court and into the District Court. Such litigation can include larger insurance claims, complex tort claims involving difficult questions in relation to damages and interest, large commercial matters and protracted contractual disputes.
>
> It would be true to say that many of the justices of the Supreme Court were exposed in practice to such matters. The District Court, on the other hand, was created historically to deal with other classes of action and, in particular, personal injury damages litigation and 'middle level' crime. The proposed lifting of any jurisdictional restraint may therefore well mean that matters that should be more properly dealt with in the Supreme Court are dealt with in the District Court.

That is an area of concern to the Law Society that is shared by the Opposition. The society goes on to say that it is opposed to the removal of monetary ceilings on the District Court. It states:

> If monetary ceilings are to be retained, then a small increase in same over and above the existing level may be appropriate.

The Opposition's amendments recognise those points. The Law Society's submission continues:

> Consistently with the above, the society's view is that the conferring of full equitable jurisdiction on the District Court is not appropriate. Examples of equitable jurisdiction include the granting of injunctive and other uniquely equitable relief which the District Court has not been obliged to consider in the past. The society is of the view that such equitable relief should still be confined to the Supreme Court which has dealt with it con-

sistently in the past. The continuation of ancillary equitable powers—in particular, equitable jurisdiction—is favoured.

The other area of concern to the Law Society that is not adequately covered by the amendments in the other place relates to conciliation, and the society states:

The society strongly supports conciliation and mediation as an effective way of endeavouring to resolve disputes between parties at the least possible cost both to the system and the parties. However, it is of absolute importance that the independence and impartiality of the judiciary be maintained and continue to be observed to be maintained. For a District Court judge in a part-heard trial to enter into a process of conciliation, it would be necessary for him or her to express views and opinions in an effort to make that conciliation successful. For that judge then to continue on to hear the matter in an independent and impartial sense after an unsuccessful conciliation is simply a contradiction in terms.

The society points out that it consequently opposes that position. A further area of concern to both the Law Society and the Opposition involves cost. The Law Society states:

The society opposes the departure from the principle that, subject to the court's discretion, costs would generally follow the event. The society is of the view that the provision has the potential to work great injustice to both solicitors and litigants in general, as expressed in its submission in relation to the Magistrates Court Bill.

We will talk about that later. The society continues:

There are many occasions when parties and legal practitioners are put to significant cost because of the failure of the court to deliver an available trial at the time fixed.

One of the amendments to be moved picks up that point. The other area of concern to the Law Society relates to rules of court, concerning which the society states:

In the Supreme Court, the rules of the court are made with the concurrence of all judges of the court. The society can see no valid reason why that should be different in the District Court.

Those comments echo the concern also of the Opposition. We support the second reading of this Bill but will seek to move amendments in Committee.

The Hon. G.J. CRAFTER (Minister of Education): I thank members of the Opposition for their indication of support for this measure, although I note that there are amendments on file. The Government also has amendments on file, and they come to this House as a result of undertakings given in the other place with respect to matters raised there. These amendments are designed to improve this important measure.

The District Court Bill is one of a series of measures that come in the package of Bills we will be considering today and this evening in this place, together with the Magistrates Court Bill, Justices Amendment Bill, Statutes Repeal and Amendment (Courts) Bill, Justices of the Peace Bill, Sheriff's Amendment Bill and the Evidence Amendment Bill that we passed in this place some short time ago. These measures are designed to bring about a modern statutory basis and an appropriate and effective statutory framework for the administration of the courts in South Australia.

We have seen significant improvements in the system of justice in South Australia with the decisions taken and restructuring undertaken by the courts, by the Parliament and by the Government in recent years. We are all acutely aware of the importance of the work the judiciary has done and is continuing to do to improve the administration of justice in this State. It is an area of our community that must always call upon our best endeavours, and we must always be vigilant to ensure that we have the most efficient court administration possible.

It is the cornerstone of our democracy, and it is important that the community continue to have confidence in our courts and in the system of justice we provide in our community. We can be justifiably proud of that community confidence in our courts system and in the traditions that have been established in the administration of justice in South Australia over the years. As I have said, it is something that calls upon us, particularly as members of Parliament, to remain vigilant in this area. It is too important to see it set aside or given a lower priority than it has currently.

That is evidenced by this package of Bills before us and by the enormous amount of work that has been done within the courts, within the Attorney-General's office, the legal profession and other interest groups, to bring these measures before us in this form. The Government believes that the appropriate structure for the courts system in South Australia should be as I will now outline.

The jurisdiction of the Supreme Court should remain basically unaltered. That is, it should be the appellate court within the State and the trial court for more serious or complex trials. The District Court, constituted by its own Act, should be the main trial court for both civil and criminal matters and should hear appeals from various administrative decisions—a substantial growth area in the common law world. The Magistrates Court, constituted by its own Act, should deal with committals, summary proceedings and the other jurisdiction presently exercised by the courts of summary jurisdiction and exercise the civil jurisdiction currently exercised by the local courts of limited jurisdiction and the small claims jurisdiction.

The Government believes that this new structure will have several advantages. Each court will be constituted by its own Act of Parliament for the first time, and able to develop the procedures appropriate for its own jurisdiction. The establishment of the District Court by its own Act of Parliament was recommended by a committee chaired by the Senior Judge some years ago, and this Bill is largely based on the recommendations of that committee, chaired by the late Mr Justice Ligertwood.

This Bill constitutes and defines the District Court. The District Court, as it has now become known, was established in 1969 and commenced sitting in 1970. It was the result of a statute passed during the period of the Steele Hall Administration in South Australia, although it was the second Dunstan Government that made the appointments to that bench and established that new court in South Australia. As a matter of expediency the new court was, as it were, grafted on to the existing Local Courts Act. The Local Courts Amendment Act 1969 provided for the appointment of judges and for the creation of new criminal and civil jurisdictions to be exercised by these judges. More recently the small claims jurisdiction has been established under the same Act. There are now three jurisdictions working within the same parameters.

The wisdom of the Bills we have before us can therefore be clearly seen. It is important to note that the criminal jurisdiction of the court has been altered to remove a number of anomalies. At present, jurisdiction is defined in terms of maximum penalty that may be imposed in respect of an offence. The District Court may deal with an offence where the maximum penalty does not exceed imprisonment for 15 years, and that produces some strange anomalies. For example, the District Court may try a person charged with attempted rape, but may not try a person charged with the completed offence.

The Government considers that certain offences should always be tried in the Supreme Court. The offences of murder, attempted murder, treason, and offences which by virtue of any special Act are to be triable in the Supreme Court and all other offences are to be triable in both the Supreme Court and the District Court. The magistrates,

upon committing an accused person for trial or sentence, will decide which court would be the more appropriate for the particular case. Magistrates already do this in respect of group II offences under section 136 of the Justices Act 1921.

As to the civil jurisdiction of the courts, no changes are made in the classes of action which may be heard; however, it will be seen that the jurisdiction is no longer defined in monetary terms. I note that that is a matter of concern to the Opposition. The monetary limit to the jurisdiction of the District Court can lead to some very arbitrary results. It can lead and, indeed, has led on occasions to the unfortunate result of persons who have chosen to proceed in the lower court not recovering the full amount to which the court has held they were entitled. To ensure that a matter is tried in the appropriate court provision is made for a judge of the Supreme Court to order that proceedings commenced in one court be transferred to the other court. This provision also allows for a more flexible use of judicial resources, something that we would all wish to see.

It will allow the Supreme Court to enlist the aid of a District Court judge if the Supreme Court is in difficulty meeting its commitments. Likewise, if a Supreme Court judge is left without a case to try while the District Court is unable to meet its commitments, it will be possible for the Supreme Court judge to hear and determine a District Court matter. A new administrative appeals division of the District Court is also established in this measure, and many appeal tribunals are established under various Acts of Parliament and presided over by a District Court judge. Some Acts of Parliament require the nomination of a particular District Court judge, while others merely specify a District Court judge.

It is the Government's intention that each of these bodies be examined and, where appropriate, the appellate jurisdiction should be conferred on the administrative appeals division rather than on a separate tribunal. It is recognised that in some instances rights of appeal will be best left to lie to the appellate bodies presently in existence, but it is envisaged that many appeal rights can be transferred to the new division.

As I said earlier, this is a growth area in the work of the courts and tribunals in South Australia. It is a neat approach and an appropriate way to most efficiently use our resources to retain consistency in decision-taking in this area and I am sure that it will be welcomed by the community at large. The creation of this administrative appeals division will allow greater flexibility in the use of judicial resources and greater efficiency by having a common set of procedures for administrative appeals. Provision is made for the court to sit with lay members (referred to as 'assessors' in the Bill) when determining administrative appeals. This will enable the *status quo* to be preserved in those cases where the appellate tribunal presently has lay members, that is, those members who are not holders of formal legal qualifications. So, with that summary of the substantial measure, I commend the measure to the House.

Bill read a second time.

In Committee.

Clauses 1 to 7 passed.

Clause 8—'Civil jurisdiction.'

Mr INGERSON: I move:

Page 2, after line 30—Insert paragraph as follows:

(c) the court has no jurisdiction (except by agreement of the parties) to determine a claim for a monetary sum where—

(i) if the claim arises from injury, damage or loss caused by or arising out of the use of a motor vehicle—the amount claimed exceeds $200 000;

(ii) in any other case—the amount claimed exceeds $150 000.

The purpose of this amendment is to limit the amount of the claim that is able to be looked at by the District Court—in the case of motor vehicles to an amount not exceeding $200 000 and, in any other case, to an amount not exceeding $150 000. The Opposition believes that cases involving amounts above those limits should be specifically dealt with in the Supreme Court. This sort of limitation is reasonable for the District Court.

The Hon. G.J. CRAFTER: The Government opposes the amendment. I referred to this matter in closing the second reading debate. The amendment limits the District Court's monetary amount to $200 000 in claims arising from the use of a motor vehicle and to $150 000 in all other matters. The present monetary limits are $150 000 for motor vehicles and $100 000 in other cases. If one takes into account inflation, the Opposition is maintaining the *status quo* or, in fact, going backwards. In a sense, this retains the arbitary monetary limits and imposes limitations on the District Court being the main trial court in South Australia.

The Opposition is putting the District Court back in its place, as it sees it, rather than adopting the Government's perception of the District Court becoming the main trial court and the Supreme Court becoming substantially an appellate court. The provision for transferring matters between courts will ensure that the most appropriate court can deal with the matter and indeed that we obtain the most efficient use of the court's resources in reducing our lists and dealing with matters, whether they be matters of substantial importance, great complexity and so on. The thrust of the Opposition's amendment is simply to negate all intentions of the Government to free up our resources in this area and to more appropriately structure the jurisdictions and to provide for that new, important and, I suggest, appropriate function of the District Court.

Amendment negatived; clause passed.

Clauses 9 to 41 passed.

Clause 42—'Costs.'

Mr INGERSON: I move:

Page 12, after line 13—Insert subclauses as follows:

(6) If—

(a) the trial of an action is scheduled to commence at a particular time or within a particular period;

(b) the parties are ready to proceed with the trial; and

(c) the action is adjourned because the court is not able to proceed with the matter,

the court must make, at the request of a party, an order for costs resulting from the adjournment.

(7) Costs awarded under subsection (6) will be paid out of the Consolidated Account.

This amendment is moved by the Opposition because we believe that on occasions the court itself creates the delay in the trial, and a particular provision of the Bill places a responsibility on the two parties involved in any trial if they delay any part of the trial. That is accepted and we understand that there ought to be some penalty on the two parties involved. However, I have been advised that, on sufficient occasions in a year to warrant attention, either or both parties are inconvenienced enough for the court to be requested to pay some costs relating to such delays.

The Hon. G.J. CRAFTER: The Government opposes the amendment because it tries to achieve a degree of certainty that is not possible to achieve. It is a rather naive approach to what happens in practice in having matters listed for trial. Proposed new subclause (6) cannot be supported because there are a myriad reasons why proceedings may have to be adjourned—some being more substantial than others, obviously. Such reasons range from illness of the judge to a matter taking longer than was anticipated. Case

scheduling is a very inaccurate science, but nevertheless, it must be attempted with the appropriate legislative authority and with due respect for the courts and the resources that are consumed in unnecessary delays and ruses that may be alleged at times. So, under this amendment the court is not to be given an opportunity to explain. That is inconsistent with subclause (5), which allows a witness to explain why he or she has not appeared. Apart from the practical nature of it, I think there is also an inconsistency within this amendment that is not acceptable to the Government.

Mr INGERSON: It is a pity that the Government is not prepared to accept the amendment. While I accept that there are many occasions on which illness may be a problem, people who are regularly involved in the courts advise me that there are numerous occasions when the delay in the system is purely and simply the result of the courts themselves, and that gets back in most instances to the inadequacy of staffing and the general funding that is made available to the courts system. This circumstance would not occur on many occasions, but there are times when individuals before the courts are disadvantaged, and we think that they should be properly recompensed. I am sorry the Government is not prepared to accept the amendment.

Amendment negatived; clause passed.

Clause 43—'Right of appeal.'

The Hon. G.J. CRAFTER: I move:

Page 12, line 30—Insert 'or witness' after 'legal practitioner'.

Clause 42 (5) provides that costs may be awarded against a witness who, without reasonable cause, fails to appear in answer to a witness summons. This amendment, which arose as a result of debate in another place, ensures that a witness can appeal against any such order.

Amendment carried; clause as amended passed.

Clauses 44 to 48 passed.

Clause 49—'Custody of litigant's funds and securities.'

The Hon. G.J. CRAFTER: I move:

To insert clause 49.

This is a money matter that was before the other place in erased type. This clause gives the Registrar of the District Court responsibilities in relation to money paid into the court and securities delivered to the court in connection with proceedings in the court. Further, it provides that the Treasurer guarantees the safekeeping of any such money and securities and enables the money to be invested. It also provides that the Unclaimed Moneys Act applies to the money in appropriate circumstances.

Mr INGERSON: Is the present method of looking after the funds the current position, or was there a need for this clause because of other legislation?

The Hon. G.J. CRAFTER: I understand that it is a continuation of the existing practice.

Clause inserted.

Clause 50 passed.

Clause 51—'Rules of court.'

Mr INGERSON: I move:

Page 14, lines 14 and 15—Leave out subclause (2) and insert subclause as follows:

(2) Subject to this section, rules of the court may be made by the Chief judge and a majority of the other judges.

As I said during my second reading contribution, the Opposition believes that the rules of the court should be made by the Chief Judge and a majority of the other judges. We believe it is better that the rules are made by everyone so there is more input into the final decision of how the courts should be run.

The Hon. G.J. CRAFTER: The Government does not support the amendment. I am advised that presently the rules of the District Court are made by the Senior Judge; the Bill provides that they be made by the Chief Judge and two or more other judges; and the amendment requires that the rules be made by the Chief Judge and a majority of the other judges. In principle there is no objection to the amendment. However, I would suggest that the practicalities are a matter of consideration, and amongst those practicalities is the fact that draft rules will need to be circulated to 27 people at least twice—once for their signature.

The problems would be compounded when judges are on circuit, on leave and absent for other reasons; and there are a host of other practical considerations. I am advised that there is quite extensive consultation with judges, members of the legal profession and other interest groups in the promulgation of rules. This has not proven to be a matter of concern in the past. The flexible and open way in which this matter is in the Bill does not require the strictures of the amendment that the Opposition proposes.

Amendment negatived.

Mr INGERSON: I move:

Page 14, after line 15—Insert subclauses as follows:

(2a) Before rules of the court are made, the judges must consult a committee constituted (from time to time) of the following persons:

(a) two persons nominated by the Law Society of South Australia;

(b) two persons nominated by the South Australian Bar Association;

(c) one person (who must not be a member of Parliament) nominated bythe Attorney-General;

(d) one person (who must not be a member of Parliament) nominated by the Leader of the Opposition.

(2b) The committee constituted under subsection (2a) must submit a report to the Joint Standing Committee on Subordinate Legislation on any rules of court made under this section as soon as practicable after the making of those rules.

This amendment is the result of consultation with the Law Society which felt, as did the South Australian Bar Association, that it would be better if the committee was constituted as outlined in the amendment. The Law Society and the South Australian Bar Association felt—and this has been reported on many occasions to the legal representative of the Liberal Party in the other place—that it would be a better proposition to have a group of people who were directly involved with the courts, but outside the judges, to look at the rules and see whether they could be a filter in enabling the courts to run in a more progressive way. This amendment recognises that call from those who are directly involved in the courts, and I ask the Government to consider it.

The Hon. G.J. CRAFTER: The Government opposes this *quasi* administrative structure in the amendment to overlay what has traditionally been a role vested in the judiciary. The amendment provides that before making rules the judges must consult with a six member committee. I do not believe that that is the appropriate way in which to arrive at rules of the court.

It is the court's responsibility to ensure that the business of the court is conducted in the best possible way. If the court sees the need for new rules to ensure that this is so, it must be unfettered in framing those rules. Of course, the courts are subject to checks and balances that are well known to us. I believe that this amendment would put the court in a difficult position. Its rule-making power could be delayed while the committee was meeting and considering these matters. What if the committee did not report to the Joint Committee on Subordinate Legislation? What if it delayed in submitting a report? What would we do in that situation? What sanctions might apply? Are the members of the committee to be paid? Is the committee to have any support staff? Who would provide its administrative sup-

port and who would pay for it? There are many unanswered questions.

This matter was debated in another place. I understand that the Senior Judge is happy to work with the legal profession in the informal way that has occurred to date and I suggest that has proved a satisfactory arrangement. The Law Society is always consulted and informed of changes to be made. To formalise the consultation process could lead to unacceptable delays.

Mr Chairman, I note your concerns about this matter in a more general sense with respect to the role that this place may play in the development of these rules when they are brought before the subordinate legislation authority of Parliament. I will raise those concerns with my colleague the Attorney-General and ask him to discuss them with the Chief Judge to examine whether some changes need to be made in the relationship between the judiciary and Parliament and, indeed, whether the subordinate legislation process might need to be altered to ensure that there is effective promulgation of the rules of court.

Mr INGERSON: It is disappointing that the Government is not prepared to consider this move, because this position is held by a large number of people who are connected with the bar and the Law Society. In the past there have been problems in setting up the rules of court, and although currently there might be some improvement in the relationship between the judges and the Law Society, history shows that there have been difficulties. People involved with the Law Society, the Bar Association and the subordinate legislation process feel that this amendment would help to resolve the problems that arise from the creation of rules of court. I ask the Government to reconsider its position on this matter.

Amendment negatived; clause passed.

The CHAIRMAN: I draw the attention of members of the Committee to the fact that on page 14 of the Bill in relation to clause 51 (1) *(d)* there are typographical amendments to be made following the reporting of the Bill in the other place. Part of a line that was meant to be left out was not left out. That will be done as an editorial correction. Any honourable member who is interested may obtain those details from the Clerk.

Remaining clauses (52 to 54) and title passed.

Bill read a third time and passed.

MAGISTRATES COURT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1970.)

Mr INGERSON (Bragg): The Opposition supports the second reading of this Bill and in the Committee stage I will move some minor amendments which the Opposition believes will improve the Bill. The Government believes that the creation of a Magistrates Court with a civil and criminal jurisdiction is the appropriate structure. The Bill establishes the court and confers jurisdiction on it, providing for some evidentary powers common to both the civil and criminal jurisdiction of the new court. It also sets out some special provisions as to the court's civil jurisdiction, including the small claims jurisdiction, which is now involved.

The Bill simplifies the procedures in the Magistrates Court and will enable the great volume of straightforward court business to be dealt with in a more efficient way. It will restrain the ability of either party to cause increase in cost or delay proceedings to suit their own purpose. Any move by the Government to improve facility through the courts and to reduce the cost of actions before the courts is most welcome. Changes are made to the civil jurisdiction exercised by magistrates. The monetary limits have been increased, but the Opposition believes that they have been increased too much, so I will be looking to amend them in the Committee stage.

The court is given equitable jurisdiction. That was commented on more fully during debate on the District Court Bill and it is not my intention to repeat those comments. There is provision for a judge of the District Court to order civil proceedings commenced in the Magistrates Court to be transferred to the District Court. This is a new procedure which is welcomed by the Opposition. Legal practitioners whose actions delay or contribute to delaying proceedings may be penalised and costs may be ordered by the court. Comments have been made about a similar provision in the District Court Bill. The Opposition is again concerned that no action can be taken by people before the courts relating to general delays caused by the courts themselves. I will deal with that further in the Committee stage.

The Bill contains provisions relating to the small claims jurisdiction. Those provisions have been rewritten to emphasise the role that the court should play in the resolution of small claims. The rules of court will provide for simplified procedures in this very important area. There is no doubt that most of the complaints that we receive as members of Parliament concern the delays and difficulties in getting into the court system, not so much about the cost of the court system. Any method that will improve the opportunity for people to settle their small claims must be applauded and we congratulate the Government on moving to simplify this area.

In its submission to the Opposition, the Law Society has again supported our earlier comment that we believe the extension to $5 000 as a limit in this small claims area is too much, and that a figure of $3 000 is more appropriate, its argument being that it was previously $2 000 and an increase to $3 000 is a reasonable inflationary increase. We believe that an increase to $5 000 is excessive, and I will comment further on that a little later.

In relation to jurisdiction, the Law Society says there is a conflict between the dollar amount appearing in the Bill and the dollar amount appearing in the report. In the Bill, it is proposed that claims for personal injuries or losses arising out of the use of a motor vehicle of up to $60 000 fall within the jurisdiction of the Magistrates Court, and in any other case there is a proposed $30 000 limit. Again, there is the question of limitation, and we believe that that limitation is too high.

With respect to workload, it has been argued by the Law Society, again on behalf of the profession, that the proposed limits in the Bill would result in the transfer of a huge number of cases from the District Court to the Magistrates Court. In honestly trying to simplify the system, it seems that we are actually pushing the workload from one court to another, and all that will do is to create a log jam in another court. Consequently, it will be the people involved in smaller claims who will be held up further. That is an issue that we believe needs to be addressed—

Mr Ferguson interjecting:

Mr INGERSON: —and the Government can do that, as the member for Henley Beach has rightly said, only by making sure that more resources are available. Whilst there was a criticism from the Law Society, in this case it is a practical observation. We would all recognise this major problem within the third level of the courts system. The Law Society refers to court resources and says:

If the jurisdictional limits are increased as proposed, it would seem clear that this would lead to a large backlog of cases and a general blockage to the whole system.

As we all know, if we block up the system at the bottom, we generally create blockages right through. In initiating this change, the Government should, as quickly as possible, do something about this resource problem which has been highlighted clearly by the society and which, given the comment of other members of Parliament, is recognised by most of us in this place.

In relation to costs, the Law Society is concerned that there is no provision in the Bill to provide how neglect or incompetence of a legal practitioner is to be determined. The practitioner is not before the court as a party, and has restrictions on his or her ability to inform the court about any particular circumstances, having regard to that practitioner's obligation to the party that he or she represents. Does the practitioner have a right of appeal against an order of the court against that practitioner? It appears not. The Law Society thinks that this provision is unfair. It is an issue, although a minor one, but, in terms of dollars to the client, it could in essence be a major issue for them. I ask the Government, through the Minister, to consider that problem to see what can be done about it.

The Opposition supports the Bill with those few comments, backed up by the comments of the Law Society. We recognise that this Bill, along with the District Court Bill, represents a very important and significant change to the way our courts system will be run in the future. We have debated at length the changes that have been put forward by the Government in another place, and we hope that those changes will quickly show benefit for the community.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this measure. I note it has some amendments on file that mirror the amendments which were the subject of debate in another place and which were rejected in that place. I also indicate that I have two amendments on file; one arising from the debate in the other place and the other relating to a money clause which was in erased type in the Bill when introduced in the other place. Thus it comes down in that form.

As the member for Bragg has indicated, it is an important measure, representing reform of the courts in South Australia, and is complementary to the Bill that we have just passed and those that are to follow. The Government believes that the creation of a Magistrates Court with a civil and criminal jurisdiction is the appropriate structure. This Bill establishes the Magistrates Court, confers jurisdiction on the court, provides for some evidentiary powers common to both the civil and criminal jurisdiction of the new court and sets out some special provisions as to the court's civil jurisdiction, including the small claims jurisdiction, which is a growing and important area for us to consider. It is particularly important that people have access to the courts in even minor matters and are not restricted in that access by jurisdictional difficulties, costs of legal representation or complex procedures in order to have the matter determined.

The criminal jurisdiction of the court will continue to be governed by the Justices Act 1921. Changes to be made to the civil jurisdiction exercised by magistrates include the increase of monetary limits; the small claims limit is increased from $2 000 to $5 000, and I note that the Opposition is concerned about that. The court is given jurisdiction to determine claims for damages or compensation for injury, damage or loss caused by or arising out of the use of a motor vehicle, of up to $60 000 and, in other cases, up to $30 000. The previous limit was $20 000 in all cases. The court is also given jurisdiction in actions to obtain or recover title to or possession of real or personal property where the value of the property does not exceed $60 000. It is given jurisdiction in interpleader actions also where the value of the property does not exceed $60 000. More importantly, the court is given an equitable jurisdiction. Hitherto magistrates have only had an equitable jurisdiction that is incidental or ancillary to, and necessary or expedient for the just determination of, proceedings before them.

There is no justification for maintaining such a state of affairs. Rules of equity have now lost much of their mystique, together with much of the difficulty that was once thought to surround them. Appointments to the magistracy must be made from experienced legal practitioners of at least five years standing who, in the course of their practice, will have experienced equitable rules simply as part of the general law applied to the determination of all cases. Provision is made for a judge of the District Court to order civil proceedings commenced in the Magistrates Court to be transferred to the District Court, and for proceedings commenced in the District Court to be transferred to the Magistrate Court. Legal practitioners whose actions delay or contribute to delaying proceedings may be penalised by having costs disallowed or by being ordered to repay costs or indemnify a party. This provision is similar to the existing Rule 186A (2).

The comments of the member for Bragg, raised by the Law Society, are covered in the consideration of the inclusion of this section. However, if there are some matters outstanding, I will have them referred to the Attorney-General for his further consideration. The provisions relating to the small claims jurisdiction have been rewritten to emphasise the role the court should play in arriving at a resolution of small claims. The rules of court will provide for simplified procedures in the small claims jurisdiction. The system is presently excessively complex given the nature of its jurisdiction, and too formal and trial directed.

At present a claim is not justifiable as a small claim where a plaintiff makes a small claim but also seeks relief in addition to a judgment for a pecuniary sum. This limitation has severely curtailed the usefulness of the jurisdiction for resolving the many minor disputes which occur between, for example, neighbours. A small claim now includes a 'neighbourhood dispute' for which the court may grant injunctive or declaratory relief.

I am sure that all members would welcome this access to the courts by a group of people who have previously found it difficult to access the courts. It is complementary to the growth in the provision of mediation services in our community. It is also very important that those community-based services have access to the courts in appropriate circumstances. So, this complementary provision will help our communities to be safer, more secure and more peaceful environments in which to live and carry on daily life. I commend the Bill to the House.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

Mr INGERSON: I move:

Page 2, line 9—Leave out '$5 000' and insert '$3 000'.

We believe that an increase from $2 000 to $5 000 is excessive: an increase to $3 000 is adequate. I have five consequential amendments, and I ask the Committee to consider this amendment as a test case.

The Hon. G.J. CRAFTER: The Government opposes this amendment. I commented on this matter in my second reading speech. This is very much a black and white issue. The Opposition, as it has in other jurisdictional amend-

ments with respect to this matter under the previous Bill, has taken an overly conservative view of the appropriate jurisdiction and eliminated from access to these courts an important group of people in our community. This amendment would reduce the small claim from one involving a monetary amount of $5 000 or less to one involving $3 000 or less. One can see that many transactions in the community would be eliminated from the small claims jurisdiction and that they would then move into the formal Local Court jurisdiction, and that is undesirable.

Considerable support has been expressed for a limit of $5 000; for example, the Legal Services Commission, SACOSS, the Consumers Association and the Adelaide Central Mission all support it. They are concerned that justice should be accessible, and this is a way of ensuring that it is. The Law Society's arguments imposing the amount are not surprising: they are completely predictable, and it would be speaking on behalf of its members who would wish to see legal representation available in the way that it currently is. Unfortunately, given the cost of legal services, the formalities surrounding access to the courts in the general jurisdiction and the adversary nature of legal representation it brings to the resolution of these matters would simply eliminate an important group of people from having their disputes solved satisfactorily, from having their day in court.

The Opposition is saying that to many in the community $5 000 is a significant sum. That is acknowledged, but I suggest it would be better to be able to bring a small claim before a court than not to be able to bring a claim at all on the basis of affordability. That is the simple dilemma facing many within our community with respect to access to the courts and to a just resolution of their grievances. It is beholden upon us, where we possibly can, to try to remedy that situation, and this is one opportunity which we have to do that.

Amendment negatived; clause passed.

Clauses 4 to 39 passed.

Clause 40—'Right of appeal.'

The Hon. G.J. CRAFTER: I move:

Page 13, line 6—Insert 'or witness' after 'legal practitioner'.

I move this amendment for the same reason as I moved an amendment to the Bill before the House previously. As I explained, this amendment arises out of debate in another place and improves the Bill.

Amendment carried; clause as amended passed.

Clauses 41 to 46 passed.

Clause 47—'Custody of litigant's funds and securities.'

The Hon. G.J. CRAFTER: I move:

Page 14 after line 31—Insert clause as follows:

47. (1) The Registrar is responsible for the proper custody of money paid into the court and securities delivered to the court in connection with proceedings in the court.

(2) The Treasurer guarantees the safekeeping of any such money or security from the time it comes into the court's custody until it lawfully ceases to be in that custody.

(3) Any liability arising under the guarantee will be satisfied from the general revenue of the State (which is appropriated to the necessary extent).

(4) Money paid into the court may be invested in a manner authorised by the rules and any interest or accretions arising from the investment will be dealt with as prescribed by the rules.

(5) Any money in the court's custody that has remained unclaimed for six years or more may be dealt with under the Unclaimed Moneys Act 1891.

This amendment appeared in the Bill in the other place in erased type. It is a money clause, and it provides for the responsibilities of the Registrar and the handling of moneys paid in and out of court. I commend the amendment to the Committee.

Clause inserted.

Clause 48 passed.

Clause 49—'Rules of court.'

Mr INGERSON: The Opposition raised the issue of rules of court under the District Courts Bill. In his second reading explanation, the Minister referred to more involvement between the judges and the Subordinate Legislation Committee. Will the Minister explain what he envisages in that area?

The Hon. G.J. CRAFTER: The Chairman of Committees, the member for Elizabeth, raised with me a question relating to the role of the Subordinate Legislation Committee. In particular, he raised questions about current restrictions placed on the Subordinate Legislation Committee with respect to rules of court that do not apply to other matters that come before that committee as it now is (but, of course, it will change under our new committee structure). The honourable member asked whether I would request the Attorney to discuss this matter with the judges to see whether current arrangements were appropriate or whether they could be improved in some way. I have undertaken for that discussion to occur.

Mr INGERSON: As this amendment is the same, in essence, as the one that was lost in respect of the previous Bill, I will not proceed with it.

Clause passed.

Remaining clauses (50 and 51) and title passed.

Bill read a third time and passed.

STATUTES REPEAL AND AMENDMENT (COURTS) BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1971.)

Mr INGERSON (Bragg): This Bill is consequential on the restructuring of the courts system. The Debts Repayment Act was set up in 1978, but has never been implemented, and the Minister in his second reading explanation put forward some incredible costs with respect to that implementation. It was suggested in 1979 that the cost of administration of that Act would be about $895 000. In 1986, the cost purely and simply to implement it was estimated to be about $2.5 million. I understand why the Government in its current difficult financial state believes that this Act need never be proclaimed and that, in essence, it should be repealed. So, the Opposition supports repealing this Act.

In his second reading explanation the Minister argued that it would be more suitable to have legislation consistent with Commonwealth legislation. In light of the current feeling of getting the States and Commonwealth together, this might be an opportunity to have one important area included in simple legislation that is consistent in all States.

Further amendments in this Bill relate to the Residential Tenancies Act. Again, the jurisdiction is increased from $2 500 to $25 000. The Opposition feels that that is too big a jump in one hit; consequently, we will move an amendment in Committee. The Bill also seeks to make common assault a summary offence and to reclassify offences relating to criminal damage to property in line with general reclassification provisions in the Justices Amendment Bill, with which we will deal later. In general terms, damages exceeding $25 000 will be major indictable, damage between $25 000 and $2 000 will be minor indictable, and damage under $2 000 will be summary. We support those changes.

The fourth amendment relates to the Controlled Substances Act and deals specifically with the manufacture, production, sale or supply of limited amounts of cannabis

or cannabis resin as summary offences. I note with interest that this section has been significantly amended in the other place and that the Government has accepted the fact that the small amounts should be less than one-fifth of the amount prescribed under section 32 (5). Obviously, we strongly support that amendment as it more closely recognises the position in the courts. We recognise that this change is necessary, although generally we abhor the use of cannabis in any form.

As a pharmacist, I am continually appalled at the reaction of the community and certain individuals who argue that the social use of marijuana is a good thing. There is no doubt that pharmaceutical and medical evidence shows that the smoking of marijuana in small quantities is significantly more detrimental to the human body than the smoking of cigarettes. We as a society clearly are moving towards pursuading young people that they should not smoke cigarettes; yet, in a very loose way, we seem to condone the smoking of marijuana. Society has its values back to front if it can consider the use of marijuana in any form as being of any social value at all. So, in supporting this move, whilst that is a strong personal comment in relation to the use of marijuana, there is no doubt that the Liberal Party would move very quickly to establish almost complete control over the use of marijuana.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this measure subject to amendments that have been placed on file, and I note the honourable member's comments with respect to those amendments. The honourable member has outlined the major provisons of this Bill, but I would like to reiterate one important piece of history with respect to the Debts Repayment Act, which was one of the package of Acts enacted in 1978 dealing with the repayment of debts and the enforcement of judgments. None of those Acts is in operation as they were not proclaimed.

The Debts Repayment Act provided for a debtors' assistance office. Counsellors attached to this office would provide debt counselling for any member of the public who wanted it. They would negotiate with creditors to try to arrive at satisfactory arrangements for settling debts, and they would help to formulate schemes which would have the backing of the Act for the regular payment of debts. Any such scheme would have been subject to the approval of the (then) Credit Tribunal.

When this package of legislation was being examined in 1979 with a view to bringing it into operation, the cost of the Debts Repayment Act was estimated, in the first full year, to be some $895 000 if administered by the Department of Public and Consumer Affairs. The cost of administration by the then Department for Community Welfare was estimated to be $482 000. An update of the costings in 1986 when they were further considered estimated that, if the Act was administered by the Department of Public and Consumer Affairs, the cost would be $2.4 million and, if administered by the Department for Community Welfare, the cost would be $1.87 million.

I think it would be remembered that in 1979 financial strictures were placed on the Administration causing the deferral of this matter, which involved such a substantial amount of money to be paid for administering a program for those in very severe financial need in the community. Apart from the cost concerned, consideration of bringing the Acts into operation was deferred when the Commonwealth Government announced it would be implementing the Australian Law Reform Committee Report—Insolvency: the regular payment of debts. This legislation would have covered the area covered by the Debts Repayment Act and obviated the need for State legislation. Of course, there was quite a strong commitment by the majority of States to proceed along those lines at that time.

The Commonwealth Attorney-General in the late 1980s announced that he would not be proceeding with the Commonwealth legislation on account of the cost of administering any such legislation. Once again, attempts for a legislative structure to deal with this matter were thwarted. Commonwealth legislation would have overcome the major problem inherent in the State legislation. That is the problem—that a State law cannot prevent a creditor taking advantage of the Commonwealth law relating to bankruptcy. A carefully crafted repayment of debts scheme under the State law could be undone if one creditor would not go along with the scheme and instituted bankruptcy proceedings which, of course, are a Commonwealth responsibility.

Over the years there has been a growth in the number of organisations providing debt counselling services. These include Budgeting Advice Service offered by the Department for Family and Community Services, which commenced in 1976 as an alternative to the Debts Repayment Act. These Government and non-government services are doing informally much of what the debts repayment legislation would have formalised.

I know that in my own district the debt counselling service provided in conjunction with the Norwood Community Legal Service does that work very effectively, and brings to the community very experienced counsellors and very dedicated people. Looked at realistically, the costs of implementing the 1978 Act are prohibitive and are always likely to be so. The sensible thing to do is to acknowledge this and repeal the Act. That is why the legislation is before us in this form. The member for Bragg has outlined accurately the other measures contained in this Bill, which I commend to members.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—'Amendment of Residential Tenancies Act 1978.'

Mr INGERSON: I move:

Page 4, line 27—Leave out '$25 000' and insert '$5 000'.

We believe that the residential tenancies area should be at the $5 000 limit and no higher, and I move this amendment accordingly.

The Hon. G.J. CRAFTER: The Government opposes this restriction on the jurisdiction provided under the Residential Tenancies Act. It believes that the Opposition is being too restrictive and conservative in this area, which then restricts the efficiencies provided by this package of Bills. Once again, it is a matter of access to the appropriate tribunal. Section 21 (2) of the Residential Tenancies Act provides that the Residential Tenancies Tribunal has jurisdiction to hear and determine any monetary claim where the amount does not exceed $2 500. This amount has not been altered since its enactment in 1978.

At that time the limit to the small claims jurisdiction was $500. This amendment brings the two jurisdictions back into parity. The Local Court magistrates have noted a linkage of cases from the Residential Tenancies Tribunal to the Local Court, and I suggest that this is undesirable. The tribunal is a specialist tribunal, equipped to deal with tenancy disputes and, wherever appropriate, those matters should be dealt with by that specialist tribunal. The Opposition's amendment would cause a very substantial division with the associated cost, delays in having a matter heard,

and the conflict in the different jurisdictions hearing these more specialist matters.

Amendment negatived; clause passed.

Clause 15—'Amendment of Criminal Law Consolidation Act 1935.'

Mr INGERSON: I move:

Page 4, line 30—Leave out paragraph *(a)*.

The Opposition believes that the existing definition under this clause is adequate and that two years is plenty of time in relation to this clause.

The Hon. G.J. CRAFTER: The Government opposes this amendment, which would have the effect of preserving the status of common assault as a minor indictable offence with a maximum penalty of three years. There are a number of reasons why the Government opposes this. First, making common assault summary would give the prosecution an option for dealing with an assault in a summary fashion, which it does not now have. Secondly, there is an ample range of more serious offences available for use where the assault actually causes harm. Thirdly, the offence of common assault is limited to situations in which there is no infliction of actual bodily harm and no serious threat at all. Comparability to the offence of assault (police) reveals a serious minor indictable offence under the Criminal Law Consolidation Act for serious offences and a summary offence in the Summary Offences Act for less serious offences.

Further, I point out that in Victoria the offence of common assault is summary, attracting a maximum of two years; in Queensland it is summary, attracting a maximum of one year; in Western Australia it is summary, attracting a maximum of 18 months; and in New South Wales it attracts a maximum of two years and is triable by jury only where the prosecution elects to do so. This move is an effort by South Australia to achieve at least some degree of uniformity in this area.

This reform is, therefore, in the mainstream of criminal law reform in this country. The current status of the offences in terms of comparability with other States is an anomaly. If the offence remains minor indictable, the court system faces the prospect of any number of trivial assaults being elected for trial by jury. This should not be permitted to happen, and members who reflect on this will agree. When you view the offence of common assault in its real life context, there is simply no justification for not having it as a summary offence option, the least serious, as it is now, of the sequence of offences against the person.

It is time it was realised that criminal penalties are not cost neutral and may involve considerable resource implications that should not be incurred without good reason. That is the case with trial by jury. In the case of assault, if the facts warrant a more serious charge, a more serious charge is available. The Opposition is saying that no assault is ever so minor as to warrant being treated as a summary offence. That does not accord with commonsense. Further, the result of the amendment will be that an indeterminate number of minor assaults will occupy the resources of the higher criminal courts to the detriment of those awaiting trial on really serious charges, and at great expense to the taxpayer. It is for those reasons that the Government opposes the Opposition's amendment.

Amendment negatived; clause passed.

Clause 16 passed.

Clause 17—'Amendment of Acts Interpretation Act 1915.'

The Hon. G.J. CRAFTER: I move:

Page 6—
Line 17—Leave out 'categorised' and insert 'classified'.
Line 21—Leave out 'categorised' and insert 'classified'.
Line 25—Leave out 'categorised' and insert 'classified'.

These are simply drafting amendments that clarify the Bill.

Mr INGERSON: The Minister says that the amendments are purely for drafting purposes. Will he explain why the word 'categorise' is placed with 'classified'? As I understand it, they are two totally different words with different meanings.

The Hon. G.J. CRAFTER: Because it brings about conformity with the wording used in the Justices Act.

Amendments carried; clause as amended passed.

Remaining clauses (18 to 23) and title passed.

Bill read a third time and passed.

ENFORCEMENT OF JUDGMENTS BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1432.)

The Hon. H. ALLISON (Mount Gambier): This Bill is supported by the Opposition. The Bill as introduced in another place was considerably amended both by the Attorney-General and the Opposition and, as it emerges and is presented here, it is virtually agreed legislation. The Bill is a rewrite of the Enforcement of Judgments Act 1978, which was part of a package of Acts (including the Debts Repayment Act) which were not proclaimed, probably because of the excessive administrative expenses that would have been incurred in their operation. The present Bill provides for civil judgments to be enforced and for the judgment credited to be paid.

The Bill importantly provides for a judgment debtor's financial position to be examined by the court. There is no longer provision for a warrant of commitment to be issued for failure by a debtor to appear in court, but the court may commit a debtor for up to 40 days imprisonment for wilful and deliberate refusal to comply with a court order. The debtor can also now consent to garnishee orders on his or her salary or wages and judgments may be enforced by the sale of property, charging orders, appointment of a receiver, warrant of possession or proceedings in contempt.

Operation of the legislation is left to rules of court rather than by parliamentary regulation, which many people consider will make scrutiny more difficult as court rules may be made without any consultation, either legal or parliamentary. The Opposition itself consulted widely in preparing its response to this Bill, and all relevant matters were widely canvassed in the other place. I do not propose to delay passage of the Bill by repetitive debate when the Opposition amendments are now incorporated within the Bill. I support the legislation.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this measure and note that it has been the subject of substantial scrutiny in another place and was amended as a result of a review of this matter by the Government and the Opposition. I note the contribution of the Hon. Mr Burdett in that process. The Opposition lead speaker, the member for Mount Gambier, described the measure before us and its importance. I note with some sadness, from a sentimental viewpoint, the passing of the unsatisfied judgment summons and the process surrounding it. When I first worked in the courthouse at Port Adelaide in 1962, my job very much involved the processing of unsatisfied judgment summonses in preparation for the Monday debtors court—the UJS court, as it was colloquially known. Indeed, many people were imprisoned as a result of their appearance before that court.

I have told people in recent times of the very first day that I reported for duty at the courthouse when there was on my desk a large pile of ordinary summonses to be stamped and recorded in the ordinary summons books of the courthouse. They were all issued by the Queen Elizabeth Hospital for people who owed the hospital relatively small amounts of money for mostly outpatient services provided by the hospital. This was before a universal health insurance system was available for the poorest people of this country. As a result of that inadequacy in our social security legislation and programs in this country at that time, many people found their way into the courts and into our prisons as a result of their being not only ill but also poor. Thank goodness that situation has changed. This is the final legislative component in that process to take away some of those very undesirable features with respect to the collection of debts in our community.

There will always be people who will owe other people money, but we need to ensure that the process of recovery is humane, has the capacity to get to the facts of the matter and can be dealt with compassionately, efficiently and effectively and in accordance with just laws. We have now arrived at a position where these laws are much fairer than the laws that applied in the past. There will always be some controversy around this element of the law, as there has been since the time of Dickens and before, but we will need to remain vigilant that the law is just and appropriate as well as administered appropriately. Where that is not found to be so, we need to bring it back and deal with it here or deal with it administratively in the appropriate way. I raise those comments from my own experience and commend the measure to the House.

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

JUSTICES AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 1976.)

Mr INGERSON (Bragg): The Opposition supports the second reading of the Bill. It is probably one of the most important Bills that the Government has introduced in this area, and I will take some time to go through the important changes that we see, whilst also adding some comments from the Chief Justice that I am sure the House will find interesting. One lot of amendments follows from the establishment of the Magistrates Court and the conferral on that court of jurisdiction to hear and determine summary matters and all other proceedings provided for in the Justices Act. The name of the Act is changed to the Summary Procedures Act to reflect this, and provisions related to the appointment of justices of the peace are removed from that Act and it will now be done separately under the Justices of the Peace Bill (which will follow later).

In discussion of the widespread and justifiable concerns that have been expressed by a variety of people and institutions about delays in the criminal justice system, it is common for those critical of the current criminal process to point to the expense and time taken up by the committal or, as it is more formally called, the preliminary hearing. As I mentioned during my second reading contributions on the two Bills that have just been before the House, the cost of going to court in a general sense is a major issue, but the cost in the delays that occur has become, in recent years, a major issue, and this Bill attempts to come to grips with that problem.

The second reading explanation states that there have been calls for the abolition of the committal procedure, and these calls have been backed by general allegations that the preliminary hearing (or committal) is responsible for a great deal of the delay. There is no doubt that delays in any action before a court tend to suggest that there is some general injustice, and that level of injustice is seen through many different eyes. As you would be aware, Mr Deputy Speaker, if you are before the court and are caught up in major delays, dollars and cents becomes a major issue. This Bill recognises that the process needs to be improved, and it attempts to achieve that.

It has also been said that the committal process has often been abused by defence counsel who engage in harassing cross-examination and go on fishing expeditions, and that is a significant problem in terms of cost. However, there is a general consensus amongst most participants in the criminal justice system that, while the current system of committals or preliminary hearings may be improved, the preliminary hearing is an important part of the criminal justice process, and has a vital role to play.

First, the committal provides public external review of the decision to prosecute, to determine whether there is sufficient evidence to put the accused on trial, thereby serving the public interest in preventing fruitless trials and the interests of the public and the accused in ensuring early discharge. Secondly, the committal serves the important function of providing an opportunity for the accused to test the strength of the case for the prosecution. Thirdly, the committal performs the vital function of giving the accused early and precise information about the nature of the prosecution case. Fourthly, the process often serves to clarify and refine issues which would otherwise have to happen at trial, at far greater inconvenience and expense.

The reason we are looking to reform the courts system, in my view, is the massive cost to individuals in the community. I think we all would accept that we need to have justice that is fair, but not justice at any cost. The procedure that is put forward by the Government attempts to improve the system so that we can minimise some of these costs. In doing so it is important to recognise that the committal stage has those four important roles to play, and we believe that those roles should be retained.

The second reading explanation states that the practising profession, the High Court, the Court of Criminal Appeal and, most recently, a comprehensive study commissioned by and for the Australian Institute of Judicial Administration have all affirmed the importance of the preliminary hearing, and have consequently recommended its retention. The legislation does streamline the committal system, and the Opposition supports that. The Bill provides that, where there is to be a preliminary hearing, the prosecutor must, at least 14 days prior to the date appointed for the hearing, file in the court and give to the accused copies of all the evidence relevant to the case and available to the prosecutor.

This full pre-trial disclosure then forms the basis for a presumption that evidence for the prosecution will be called only if the court gives leave to do so, or if the defendant calls for that witness and the court is convinced that cross-examination of the witness for the prosecution by the defence is necessary for the purposes of the committal. Further, the test for committal for trial will be strengthened so that its function as a filter for weak cases will be promoted. The whole process that is being put forward by the Government is a very different but very important step towards streamlining the system.

The test will now be whether, in the opinion of the court, a jury would be likely to convict, as opposed to the current, much weaker test, of whether or not there is a *prima facie* case. I think that that is a very important change, and a change which hopefully will be to the advantage of all. Delays in the administration of justice have led to an increasingly critical examination of a wide range of factors at play in the court system, including plea bargaining, charging practice, the conduct of a jury trial and the attitudes and practices of all participants in the criminal trial.

While it is true that the right to trial by jury should not be lightly removed for serious criminal matters, the devotion of these scarce resources on what can only be described in any person's language as trivial larceny and assault cases is more than questionable. On that point I bring before the House a comment of the Chief Justice which I think it is important for the Parliament to be aware of. He says:

I am alarmed and distressed at the incorporation into the Bills of the proposal to enlarge the ambit of summary offences. If this proposal becomes law, it will be the most retrograde occurrence in the administration of criminal justice during my time in the law, because of the inroads which it will make into the right to trial by jury. A summary offence, which is triable by a magistrate, is defined to include an offence for which the maximum penalty is imprisonment for two years or less and an offence of dishonesty, not involving force or threat of force, if the amount the offender stands to gain is $2 000 or less. This very greatly extends the class of offences in respect of which the accused must accept the jurisdiction of a magistrate and is deprived of trial by jury. A person convicted of many of those offences would suffer, in addition to any risk of imprisonment, social condemnation and disgrace. Such a person might well be affected detrimentally in his career or calling. If the convicted person's calling demanded integrity and a high degree of honesty and trustworthiness, he might well be ruined. A Minister of State or a judge or a police officer, to mention but a few, would have their careers ruined and would depart in disgrace if convicted of what may be described as offences of minor dishonesty.

I am totally opposed to depriving persons charged with such offences of the right to trial by jury. The principle is even more important in this State than it is elsewhere because of our appeal procedure. In other States the appeal against summary conviction is by way of rehearing *de novo*. The evidence is led afresh before the appellate judge who forms his own views of the credibility of the witnesses and decides the matter afresh untrammelled by the views of the magistrates.

In this State, the appeal is heard on the record and the magistrate's findings as to the credibility of witnesses are normally unassailable. In the generality of prosecutions, therefore, the defendant's fate will be determined by the findings of an individual magistrate.

Parliament should not ignore the comments of the Chief Justice of this State with respect to the changes to this legislation. The Chief Justice could not have put it any stronger, in my opinion, and it is in this area that the Opposition expresses its concern and suggests that the Minister look at this measure again.

In his second reading explanation, the Minister stated that the current classification of offences has become less than rational. Monetary limits have suffered from a lack of inflation indexation and, with respect to the other Bills in this package, that point has been debated. The Minister spoke also about rationalisation of the existing classification of offences, and stated that this Bill reclassifies a number of new and existing offences to reflect the comparative seriousness of offences. However, it retains the tripartite classification of offences into those which require trial by jury (indictable), those which do not (summary), and those which may or may not attract trial by jury (minor indictable). New criteria for classification are spelled out and the procedure in relation to minor indictable offences is streamlined and made more rational. The Opposition supports that move.

Accordingly, the legislation now in force is amended to provide a clearer definition of summary, minor indictable and major indictable offences. In saying that the Opposition supports the clearer definition of classifications, I point out that the concerns I expressed earlier, which were supported by the Chief Justice, relate to the way in which summary offences, not the classifications themselves, have been expanded. For some time in this place and in another place the Opposition has expressed its concern about this issue.

The Minister's second reading explanation went on to detail the rules as they apply to the three classifications, but it is not my intention to go into that matter further. The need for a complaint to be made before a justice of the peace and for proof of service to be sworn before a justice of the peace has been done away with. The second reading explanation sets out the reasons for that. I do not see any argument for opposing the change. It is obviously an important administrative change for the community and it is one that can only be of benefit overall to the community.

There are other miscellaneous amendments to the Bill which are designed to improve the efficiency of the court. They include the joinder of charges. We accept that there are occasions on which it is appropriate to take charges together when dealing with a multiplicity of charges. We recognise that what the Government is doing in making this change is important. It is all part of the package of streamlining the courts. Given the Opposition's concern about one particular matter, and my reference to the Chief Justice, I indicate that the Opposition supports the second reading of the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its indication of support for this important measure. It comes about as a result of an extensive review of the practices and procedures of the court of summary jurisdiction, and that review has involved judicial officers, Crown Law officers and members of the legal profession. I join with the Attorney-General, who thanked the Opposition in the other place for its detailed consideration and support for this measure. It was the subject of lengthy debate and review in the other place and I will not go over the same ground. The member for Bragg has summarised the Opposition's position for the purpose of debate in this place.

I place on record the appreciation of the Government of all the work that has been done in the preparation of this Bill and subsequent to that. It is part of the package of Bills before Parliament to reform our courts. It will complement the reform of the criminal law that has been undertaken by Mr Matthew Goode, the consultant in criminal law who has been appointed by the Attorney-General. It will help us to deal with the issues in our community that call upon the efficient administration of the criminal law, in particular, and, in the broader sense, the administration of justice in the community and the provision of law and order and good government.

The member for Bragg quoted from a report prepared by the Chief Justice with respect to jurisdictional matters and the effect that it might have on access to trial by jury and other traditional rights that accused have before our courts. We should always bear those concerns in mind. It is right and proper that the Chief Justice should express them, and do so at this time. However, one should be aware of the totality of the circumstances in which those comments are made in the context of this measure. It is true to say that some of the Chief Justice's colleagues would proffer alternative views to that which the Chief Justice has advanced, and there is legitimacy to all those views that could be brought forward.

The Chief Justice's views would generally be accepted by a majority of members of the legal profession and by other

judges were we in a society where we were given infinite resources but, unfortunately, we are not in that society and we have to make some very hard decisions about where we are going to draw the lines with respect to the appropriate and responsible provision of resources, balanced against what is appropriate access to justice and what form that access to justice will take.

So, that is what this measure has attempted to grapple with in that particular context, and I think it has done it well, responsibly and to the satisfaction of the majority of members of this Parliament. Once again, we need to review that to ensure that the will of this Parliament and the interests of the community are properly protected and maintained. I also advise the House that I have a series of amendments on file. These have come out of undertakings given in another place and a review of the Bill, as it was the subject of scrutiny and was amended substantially in that place. When we move into Committee, these amendments will be seen to improve the Bill even further. I commend this measure to members.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Interpretation.'

The Hon. G.J. CRAFTER: I move:

Page 3, line 2—Insert 'from subsection (1)' after 'striking out'.

This is simply a drafting amendment.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8—'Categorisation of offences.'

The Hon. G.J. CRAFTER: I move:

Page 5—
Line 6—Leave out 'designated' and insert 'classified'.
Line 15—Leave out 'characterised' and insert 'classified'.

Both these amendments are drafting amendments.

Mr INGERSON: We have another example here of two other words that are replaced by the word 'classified'. In a previous Bill, 'categorised' was replaced by 'classified', and we now have 'designated' and 'characterised' being replaced by 'classified'. Will the Minister explain why we are using the one word which now represents three words with different meanings?

The Hon. G.J. CRAFTER: It is to achieve consistent use of terminology throughout the Act. These were seen as anomalies, and it is presented in a form that will make it consistent throughout the statute.

Mr INGERSON: I understand the need for consistency in all Acts, but surely these three words that we have now replaced with the one word all mean different things. Whilst consistency is important, is the Committee also guaranteed that the replacement of the other three words by 'classified' will maintain the meaning? I am surprised that those three words used by Parliamentary Counsel on previous occasions meant the same thing. I understand the consistency argument, but surely the meaning of what we want in this Parliament is more important than consistency?

The Hon. G.J. CRAFTER: What we are doing is replacing those three different words with the one word, and the purpose of that is to achieve consistency and conformity of understanding. What we are doing is precisely what the honourable member has suggested we should be trying to do, and that is to achieve that level of consistency by the use of one line of terminology.

Amendments carried.

Progress reported: Committee to sit again.

[*Sitting suspended from 6 to 7.30 p.m.*]

COUNTRY FIRES (NATIONAL PARKS) AMENDMENT BILL

Mr GUNN (Eyre) obtained leave and introduced a Bill for an Act to amend the Country Fires Act 1989. Read a first time.

Mr GUNN: I move:

That this Bill be now read a second time.

I wish to draw to the attention of the House the need to put Government-owned land, particularly national parks and conservation reserves, on an equal footing with private land in South Australia. The Country Fire Service has the responsibility for controlling bushfires on all South Australian private land. The Metropolitan Fire Service has the responsibility for controlling all fires in the metropolitan area, whether or not they occur on Government or private land. Over the years, there have been a number of examples in which there has been a great deal of unnecessary confusion, controversy and waste of taxpayers' money where there have been differences of opinion in relation to the fighting of fires in national parks.

Unfortunately, the National Parks and Wildlife Service has failed to understand or appreciate that volunteers must be handled in a sensible and reasonable manner and that the skills these people have developed over many years should be applied to national parks. Where there is a split in authority it has led to a number of unfortunate incidents, culminating in controversy, such as that which emanated from the last bushfire on Kangaroo Island, from the Mount Remarkable fire and from the fire in the Wirrabara area.

Mr Blacker: And at Koondroo.

Mr GUNN: I thank the member for Flinders: the one at Koondroo. These are not isolated complaints: it is not something that just happened. I have not introduced this Bill to become involved in bashing national parks, but I believe that the time has long since passed where we should ensure administratively that everything is done to streamline firefighting operations because, at the end of the day, taxpayers are required to pay out many millions of dollars, in some cases, to control fires.

The Bill also gives the Country Fire Service the authority to order controlled burning off, as well as the reduction of fuel in national parks and on other Government lands to ensure that a proper management plan is put in place. The need has been demonstrated. I am not complaining about our setting aside areas to be preserved for the benefit or enjoyment of the citizens of South Australia but I am advocating that we take adequate steps to ensure that a proper program of fire prevention for national parks is in place and that, when a bushfire occurs, commonsense applies. We must ensure that, and that adequate fire breaks are in place and that there is controlled grazing and burning off in national parks and conservation parks. This course of action has been adopted in the Northern Territory, New South Wales, Western Australia and in many States in America, namely, California and Colorado—

Mr S.G. Evans: In Canada.

Mr GUNN: And, as my friend says, in Canada. Therefore, anyone who has had experience in firefighting would clearly know that, where there are large areas of native vegetation and where that vegetation has built up over a number of years, if a controlled program of burning is not in place, that vegetation will burn at the most inopportune time and the fire will get out of control. Also, it is necessary to ensure that adequate breaks and fire access tracks are provided. We cannot expect volunteers to give days, if not weeks, of their time to be involved in attempting to control these

fires when adequate management of those areas has not occurred. It has led to differences of opinion, and local communities have come into conflict with local and regional managements of national parks.

It is a well known fact that many of those officers are well meaning, but they are inexperienced in fire control management and they look at matters from an unrealistic perspective. Therefore, it is essential that this area be controlled once and for all. It clearly demonstrates that the administration of national parks is really not an environmental but a land management issue and that the National Parks and Wildlife Service should be under the control of the Director of Lands, because it is a land management problem. I will pursue that course of action later, as I intend to propose a number of other amendments to the Country Fires Act.

Clause 3 provides for council consent to an extension of the fire danger season, but consent is not required when the fire danger season is first fixed in relation to a specific area or when it is reduced. Last year, considerable controversy and problems were created when the fire season was altered by the Country Fire Service after consultation with the National Parks and Wildlife Service. Unfortunately, far too much weight was placed on the views of certain National Parks and Wildlife Service officers who, in my opinion and in the opinion of councils involved, did not have a realistic understanding of the situation. Therefore, my amendment makes it mandatory for the officers to seek the views and the consent of the council in whose area the land is situated.

Clause 5 gives the Country Fire Service board the power to order fuel reduction in areas of Crown lands. Clause 6 alters the powers of CFS officers to take certain action on fires on Crown Lands. This measure has wide support within local government and throughout South Australian rural areas. It is designed to assist and improve fire control measures. It is also designed to ensure that taxpayers' dollars are not wasted and to bring about changes that are long overdue.

Mr S.G. Evans: And properly preserve the native bushland.

Mr GUNN: And properly preserve the native bushland, because programs of controlled burning enhance national parks. It leads to regeneration, and that benefits native animals. In the history of South Australia, many parts of this State, by natural occurences, were subject to fire on a regular basis. It is only where areas have been closed off and where there has not been a program of burning that problems have arisen. It is in the interest of all South Australians that this Bill be passed. It is not intended to be a national parks bashing exercise or a means of damaging the environment. It will enhance the environment. It will ensure that parks and Government lands are better managed. It will achieve a better relationship between local councils, local authorities, local communities and the National Parks and Wildlife Service. This Bill is in the long-term interests of all South Australians, and I commend it to the House.

The Hon. T.H. HEMMINGS secured the adjournment of the debate.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Mr M.J. EVANS (Elizabeth) obtained leave and introduced a Bill for an Act to amend the Constitution Act 1934. Read a first time.

Mr M.J. EVANS: I move:

That this Bill be now read a second time.

I regard this Bill as the most important measure in my legislative program for this session. There is no doubt that South Australians are very concerned about the way in which Governments have, in the past, manipulated election dates to their own political advantage. Naturally, this applies to political Parties of both persuasions, and this measure is not directed at either political colour, because over the past few decades both political Parties have chosen to use the provisions of the Constitution Act in ways that were not intended at the time. For some decades in its history—indeed, for generations—South Australia held its elections in early March of every third year as regular as clockwork. During that period—principally in the Playford era—we had almost fixed election dates. However, that process became substantially undone in the 1960s, and although we have returned—

An honourable member interjecting:

Mr M.J. EVANS: Well, although we have returned now to some measure of regularity with respect to elections, we do not yet have the ultimate provision of fixed election dates. The present provisions of the Constitution Act provide for a fixed minimum three-year term with the remaining 12 months at the option of the Government. In respect of that last 12-month period, I can do no better than to quote the Labor Leader in New South Wales (Mr Bob Carr). A newspaper article of 10 February 1991 states:

> Governments in NSW would have a fixed term of four years with the election held on the same date every term, under a radical plan by the Opposition Leader, Mr Bob Carr. Mr Carr said the plan would eliminate the practice of Governments manipulating the timing of elections to suit them. He said the proposal included a safeguard to allow an election before the four-year limit.

I would also like to quote the Premier of Tasmania (Mr Field). In a press release of 3 July 1989, it is stated:

> Mr Field said the fixed four-year term was part of ensuring Tasmanians that political expediency would not determine the date of an election and that both partners in the accord were keen for stable government.

Those two quotations are not selected because I believe the two individuals concerned are necessarily the font of all wisdom. I simply believe that they are a representative sample of political leadership—certainly from one side of politics—and I believe that they express a view that is widely held throughout the community: that political expediency and manipulation of election dates should not be part of the parliamentary process.

It seems to me that, to be fair to all members of Parliament and, indeed, to the public, election dates should be fixed. When the public entrusts members of Parliament with a four-year term of office they expect it to be for a four-year term; not for three years, not for 3½ years or for three years and 11 months, but for four years. My Bill proposes that elections be held on the second Saturday in March of every fourth year. Naturally one has to take account of the fact that Governments may lose the confidence of the House of Assembly. In the event of that situation arising, the Bill provides that if an alternative Government cannot be formed within seven days the Governor may dissolve the House of Assembly. A no-confidence motion would have had to be passed, and the Governor would have had to be satisfied that there was no alternative to an election. In that event, an election can be held but, of course, the Government that was elected afresh would then have a four-year term that would expire on the second Saturday in March four years from that date.

So, clearly, it is necessary to provide for those unusual situations in which a Government falls on the floor of the

House, and I believe this Bill makes adequate provision for that. Very few other provisions are required. It is very much a matter of principle. Any argument concerning fixed four-year terms has to take into account the situation that we have now. If it is philosophically inappropriate to have a fixed term of any kind, our present arrangement should not have been supported some years ago when it was first introduced into this Parliament, because the fixed three-year term component is equally as definite, and any difficulties that arise from fixed four-year terms are equally applicable to our present situation of a fixed three-year minimum term with the optional period of the remaining 12 months.

It is often said that fixed terms encourage electioneering well in advance, but I put to members of the House that the Christmas break and the early January holiday period in Australia make any kind of long-term campaigning prior to Christmas quite impossible. I am sure that is why each time the Playford Government selected March as the suitable date. I also note that New South Wales, with the support of both the Labor Party and the Liberal Party, is moving to the provision of a March election.

The March date has much to commend it. Of course, it is essential to provide adequate time for campaigning, and the second Saturday in March provision does just that. It also allows for the fact that a Federal election might be called on the second Saturday in March, in which case the Government is authorised to make the election one week earlier or one week later to take account of that possibility.

I believe that it is essential in order to restore credibility in the parliamentary election system that political expediency plays no part in the selection of an election date. This Bill will do much to ensure that any pointless speculation that often occurs around the date of elections is avoided. We would all know the date of the election, and I believe that would contribute to a reduction in long-term campaigning because Oppositions, for example, would no longer find it necessary to campaign for the whole of the remaining period of 12 months of the term because they were not certain when the date would be.

Clause 1 is formal.

Clause 2 makes the following amendments to section 6 of the principal Act:

it strikes out paragraph *(d)* of subsection (1) which empowers the Governor to dissolve the House of Assembly by proclamation or otherwise whenever the Governor deems it necessary. The removal of this provision is consequential on the insert of new section 28 (3) by clause 3 of this Bill;

it strikes out the proviso to subsection (1) which states that the section does not authorise the Govenor to dissolve the Legislative Council. The proviso is unnecessary given the removal of paragraph *(d)*.

Clause 3 repeals sections 28 and 28a of the principal Act and substitutes a new section 28.

Proposed subsection (1) requires a general election of members of the House of Assembly to be held:

if the last general election was held during the period commencing on 1 January and ending on 30 June in a particular calendar year—on the second Saturday of March in the fourth calendar year after that calendar year;

if the last general election was held during the period commencing on 1 July and ending on 31 December in a particular calendar year—on the second Saturday of March in the fifth calendar year after that calendar year.

Proposed subsection (2) provides for the date of a general election to be changed, by proclamation, to the first or third Saturday of March in the year in which it is due to be held if a Federal election is to be held on the second Saturday of March. Proposed subsection (3) empowers the Governor to dissolve the House of Assembly and issue writs for a general election if and only if—

a general election is to be held in pursuance of subsection (1) within two months of the date to dissolution;

a motion of no-confidence in the Government is passed in the House of Assembly and no alternative Government is formed within seven days after the passing of that motion;

or

the dissolution is authorised by section 41 (the section that sets out the procedure for resolving deadlocks between the Houses).

I believe this Bill will inject a strong note of electoral honesty into the process of parliamentary democracy in this State. It will abolish any question of political expediency by members of any Government or of any political colour, and I commend it to the House.

Mr S.G. EVANS secured the adjournment of the debate.

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 2147.)

Mr ATKINSON (Spence): Car theft in South Australia has increased alarmingly over the past 10 years. Cars are usually our second most valuable asset after our homes but, for many South Australians, cars are their most valuable asset. In South Australia last year 13 000 cars were broken into and driven away. Indeed, 15 cars in every 1 000 were taken. Every other State has the same problem.

For example, last financial year 51 000 cars were taken in New South Wales and 35 000 in Victoria. The story is the same in most comparable Western industrialised societies. In the United Kingdom, car theft accounts for one-third of all crime. The member for Hayward is right to bring this Bill before the House at this time, and I congratulate him for it. Many aspects of the Bill will be supported by public opinion and emphatically endorsed by the victims of joy-riding. It is a pity that in his second reading speech the honourable member stated that the Labor Government did not have the political will to do something to deter joy-riding. He is wrong, for reasons I will come to.

Unlawful use of motor vehicles afflicts all Western industrialised societies, irrespective of the political Party in Government. In South Australia 90 per cent of the offenders who take cars are young men; 53 per cent are under the age of 18; and 33 per cent are between 18 and 24. These offenders are often unemployed and often repeat the offence. Most cars that are taken are not missing for long: they are found after the joy-rider has run out of petrol or tired of the game—not that this is any comfort to those whose cars are damaged; indeed, to all who are unlawfully deprived of their property, for however long.

Of the 13 000 cars taken in South Australia last year, all but 1 200 were found and only a small percentage had been damaged beyond repair. I say this not to minimise the problem but to put it in a proper perspective when we come to the policy differences between the Government and Opposition members on the one side and the member for Hayward alone on the other. The offenders are usually charged with unlawful use of a motor vehicle under section

44 of the Road Traffic Act, which makes it an offence for a person to drive, use or interfere with a motor vehicle without first obtaining the consent of the owner.

Many South Australians do not grasp the distinction between larceny and illegal use. Car owners whose vehicles have been used illegally by joy-riders have told me that they do not accept the usefulness or the validity of the distinction. I understand their annoyance but, to me, there is a clear and historic distinction between taking an item with the intention of permanently depriving the owner of its use and taking an item temporarily with the intention of returning it.

If this distinction were to be abolished for cars, why not abolish it for all chattels? The member for Hayward gave many examples of illegal use that were worse than larceny, but I know that he concedes that the distinction is part of our common law and should not be blurred. His Bill maintains the distinction. In my opinion—and I am sure that the member for Hayward agrees with me—the most sensible way to overcome the undesirable consequences of the distinction is to make the penalties for illegal use of a motor vehicle comparable with those for larceny.

Under section 44 of the Road Traffic Act, the maximum penalty for a first offence is imprisonment for 12 months, a division VI penalty; and for a second and subsequent offence, imprisonment for not less than three months or more than two years, a division V penalty. The court may order the offender to pay the owner of the motor vehicle such sum as the court thinks proper by way of compensation for loss or damage. The Bill before us seeks to increase this to a first offence maximum penalty of division V imprisonment and a second and subsequent offence maximum penalty of division IV imprisonment.

The Bill merely repeats the current provisions on compensation. The Bill transfers the offence from the Road Traffic Act to the Criminal Law Consolidation Act and adds an offence of entering land or premises with intent to use a car unlawfully. I agree with the member for Hayward that it is time to re-evaluate penalties for illegal use of a motor vehicle. I believe that the penalties ought to be doubled, as the honourable member suggests. This would bring the penalty for second and subsequent offences into line with the penalty for larceny.

I am pleased to say that the Government had decided to do this well before this Bill was introduced, and I hope that such a Bill will be introduced in this session. As a Government Bill, it would find its way into law much quicker than the current Bill. I suggest that such a Government Bill would go much further than this Bill and impose a mandatory driving licence suspension of six months on those convicted under section 44.

I see no reason why this offence needs to be taken out of the Road Traffic Act and put into the Criminal Law Consolidation Act as this Bill proposes, although I would be quite happy to hear further submissions from the member for Hayward on that matter. I have no objection to the current Bill's proposed offence of entering land or premises with the intent to use a car unlawfully. I would draw to the attention of the House the fact that, under existing penalties provided by the Criminal Law Consolidation Act, a maximum of 10 years imprisonment can be imposed for damage to a car.

My remarks so far do not address the problem of juvenile offenders. Penalties imposed under the Children's Protection and Young Offenders Act were increased earlier this year, but sentences cannot exceed two years' detention or $1 000. At the same time, compensation payable by a young offender was increased to $1 000, and the powers of the Children's Court to impose community service orders were increased.

I agree with the member for Hayward that the Government has dreadful problems just now with the juvenile justice system. We are trying to address those through the Select Committee on Juvenile Justice and other changes, but I believe that, at the same time, we ought to maintain the independence of the judiciary. It seems to me that there is much public criticism of the penalties currently being imposed by the Children's Court, and we as members and members of the public would disagree with the outcome of many cases.

However, the separation of powers and the independence of the judiciary are constitutional principles that we all value, and it would be a shame if members went along with the clamour of some sections of public opinion that, somehow, suggest that the Government ought to order judges to impose particular penalties in particular cases. I hope that the member for Hayward would not be carried away by that kind of clamour.

One aspect of the honourable member's Bill with which I certainly disagree is his method of overcoming the distinction between adults and juveniles. The Bill before us provides that, if a juvenile offender is convicted a second time of unlawful use of a motor vehicle, that juvenile will be treated as an adult and suffer the full adult penalties. That solution is a sleight of hand: it is an attempt to blur the historic distinction in our philosophy between adults and juveniles, and is a fairly cheap way to proceed.

Mr S.G. EVANS secured the adjournment of the debate.

ACTS INTERPRETATION (COMMENCEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 2148.)

Mr S.G. EVANS (Davenport): The Liberal Party has not considered this matter in detail as yet, but I wish to express a personal view so that the honourable member who introduced this may have some idea of my thoughts. There is some merit in what the honourable member is advocating: that the Government, having at least obtained the Governor's signature on behalf of the Queen, should not have an Act that has passed the Parliament yet not been made operative.

It is possible to have a Bill that creates or amends an Act that in the main contains proclamation provisions. In other words, even if it is proclaimed as an Act, it cannot really operate until the regulations are in force to make it operative. With the new system that we have come up with in relation to committees, that may also cause further complications if at the same time we change the subordinate legislation provisions so that the Subordinate Legislation Committee has a more positive role compared with the negative role it has at the moment. So, the matter needs more careful consideration than the first cursory look would permit at what the member for Elizabeth is attempting to achieve. Some people would argue that 12 months is too long for a Government to have a Bill inoperative.

The honourable member makes the point in the second reading explanation that, if Parliament has approved a change to the law, whether it be a new or amended law, that really is the will of the people. That is not always the case. Sometimes the will of the people can be overriden by Party politics or pressure groups that hold key roles. The will of

the people can be avoided if we say that the will of the people is where more than 50 per cent support a particular group of parliamentarians. One would then have to ask whether the 50-plus per cent representing the will of the people includes the joint numbers of the Upper and Lower Houses with the votes cast in the two Chambers. One could get into a complicated argument on that point.

If we are arguing that this is the House that makes and breaks Government, and that the Lower House is where the will of the people is supposed to prevail, we are then talking about a group of people—whether or not they belong to the one Party—comprised of a major group plus a smaller minority. In that situation one would have to say that the Opposition's view in this Parliament would be the people's will as we polled over 52 per cent of the vote. You, Sir, with your Independent colleague and the ALP endorsed members collectively only polled just under 48 per cent of the vote. If we are talking about numbers and votes, the will of the people is represented on the Opposition side of the Chamber. Therefore, we cannot argue the will of the people when talking about laws that pass Parliament in a Parliament constituted in the way that this Lower House is currently constituted.

According to law, you, Sir, your colleague and endorsed members of the ALP are the legitimate Government of the day, and an academic would argue that therefore that is the will of the people. We are wasting our time if we argue about the will of the people, especially in a Parliament so equally divided as it is currently and is likely to be for many years in the future if what we find tomorrow is as we expect it to be—and I refer to the boundary proposal for the division of electorates. I believe that it will be uncommon in future for big variations in the number of people representing either Party in this place but rather that there will be only small majorities, which will be a good thing as long as the group polling more than 50 per cent governs or has a reasonable chance of so doing.

The short Bill before us provides quite clearly that, if Parliament passes a Bill to change an Act or make a new Act and it is signed by the Governor but not made operative, it should become operative. In other words, after 12 months it must become operative. Alternatively, the honourable member is saying that, if the Government does not wish to do that, it has a responsibility to come back to the Parliament and say why it does not wish to put it into operation. That is hard to argue against, and one would have to consider that deeply when the final decision is made. The honourable member would agree that the present provisions have been there for a long while and there is a crunch on now at the end of the parliamentary session before Christmas. We will have a short sitting after Christmas. Some people think that it will be too short, especially those who pay our salaries.

My side of the House would prefer more time to look at the issue in order to consider the eventual ramifications. All political Parties hope to govern some day. They will be looking at how it will affect them in or out of Government and whether there are any cases in the past when it would have created a difficulty for the Government of the day had it been forced to use a provision such as this. After all those matters have been considered, I am sure the honourable member will get a good response to his measure—I am not saying that it will pass—as there is much commonsense in it. No doubt in the past Governments have abused the system by not putting into operation what the majority of parliamentarians have supported in both Houses.

To give an example of one such case, I refer to a motion passed by this Parliament in 1969 (and I was a member of the Liberal Government then) stating that in the opinion of the House the office of Ombudsman should be created. Just before the vote was taken on 12 July 1969 the Hon. Don Dunstan—who was supposed to be such a great democrat in the eyes of some members—said that he thought that it would be an unnecessary appointment; and the Premier of the day, Steele Hall, said that he would not appoint a super-inquisitor to intimidate public servants. The Hon. Don Dunstan changed his mind at the time of the vote, but two members on different sides of politics said that they did not agree, and one was the Premier, who said that he would not implement it. That was a motion rather than a Bill, but it is an example of what I am putting. I have sympathy for the honourable member's Bill but will reserve my final judgment, after consideration with my colleagues, as to whether I will support it in the final analysis.

Mr ATKINSON (Spence): This Bill provides that, if an Act is expressed not to become law until it is proclaimed by Executive Government and is not proclaimed within 12 months of its being assented to, it will become law automatically 12 months after its assent. I support the principle of the Bill because it encourages a rule of law approach to law making. The principle is desirable. Parliament makes the law and it is not for Executive Government arbitarily to suspend the law. I am not saying that delayed proclamation of a Bill is an arbitrary suspension of the law, but it is a device that ought to be curtailed. This Bill will impose better discipline on Cabinet and the Public Service. However, there needs to be some negotiation on the 12 month period, and there is possibly a problem with the Bill because it does not seem to contemplate failure to proclaim individual sections or groups of sections of an Act.

Mr BLACKER secured the adjournment of the debate.

Mr BRINDAL: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

EDUCATION DEPARTMENT

Mr BRINDAL (Hayward): I move:

That Standing Orders be so far suspended as to enable me to move the notice of motion standing in my name for tomorrow.

Motion carried.

Mr BRINDAL: I move:

That a select committee be established to inquire into and report on the provision of primary and secondary education by the Education Department.

I move this motion to establish a select committee because, unlike the Minister sitting opposite, I do not believe that this is a matter that can be treated lightly or with levity. I believe it is important not only to this House but to the people of South Australia that we have a select committee inquire into education. Members would be aware of matters related to education in the Education Department which I think concern us all. Indeed, today I heard that one honourable member in this House is so benighted about one of his schools that they are about to picket his office in an effort to get him to concur with their belief on the future of the school. We do not stop there. In every aspect of education in this State serious questions are being asked by the children, the people who are educating them and the Education Department.

The Education Department has been organised, reorganised and reorganised again. It is currently without a Director-General and is seeking a new one. I believe that it is now an ideal time for this Chamber to look seriously at the

operation of primary and secondary education in this State. Last week in the northern suburbs two children—one seven and the other eight—did serious damage to a school. While no thinking person can lay the blame for that behaviour at the feet of the school, or at anybody's feet, the indications are that we are having serious trouble with the education of our children. These sorts of occurrences must lead us to question both the education processes that we are using and the way we are bringing up our children. That being the case, I repeat that there is a need for a select committee of this nature.

Many educators feel that the curriculum is overblown and overgrown. In the past 20 years, because we have believed that it was needed, we have added more and more subjects to the curriculum, and it has reached the stage where many teachers feel that they are overloaded and are teaching subjects in which they do not have a great degree of competency. We are now teaching children things like strategies which take account of affirmative action, defensive behaviour and all sorts of things. Many teachers feel that it has reached the stage where they can no longer cope and where they are being asked to do too much in the way of social engineering.

If we move from what is being taught in schools to how it is being taught by schools, we could look to the structure and shape of the school system. Many members, especially members in the western suburbs, have recently been confronted with issues such as the best shape of school communities, the size that relevant school communities should be, the amount of land and the type of buildings that they should and should not have, and the nature of the composition of the school. Today I learned of one proposal not far from my electorate in which a viable primary school is about to be amalgamated with a rather large secondary school.

I would never doubt that the concept of the R-12 school, as it is expressed in area schools throughout South Australia, is a very good concept and works very well, but it has not as yet been trialled to any great degree in the metropolitan area. It is questionable whether it is necessary for schools with a very large primary and secondary component to go from R-12, or whether some other combination, be it R-5, 6-8 or 10-12 (which is the type of system that I believe exists in America) might be more relevant, but to my knowledge we have never looked at it. I believe that one of the problems for education and this State is that for too long we have had a department that talks about community and parent participation but does not really mean it.

The parents are consulted and, if they agree with what the gurus in the Education Department think, they say that is a good and pure process. I am told very reliably that one of the tests of a good administrator, a good principal, in the Education Department in 1991 is that, if the parents' decision accords with Education Department thinking, that reflects the good management of the principal. However, if the principal does not succeed in convincing the parents of the departmental line, he is somehow wanting as an Education Department manager. There is enormous pressure on principals to sell the departmental line and ensure that departmental policy is met.

The Hon. M.D. Rann interjecting:

Mr BRINDAL: I know that the Minister is being lighthearted and flippant. I implore him not to be because this is a deadly serious subject. On many occasions I have heard him talk about TAFE, for which he has direct responsibility, and I know that he has a commitment to the highest ideals for education in this State.

The Hon. T.H. HEMMINGS: I rise on a point of order. Is an honourable member allowed to take a point of order if he feels that another member is being reflected upon?

The SPEAKER: No, and the honourable member is well aware of that. The member for Napier will resume his seat.

Mr BRINDAL: I apologise if any honourable member thought I was reflecting on the Minister. I was, but I was reflecting credit, not discredit, on him. I know that the Minister is concerned about education and is concerned that we achieve academic and practical excellence in our schools and from the TAFE system. Any inquiry by Parliament is, in fact, an inquiry of the people by the people. As in many other instances, Parliament has a perfect right to inquire into our education system.

In another context today, the Premier alluded to questions asked during the budget Estimates Committees. The member for Elizabeth was Chairman of the education Estimates Committee and he well knows the large number of questions that were asked about education and the very real concern that was expressed by Opposition members and by Government backbenchers on facets of the education system in this State. It is a matter of the gravest public input not only because it concerns the future of this State in the form of our children but also because it represents the greatest single budget expenditure of this Government.

The Hon. J.P. Trainer: Tell us about school closures.

Mr BRINDAL: The member for Walsh interjects about school closures.

The Hon. J.P. Trainer interjecting:

The SPEAKER: Order!

Mr BRINDAL: I do not want this debate turned into a circus. If a serious matter is raised I believe it should be treated seriously. When the Government introduces legislation we on this side do not crow and cackle and carry on like loose geese at the abattoirs.

Members interjecting:

The SPEAKER: Order!

Mr BRINDAL: As I said, it is a serious matter. It goes into all facets of our schools. It is a matter that Parliament has not looked at for a long time, but it should consider it most seriously. The indication from the Government is that it does not want to discuss it because it might find real difficulty with it. I suspect it is a matter in which it will find failing and fault, but education is more important than political Parties. If we were in Government, members opposite, in Opposition, would probably be asking the same sort of questions quite legitimately. It is not a Party political matter. It is a matter which the House should consider seriously from the point of view of the better government of South Australia, the better expenditure of our funds and, most importantly, in the best interests of the children whom this State is trying to educate.

I implore Government members not to ignore this motion or to dismiss it as some sort of political stunt. It is a genuine attempt to analyse education in South Australia and to come up with some solutions on which there might be bipartisan agreement. Those solutions could pass into regulation or into law for the better education of children in South Australia and perhaps to the better economic management of this State by the Government. Members opposite tell us repeatedly that we are not here to carp and criticise or to howl down everything the Government does. I take that up and throw it back to them. This is an effort not to carp and criticise. It is an effort to analyse education constructively and in a bipartisan way and to come up with a viable solution. I commend the motion.

The SPEAKER: Order! I draw to the attention of the member for Hayward and other members that a simple

courtesy should be paid to the Chair. A suspension of Standing Orders is proper procedure. However, it would have been more appropriate if the honourable member had paid me as Speaker the courtesy of informing me of the procedure that he intended to undertake so that it could have been conducted in the correct manner.

Mr BRINDAL: I am sorry, Sir.

Mr M.J. EVANS secured the adjournment of the debate.

SELECT COMMITTEE ON THE LAW AND PRACTICE RELATING TO DEATH AND DYING

The Hon. M.D. RANN (Minister of Employment and Further Education): I move:

That the time for bringing up the report of the select committee be extended until Thursday 13 February 1992.

Motion carried.

STATUTES AMENDMENT (CRIMES CONFISCATION AND RESTITUTION) BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

It amends the Crimes (Confiscation of Profits) Act and the Criminal Law Consolidation Act in various respects. The Crimes (Confiscation of Profits) Act currently provides that money forfeited or obtained from the realisation of assets under the Act will be paid into the Criminal Injuries Compensation Fund. Following agreements reached by the Standing Committee of Attorneys-General additional money will be available to be paid in to the Fund. Namely: money or property forfeited under a registered interstate order is to be retained in the jurisdiction in which forfeiture occurs, rather than being repatriated to the jurisdiction in which the forfeiture order was made, and money received from the Commonwealth under the Mutual Assistance in Criminal Matters Act (Commonwealth) when assets are repatriated from overseas. Money will also be paid into and out of the Criminal Injuries Compensation Fund as part of the 'equitable sharing program'. This is a program agreed to by the Standing Committee of Attorneys-General whereby money recovered under State, Territory or Commonwealth confiscation legislation will be shared with another State or Territory if there has been a contribution made by an agency of that other State or Territory to the investigation or prosecution of the criminal matter or the related confiscation proceedings.

Following comments made by the Supreme Court in *Attorney-General* v. *Dickman and Ors* the opportunity has been taken to clarify that a court has jurisdiction to make a restraining order before a person is convicted. This is the effect of the Act as currently worded but problems arose from the definition of 'forfeitable property' and its interrelationships with section 6 of the Act. These matters have been clarified.

In the case of *Taylor & Ors* v. *Attorney-General* the Supreme Court pointed out that no specific provision is made for appeals from orders under the Crimes (Confiscation of Profits) Act. In fact there is no specific provision for appeals from a range of orders of a *quasi* civil nature that may be made in criminal proceedings, for example, orders for compensation and restitution of property. The Bill makes provision in the Criminal Law Consolidation Act for a range of orders (including forfeiture and restraining orders under the Crimes (Confiscation of Profits) Act) to be appealable to the Full Court of the Supreme Court.

Provision is made by this Bill for 'money-laundering' to be a criminal offence in this State. The background to these provisions is as follows:

Australia signed the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in February, 1989, and has been working towards ratification since then. Ratification of the Convention will serve to achieve one of the aims of the National Campaign Against Drug Abuse. In order for Australia to ratify the Convention the law of each State must be brought into line with the Convention requirements.

In the South Australian context all convention requirements are satisfied except Convention's obligations to create criminal offences in respect of 'money-laundering' activities. The Commonwealth Attorney-General has requested such legislation be accorded priority in the legislative program, and has further indicated his preference for the Convention to be implemented by State/Territory and Commonwealth legislation rather than exclusively by Commonwealth legislation under the external affairs power.

Money-laundering offences have already been enacted in the Commonwealth Proceeds of Crime Act, Queensland Crimes (Confiscation of Profits) Act and New South Wales Crimes (Confiscation of Profits) Act. Victoria, Western Australia and Tasmania are currently preparing money-laundering legislation in accordance with the Commonwealth request.

Provision is already made in the South Australian Crimes (Confiscation of Profits) Act for the confiscation of tainted property when a person receives property knowing of its origin or in circumstances such as should raise a reasonable suspicion as to its origin. The Act, however, creates no criminal offences as are required by the Convention.

The provisions made by this amendment create maximum penalties for money-laundering of $200 000 or 20 years imprisonment, or both when the offender is a natural person and $600 000 when the offender is a body corporate.

A person (or company) is taken to engage in money-laundering if and only if the person (or company) engages directly or indirectly in a transaction that involves tainted property or receives, possesses, conceals, disposes of, or brings into the State any money or other property that is tainted property and the person knows that the money or other property is derived or realised directly or indirectly from unlawful activity. I commend this Bill to members.

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 is formal.

PART 1—AMENDMENT OF CRIMES (CONFISCATION OF PROFITS) ACT 1986

Clause 4 defines a number of terms used in the amendment. The current definition of 'forfeitable property' is redrafted and transferred to section 6.

Clause 5 inserts proposed section 6 (1a) which redefines the term 'forfeitable property' in a manner which makes it clear that a restraining order may be imposed by a court

prior to the conviction of an offender for a prescribed offence.

Clause 6 amends section 10 of the Act to provide for payments into and out of the Criminal Injuries Compensation Fund in circumstances not previously dealt with in the Act.

Proposed section 10 (1) *(b)* provides for the payment into the fund of any money derived from the enforcement of an order under a corresponding law registered in the State.

Proposed section 10 (1a) provides in paragraph *(a)* for money paid to the State under the equitable sharing program and, in paragraph *(b)*, for money paid to the State under the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth to be paid into the fund.

Proposed section 10 (3) *(b)* provides for payments by the State to the Commonwealth or to other States pursuant to the equitable sharing program.

Clause 7 amends section 10a (2) to make it clear that the State is entitled pursuant to proposed section 10 (1) *(b)* to receive on its own behalf the proceeds of the enforcement of an order in favour of the Crown in right of another State.

Clause 8 inserts proposed section 10b which parallels the provisions of the Proceeds of Crime Act 1987 of the Commonwealth in establishing an offence of money-laundering.

Subsection (2) establishes the offence of money-laundering punishable, in the case of a natural person, by a fine of $200 000 or 20 years imprisonment and, in the case of a body corporate, by a fine of $600 000.

Subsection (3) defines money-laundering in terms similar to the Commonwealth Act.

PART 2—AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935

Clause 9 inserts the definition of 'ancillary order' into section 348 of the Criminal Law Consolidation Act 1935.

'Ancillary order' is defined to include forfeiture and restraining orders under the Crimes (Confiscation of Profits) Act 1986 and restitution and compensation orders under the Criminal Law (Sentencing) Act 1988.

Clause 10 inserts proposed section 354a.

Subsection (1) of that section provides that a person against whom an ancillary order has been made may appeal to the Full Court.

Subsection (2) provides that the Attorney-General may appeal to the Full Court against an ancillary order or the refusal to make such an order.

Subsection (3) provides for appeals against sentence and ancillary orders to be heard together where the court considers that this is appropriate.

Clause 11 provides that the right of appeal created by proposed section 354a applies in respect of proceedings commenced prior to the commencement of the amendment.

Mr S.G. EVANS secured the adjournment of the debate.

CORPORATIONS (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Object of the Bill

1. The purpose of the amendments to the Corporations (South Australia) Act 1990 by this Bill is to ensure that the various amendments to the Corporations Law and other ancillary legislation as contained in the Corporations Legislation Amendment Act 1991 of the Commonwealth can apply as law in South Australia.

2. The Bill forms part of a legislative Scheme that involves the enactment of similar Bills in other States and the Northern Territory.

The Background

3. The Corporations (South Australia) Act 1990 ('the Act') was introduced into Parliament on 20 November 1990. As was indicated on that date, the Act is the result of an agreement reached at a meeting of Ministers at Alice Springs on 29 July 1990. Similar application legislation was enacted in the other States and in the Northern Territory.

4. The purpose of the Act was to apply the Corporations Law and the Australian Securities Commission Law ('the ASC Law') as the law of South Australia in such a way that ensures that any further amendments to the Corporations Law or the ASC Law would automatically apply in South Australia.

5. However, a few of the recent amendments to the Corporations Law and the ASC Law as contained in the Corporations Legislation Amendment Act 1991 of the Commonwealth cannot apply in South Australia without the amendments as contained in this Bill. Similar Bills have either been enacted by or introduced into the Parliaments of the other States and the Northern Territory.

The Result to be achieved

6. The major amendments contained in the Corporations Legislation Amendment Act 1991 relate to:

- the winding up of the National Companies and Securities Commission;
- new consolidation of accounts provisions in respect of entities controlled by companies;
- reform of insider trading;
- conferment on the Family Court of Australia and the Family Court of Western Australia of jurisdiction in relation to civil matters arising under the Corporations Law and which these courts had prior to 1 January 1991 under the Co-operative Scheme;
- providing the Australian Securities Commission with a capacity to regulate compliance with trust deeds;
- requiring retiring directors to notify a changeover in ownership of a company; and
- provision of a statutory moratorium until 31 December 1991 in respect of a company's obligation to place its Australian Company Number ('ACN') or Australian Registrable Body Number ('ARBN') on its business documents and negotiable instruments.

The remaining provisions of this Act are concerned with various technical and clarifying amendments and drafting corrections to the Corporations Act 1989, the Corporations Law and the ASC Act.

7. The provisions of the Bill will involve an amendment to be made to the Corporations (South Australia) Act 1990 to extend the definition of 'Commonwealth administrative laws' to include the provisions of the regulations under the Acts presently encompassed in this definition. This is as a result of the inclusion of a similar amendment by the Corporations Legislation Amendment Act 1991.

8. The Bill will also reflect the amendments contained in the Corporations Legislation Amendment Act 1991 to restore to the Family Court of Australia and the Family Court of

Western Australia the jurisdiction those courts had in companies and securities matters prior to the commencement of the Corporations Law. The Corporations Law had taken companies and securities matters from the Family Court's jurisdiction by excluding the general cross-vesting legislation and substituting a special regime for cross-vesting which did not include the Family Court. This situation will be reversed by the amendments and although the Family Court will not have full and direct co-ordinate jurisdiction enjoyed by the State Supreme Courts and the Federal Court, it will be able to deal with Corporations Law matters when they arise in an ancillary way in relation to Family Law proceedings.

9. The Bill will reflect the Commonwealth's amendment to subsection 88 (1A) of the ASC Act. This amendment will widen the scope of the provision to include all national scheme laws of the particular jurisdiction rather than only the ASC Law. Further it will recognise, for the purposes of the national scheme law of one jurisdiction, that an offence under the Crimes Act as it applies in relation to an examination or hearing under the ASC Law of another jurisdiction is taken to be an offence under the ASC Law of that other jurisdiction.

10. The Bill contains a provision to amend section 91, so as to bring this provision in line with equivalent provisions of the application laws of other States and the Northern Territory. At present, section 91 of the Act does not give the Commonwealth Director of Public Prosecutions ('the DPP') the same enforcement powers in relation to the Co-operative Scheme Laws as the Crown Prosecutor for South Australia. This needs to be addressed so as to enable the DPP to have the powers of enforcement in relation to the Co-operative Scheme Laws.

11. The provisions of the Bill will also repeal the National Companies and Securities Commission (State Provisions) Act 1981 and require the Attorney-General of the day to lay before each House of the South Australian Parliament the following reports prepared by the Australian Securities Commission ('the ASM') and submitted to the Attorney-General:

(i) a report on the operations of the National Companies and Securities Commission ('NCSC') and the financial statements of the NCSC prepared by the ASC in accordance with sub-sections 15 (1), (7) or (8) of the Corporations Legislation Amendment Act 1991 of the Commonwealth;

and

(ii) a copy of the report of the Auditor-General for the Commonwealth on those financial statements, within 15 sitting days of that House after its receipt by the Attorney-General.

12. The Australian Securities Commission has assumed the roles and functions of the NCSC and as the NCSC no longer has any operative role, the provisions of Part 6 of the Corporations Legislation Amendment Act 1991 abolish the NCSC by repealing the National Companies and Securities Commission Act 1979. Accordingly, the National Companies and Securities Commission (State Provisions) Act 1981 is no longer required and will need to be repealed.

Clause 1 is formal.

Clause 2 provides for commencement of the proposed Act. Some amendments of a technical nature are taken to have commenced on 1 January 1991. The transitional provisions relating to the reports and financial statements of the National Companies and Securities Commission are to commence on assent. The remaining provisions are to commence on a proclaimed day or days.

Clause 3 is a formal provision defining the expression 'principal Act' for the purposes of the Bill.

PART 2 of the Bill deals with amendments of the Corporations (South Australia) Act 1990.

Clause 4 amends the definition of 'Commonwealth administrative laws' to include the regulations made under the relevant Commonwealth Acts. This amendment is made for the avoidance of doubt and is intended to make explicit what was intended to be implicit in the operation of the present provisions. This amendment is consistent with the amendment made to section 4 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 5 inserts definitions of 'Family Court' and 'State Family Court', which correspond to the definitions inserted into section 50 of the Corporations Act by Schedule 1 to the Commonwealth Bill. The clause also inserts a definition of 'Federal Court'.

Clause 6 amends section 30 to make it clear that the Commonwealth laws applying as laws of the State to offences against the applicable provisions of another jurisdiction apply as if they were not laws of that jurisdiction. This will bring section 30 into line with section 29, and complements amendments to section 42 of the Corporations Act made by Schedule 1 to the Commonwealth Bill.

Clause 7 amends the definition of 'Corporations Law of South Australia' in section 41 to include rules of court made by the Family Courts. This is consequential on the conferral of cross-vested jurisdiction on the Family Courts, and corresponds to an amendment to section 50 of the Corporations Act made by Schedule 1 to the Commonwealth Bill.

Clause 8 amends section 42 to omit words that become redundant as a consequence of the new definition of 'Federal Court'.

Clause 9 confers jurisdiction on the Family Court of Australia with respect to civil matters arising under the Corporations Law of this jurisdiction. Jurisdiction is also conferred on State Family Courts with respect to those matters. The conferral of this jurisdiction on a State Family Court is limited to the extent that a court of a State does not have jurisdiction to grant an injunction, a prerogative writ or a declaratory order in relation to certain decisions of an administrative character, in accordance with section 9 of the Administrative Decisions (Judicial Review) Act 1977. The clause corresponds to section 51A of the Corporations Act, as inserted by Schedule 1 to the Commonwealth Bill.

Clause 10 repeals section 43 and inserts a new section that takes account of the inclusion of the Family Courts in the scheme. The section ensures that, despite the cross-vesting of jurisdiction, the normal hierarchy of appeals is to apply. The section corresponds to the new section 52 inserted in the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clauses 11 and 12 omit three subsections of section 44 and replace them with new sections 44B, 44C and 44D, which apply for the purposes of transfer of proceedings under section 44 and proposed section 44A.

Clause 13 also inserts section 44A, which establishes a regime for the transfer of proceedings in respect of civil matters arising under the Corporations Law instituted in a Family Court. It differs from the regime in section 44 that applies in relation to such proceedings instituted in other superior courts. The section 44A regime is similar to the provisions for the transfer of proceedings under the general cross-vesting arrangements established by the Jurisdiction of Courts (Cross-vesting) legislation. The provisions ensure that proceedings begun inappropriately in a Family Court, or related proceedings begun in separate courts, will be

transferred to an appropriate court. The amendment made to section 44 corresponds to the amendment made to section 53 of the Corporations Act by Schedule 1 to the Commonwealth Bill. The new sections 44A-44D correspond to sections 53A-53D of the Corporations Act as inserted by that Schedule.

Clauses 14 and 15 amend sections 45 and 50 in consequence of the inclusion of the Family Courts in the civil cross-vesting arrangements. These amendments correspond to the amendments to sections 54 and 59 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 16 inserts a new section 52A relating to the rules of court that a Family Court should apply with respect to matters arising under the Corporations Law of this jurisdiction. The section corresponds to subsections (2)-(4) of section 61A inserted in the Corporations Act by Schedule 1 to the Commonwealth Bill.

Clause 17 replaces section 74 (3). The new subsection widens the scope of the provisions to include all national scheme laws of the particular jurisdiction rather than only the ASC Law, and recognises for the purposes of the national scheme law of one jurisdiction that an offence under the Crimes Act 1914 of the Commonwealth as it applies in relation to an examination or hearing under the ASC Law of another jurisdiction is taken to be an offence under the ASC Law of that other jurisdiction. The purpose of the provision is to ensure that offences under Part III of the Crimes Act 1914 of the Commonwealth are 'cross-federalised' for the purposes of enforcement of the ASC Law. The subsection corresponds to section 88 (1A) of the Australian Securities Commission Act 1989 of the Commonwealth, as amended by Schedule 7 to the Commonwealth Bill.

Clause 18 replaces the definition of 'instrument' in section 90. The effect of the new definition is to exclude the national scheme laws and regulations of this jurisdiction from the expression, so that the provisions construing references to co-operative scheme laws, etc., will not apply to them. It is assumed that if a national scheme law refers to a co-operative scheme law it does so deliberately and the reference is not meant to be updated. The new definition corresponds to the definition inserted in section 80 of the Corporations Act by Schedule 1 to the Commonwealth Bill.

PART 3 of the Bill relates to the abolition of the National Companies and Securities Commission.

Clause 19 repeals the National Companies and Securities Commission (State Provisions) Act 1981. This complements the repeal of the National Companies and Securities Commission Act 1979 of the Commonwealth by section 14 of the Commonwealth Bill.

Clause 20 requires the Minister to table in Parliament a copy of each report of the operations of the NCSC and the financial statements of the NCSC prepared by the ASC under section 15 of the Commonwealth Bill, together with a copy of the report of the Auditor-General of the Commonwealth on those financial statements.

Mr S.G. EVANS secured the adjournment of the debate.

JUSTICES AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2416.)

Clause 8—'Categorisation of offences.'

Mr INGERSON: Prior to the dinner adjournment, I asked the Minister to explain the new classification of offences. In other words, how broad is the new classification? What is now included as a summary offence compared with the previous situation?

The Hon. G.J. CRAFTER: I refer the honourable member to the third schedule of the Bill, which provides for a description of summary or indictable offences of dishonesty, and to the fourth schedule, which provides for a description of indictable offences of dishonesty. That clarifies the division of offences to which the honourable member referred.

The CHAIRMAN: I draw members' attention to typographical amendments to be made to clause 8. Page 4, lines 1 to 3, paragraph *(b)*, commencing on line 3, should be redesignated as paragraph *(a)*. The words appearing as paragraph *(a)* on lines 1 and 2 should be redesignated as subparagraph (i) of paragraph *(a)* and moved down after line 3. Subparagraphs (i) and (ii) should be redesignated (ii) and (iii) respectively.

Clause passed.

Clauses 9 to 43 passed.

Clause 44—'Substitution of Part V.'

The Hon. G.J. CRAFTER: I move:

Page 14, line 41 to page 15, line 4—Leave out subsection (4) and insert subsections as follows:

(4) Where a videotape or audiotape is filed in the court, the prosecutor must—

(a) provide the defendant with a copy of the verified written transcript of the tape at least 14 days before the date appointed for the defendant's appearance to answer the charge, or, if the tape comes into the prosector's possession on a later date, as soon as practicable after the tape comes into the prosecutor's possession;

and

(b) inform the defendant of the defendant's right to have the tape played over to the defendant or his or her legal representative and propose a time and place for the tape to be played over.

(5) The time proposed for playing the tape must be at least 14 days before the date appointed for the defendant's appearance to answer the charge, or, if the tape comes into the prosecutor's possession at a later date, as soon as practicable after the tape comes into the prosecutor's possession, but the proposed time and place may be modified by agreement.

I indicated in the second reading debate that I would be moving this amendment, which relates to the obligations to be imposed upon the prosecution in relation to the prehearing disclosure of material available to the prosecution in the form of audiotapes or videotapes.

New section 104 (4) provides that, where the statement is in the form of a tape, the defendant should be provided with a copy of the tape or a transcript of the tape. That part of the provision which refers to the provision of a copy of the tape itself has caused a deal of concern. The Victims Branch of the Police Department is of the view that it cannot guarantee to victims of crime such as children that a videotape of their police interview will not be made available to the accused and shown or otherwise revealed to their public humiliation.

It takes the position that the provision will be inimical to the interests of victims and an obstacle to the encouragement of such fragile people to report and maintain an involvement in the prosecution of offenders. The Government does not wish this to be a result of this reforming measure. It is true that the provision does not require the production of a copy of the tape. It is also true that the current legislation provides for the production of a copy of the tape—but similarly, does not require it.

In this area of criminal procedure, perceptions are often as important as realities, sometimes more so. It is undoubtedly difficult to persuade those children who are, for example, victims of sexual assault to make a statement and give evidence in court. The Government does not desire that these large-scale, significant procedural reforms should be impugned for this reason. The key to this provision, in

terms of justice to the accused, is that the defence has at least access to a transcript of the tape and a reasonable opportunity to hear it (if audio) or see and hear it (if video). This amendment preserves that protection and addresses the concerns of the Victims Branch.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 17, lines 10 to 14—Leave out paragraph *(a)* and insert paragraph as follows:

(a) evidence will be regarded as sufficient to put the defendant on trial for an offence if, in the opinion of the court, the evidence, if accepted, would prove every element of the offence;

This amendment changes the test to be applied by the court in determining whether or not an accused person should be committed for trial. The test for committal was the subject of considerable debate, both before and after the introduction of the Bill. A variety of differing views were expressed, although it was agreed on all sides that the test should be strengthened so as to make the committal a better filter of weak cases in the event that the test originally proposed was amended in another place.

The member for Bragg referred to this matter in his second reading contribution, and I also referred to it in my second reading speech. Subsequently, the Chief Justice expressed the view that the amended test would require the Magistrates Court to inquire into the weight of the evidence in a manner too much like a trial, and hence would be inimical to the principal policies carried through by these reforms to the committal system. The Chief Justice has suggested that a well-known test, known as the Prasard test, applied by a trial judge to a submission of no case to answer at the close of the case for the prosecution would serve the purposes of the reforms well and have the advantage of already being well known and applied. Therefore, the amendment proposes to replace the test in the Bill with that test, and I commend it to members.

Mr INGERSON: How will the test prove every element of the offence? I believe that the Minister is saying that it involves about 100 per cent of the evidence that is put in support of a trial; is that what it means, or does it mean something different?

The Hon. G.J. CRAFTER: Regarding the wording 'prove every element of the offence', offences are divided into various elements; for example, theft is regarded at law as the intention to permanently deprive another of their property. So, in assessing whether a case has been made out for the matter to go to trial during the committal proceedings, one must prove every element of that offence to the satisfaction of the magistrate so that he is satisfied that the matter can then proceed to trial. In that case, there would need to be evidence that an intention had been formed, that that intention was to permanently deprive another of their property, that the property was theirs, and so on. So, that applies to each and every offence that comes before the court in those proceedings. That is the requirement; that is the test that is applied here, and I think it is known in the legal profession as the Prasard test.

Amendment carried.

The Hon. G.J. CRAFTER: I move:

Page 19, line 18—Insert 'or the District Court' after 'court'.

This is consequential upon an amendment made in another place to include a provision empowering the District Court to refer a case to the Supreme Court.

Amendment carried; clause as amended passed.

Clauses 45 to 47 passed.

Clause 48—'Substitution of ss. 187ab to 203.'

The Hon. G.J. CRAFTER: I move:

Page 22, after line 14—Insert new section as follows:

Regulation 192. The Governor may make regulations for the purposes of this Act.

This amendment inserts a power to make regulations. There has never been a power to make regulations under the Justices Act, but it is now needed for a variety of reasons, for example, to list industrial offences and in relation to witness fees. The omission to include this measure in another place was an oversight.

Mr INGERSON: How long will it take for the regulations to be drawn up? Will the legislation be enacted quickly, or will the drawing up of these regulations take a long time?

The Hon. G.J. CRAFTER: Obviously, there is a considerable will on the part of the Government to have this legislation enacted and, following that, put into place. However, it is estimated that it could be six months before the regulations are brought down.

Amendment carried; clause as amended passed.

Clause 49 and title passed.

Bill read a third time and passed.

JUSTICES OF THE PEACE BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1433.)

Mr BRINDAL (Hayward): The Opposition has examined this Bill carefully and believes it is consequential and part of the courts restructuring package. We point out that the appointment of the justices is currently covered by the Justices Act, and this Bill seeks to deal separately with the appointment of justices of the peace. The Opposition concurs with the Government opinion that that is a desirable course of action. As we understand it, the scheme of the Bill is as follows: the Governor appoints justices and the Governor may, on the recommendation of the Attorney-General, appoint a justice to be a special justice, who is a person who will sit in the courts. That represents a slight variation from current practice. A roll of justices will be kept, and I believe—and the Minister will correct me if I am wrong—that that is currently the case.

The Bill also allows that a justice may be removed from office by the Governor if that person is incapacitated, mentally or physically, is convicted of an offence that shows the convicted person to be unfit to hold office as a justice of the peace, or becomes a bankrupt. While the roll of justices is to include the names of all persons currently holding office as justices, it may be necessary for the Opposition, depending on the Minister's answer in Committee, to move an amendment to ensure that a justice appointed prior to the commencement of the Bill is a justice under the Bill, subject to the provision of that Bill.

There is no provision that the roll of justices may be open to public scrutiny. The Opposition believes that it is desirable and ought to be provided specifically, so we will question the Minister on that. Similarly, the letters 'JP' after a signature will signify that the signatory to any document is a justice of the peace. However, the Opposition notes that there is no provision that a person who is not entitled to use that description and uses it is guilty of an offence. The Opposition believes that, in view of the nature of documents signed by the judiciary, if someone misrepresents themselves as a justice of the peace and signs documents as a justice of the peace, they should face some penalty at law. The Opposition supports the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank members of the Opposition for their support for this measure. It is consequential upon the other Bills which have

been before this House today and which form the package of Bills for the reform of our courts and our judicial system in South Australia. The former Justices Act 1921 now regulates the procedures of the Magistrates Court, and it is no longer appropriate for the provisions relating to the appointment of justices of the peace to be contained in that Act. It is seen as appropriate that they come under a separate Act.

Justices in our jurisdiction—and also those in other jurisdictions that follow the British system—have provided a valuable service to the administration of justice. Indeed, it is still true that the majority of cases that are heard before our courts are heard before justices of the peace, albeit minor matters in the main. However, a very important role is played by justices, who do this work on a voluntary basis, albeit somewhat differently from the role that justices now play in the United Kingdom. I would like to put on record the Government's appreciation of the work of the 10 000 or more justices of the peace in South Australia and those justices of the quorum who sit on the bench and perform a very important function in respect of the administration of justice in this State.

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

STRATA TITLES (RESOLUTION OF DISPUTES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1434.)

Mr INGERSON (Bragg): The Opposition supports this Bill in principle, although in Committee I will move a couple of minor amendments that will, we believe, improve the Bill. Its principal objective is to give members of strata title corporations access to a more efficient method of resolving disputes in a cost effective manner. A problem that concerns many strata title unit holders is the difficulty of resolving disputes that occur between the corporation and its members or between individual members of the corporation. At present, civil proceedings may be taken in the Supreme Court to enforce rights and obligations under the articles of the strata title corporation. This type of action is very expensive and out of proportion to the rights that often need to be enforced. In addition, summary proceedings for breaches of certain provisions of the Strata Titles Act can be commenced only with the approval of the Attorney-General.

In all, a simpler method of resolution of disputes is called for. As far back as 1987, a discussion paper was circulated suggesting the establishment of a Strata Title Commissioner. That particular idea, which has been around for some four years, has now been discarded, and the Government by way of this Bill is suggesting that disputes in respect of strata schemes would be best determined in the small claims court. Following the passage of certain Bills, the Magistrates Court now deals, in essence, with small claims, so these disputes will now be taken to that court. One reason for taking these disputes to the small claims court is that it has a very wide jurisdiction. The parties usually represent themselves but if both parties agree they can have legal representation and, in certain circumstances, the court may allow legal representation.

The cost of instituting proceedings in the small claims court is about $33, which is a very small cost compared with a more formal court. In essence, the Opposition approves the change of direction, but we believe that the maximum level of claim of $3 000 is very small when one considers some of the strata title problems that are likely to develop. The Opposition will move an amendment that will allow all courts to be involved in this system so that, depending on the amount of a particular claim, it can be heard in either the Magistrates Court or the District Court or, if neccessary, in the Supreme Court.

This Bill does not cover only the housing industry but the commercial industry as well. As many strata titles would cost in excess of $1 million, one could expect that some arguments between parties in the commercial sense would be well in excess of the maximum level of claim that has been set in the Magistrates Court. I have sympathy with having all of these matters heard in the one court, but as earlier Bills that have passed this House have set fairly strict rules in respect of monetary value, it seems to me that an amendment to enable that to occur here would be a much more desirable way to go.

In addition, a court may on its own initiative, or on application by a party to proceedings, transfer the matter to the Supreme Court on the ground that the application raises a matter of general importance, or may state a case for the opinion of the Supreme Court. That is a further important change addressing difficulties that can arise from emotional issues involving strata title conditions. I know that in my electorate, which contains a lot of units, apart from divorce, strata titles cause the most disputes. Most of them concern fairly small matters, but when they build up to an emotional stage, as with most disagreements in which houses are involved, people seem to lose all perspective as to the size of the problem. So, very difficult matters could be transferred to the Supreme Court.

Several provisions in the Strata Titles Act create offences. A corporation is guilty of an offence if an office of the corporation remains vacant for more than six months, if it makes a payment to its members, if it fails to produce for inspection by a unit holder a current insurance policy, if it fails to hold an annual meeting, if it refuses to supply specified information to specified persons and if it fails to keep a letterbox on the site. These are very interesting offences, and I wonder on how many occasions they are breached unwittingly. Having been the secretary of a strata title corporation for some time, I know that for at least 12 months there was not a letterbox on the site in which to place mail that we had to distribute. So, many of these offences, although small, create difficult situations, and this improvement of the Act will go a long way towards bringing about the desired changes.

Many offences in this area are strictly internal: they may relate to the way people want to move around their external walls to their gardens or to overhanging trees, issues which to members in this place may not seem very important but which over a long period can become important. So, we need this very simple and accessible means of resolving such disputes without significant cost to the people concerned but with the provision of an independent court to which they can go. Apart from the amendment which I will move in Committee, and which we believe is an improvement, the Opposition supports the second reading.

The Hon. G.J. CRAFTER (Minister of Education): I thank members of the Opposition for their indication of support for this measure and note that they have filed several proposed amendments to this Bill. This measure has been long awaited by those persons who have interests in strata titles or who are family or friends of people living in strata title units. Among that group, I class members of Parliament, because all members of Parliament are

approached quite regularly in their electorate by residents of strata title units who are unable to resolve conflicts that have arisen in those unit situations. These often cause great distress to people and at times can erupt into a violent attempt to resolve the dispute. It may simply relate to people selling their interest or to people who are renting but who leave the premises, often in situations of distress and unresolved conflict. That is most undesirable.

One of the very clear reasons why this is so is that it has not been possible for ordinary people to gain access to the courts or any administrative *quasi*-judicial body to have these matters resolved. The measure before us takes the jurisdiction away from the Supreme Court, where it has vested since the establishment of this form of ownership of property, and vests it in the small claims court, with procedures for it also to be vested in other jurisdictions as appropriate. It is a flexible way of dealing with these matters, one which I believe will be very much welcomed by many thousands of South Australians who reside in properties owned on the basis of strata title unit holding laws.

The situation in other States is somewhat different. We looked at the situation that applies in Western Australia, New South Wales and Queensland, each of which has a Strata Title Commissioner to deal with strata title disputes. In Victoria, body corporate disputes under the subdivision Act are determined by the Magistrates Court. In South Australia in 1987 a discussion paper was circulated that canvassed a proposal to establish a Strata Title Commissioner in this State. It was suggested then that the Commissioner be funded by a levy on new strata title developments and on the transfer of titles.

Whilst the need for an appropriate dispute resolution mechanism was acknowledged by most commentators, the proposed method of funding in that discussion paper was not supported, so further options were explored. That has resulted in the measure we have before us this evening. It should be noted that the small claims court is a jurisdiction in which parties generally represent themselves and no legal representation is allowed unless all parties agree and the court is satisfied that a party who is not represented will not be unfairly disadvantaged. In certain circumstances, the court may allow a party to be assisted in the presentation of his or her case.

The cost of instituting proceedings in the small claims court is currently $33, which is in marked contrast to bringing a matter before the Supreme Court as the law currently provides. The small claims court is also given the power to make interim orders to preserve the position of any person prior to a final determination of the dispute, a particularly important power. People often come to me needing some sort of immediate restraining order to be placed on a person who is going to demolish an area covered by common ownership, or who is going to carry out some works that are inappropriate or have not been approved by the corporation, and so on. That provision will be very helpful.

The Supreme Court and the Planning Appeal Tribunal will continue to have jurisdiction over matters in Part I of the Act—Division of Land by Strata Plan, to appoint an administrator of a strata corporation's affairs under section 37, and to grant relief when a unanimous resolution is required under section 46. It is possible for matters to be transferred from the small claims court to the District Court and from the District Court to the Supreme Court or, in some cases, for matters to be commenced in the first instance in the District Court.

There are several provisions in the Strata Titles Act that create offences, and the member for Bragg has referred to those. A corporation is guilty of an offence if an office of the corporation remains vacant for more than six months; if it makes a payment to its members; if it fails to produce for inspection by a unit holder a current insurance policy; if it fails to hold an annual meeting; if it refuses to supply specified information to specified persons; and if it fails to keep a letterbox on the site. A person who alters the structure of a unit is guilty of an offence, as is a person who has possession of any property of the corporation and refuses to give it to the corporation. A unit holder who enters into a dealing with a part of a unit is also guilty of an offence.

Finally, the original proprietor is guilty of an offence if he or she does not convene the first annual general meeting within a specified time and, at that meeting, place in the possession of the corporation the documentation relating to the development. These offences basically deal with matters internal to the strata title development, and it is considered that if an accessible means of resolving disputes is put in place there is no need for these offences. That will be a very valuable inclusion in legislation.

A number of disputes have arisen because of failure to comply with these somewhat fundamental matters, and these requirements at law will help as a deterrent and as a direct way of resolving disputes that have arisen in the past under these headings. I am sure that community legal service bodies such as we now have in metropolitan Adelaide, the mediation services and other counselling services that deal with thousands of people with disputes of this type each year, will very much welcome this legislation. People will receive support from these community-based alternative dispute resolution services in getting matters to this new jurisdiction now available to them in a form that will see the facts presented clearly and effectively and those matters resolved expeditiously. I commend this measure to all members.

Bill read a second time.

In Committee.

Clauses 1 to 9 passed.

Clause 10—'Resolution of disputes, etc.'

Mr INGERSON: I move:

Page 2, lines 35 to 41—page 3, lines 1 to 14—leave out subsections (2) to (6) (inclusive) and substitute the following subsection:

(2) Subject to this section, an application may be brought in any court competent to hear and determine actions in contract subject to the following qualifications:

(a) an application involving a monetary claim must be commenced in a court competent to hear actions for the amount of the claim founded in contract;

(b) the court in which an application is commenced may, on its own initiative or on the application of a party to the proceedings, order that the proceedings be transferred to another court;

(c) the District Court may, on the application of a party to proceedings under this section that are before a local court, order that the proceedings be transferred to the District Court;

and

(d) the Supreme Court may, on the application of a party to proceedings under this section that have been commenced in a local court or the District Court, order that the proceedings be transferred to the Supreme Court.

This amendment reflects the comment I made in my second reading speech. We believe that, because strata title claims may be not only in the housing area but also in the commercial area, we need to recognise that some of the claims may be far in excess of $3 000. The amendment provides that an application concerning a monetary claim must be commenced in the court competent to hear actions for the amount of the claim founded in contract. In other words, if it involves a $1 million contract, it should be in the Supreme Court; if it is a $2 000 contract, it should be in

the Magistrates Court, and our amendment recommends that.

The Hon. G.J. CRAFTER: The Government, of course, opposes the amendment. I am surprised that the honourable member has not quoted support from the Law Society because the amendment would ensure a huge amount of work for legal practitioners in this State. We believe that these sorts of disputes should be resolved much more expeditiously and cheaply than is proposed in the Opposition's amendment.

The Hon. Ted Chapman: Are you saying that the Hon. Trevor Griffin does not know what he is talking about?

The Hon. G.J. CRAFTER: He knows exactly what he is saying; it is just that we disagree with it. The amendment alters altogether the dispute resolution schemes proposed in the Bill. The Bill envisages that most strata title disputes will be determined in a small claims court with appropriate flexibility provided for more complex and significant matters to be heard in the District Court and, as I have said, in certain circumstances a matter will go to the Supreme Court. The Opposition's amendment will allow proceedings to be commenced in any court which, in a sense, would take us back to where we are at present.

This measure provides very welcome relief for thousands of South Australians facing unresolved conflict as a result of the occupation or ownership of a strata title home or other property. The amendment is opposed, as the whole rationale of the Government's Bill is to promote an accessible, cheap forum for resolution of strata disputes. Utilising the small claims court means that parties will not have to pay expensive legal bills in order to get disputes heard, and they will not have to wait long periods for disputes to be resolved.

Mr INGERSON: That is a nonsense argument. We have just had three legal Bills go through this place in which we have set monetary values or jurisdiction in each of the courts. In the Magistrates Court we set a $3 000 maximum limit; in the District Court we set much higher limits, and basically the Supreme Court is open. Yet, now, the Minister says that million dollar cases can be dealt with in the small claims court and that it is fair and reasonable. Our amendment simply suggests that the principle set out by the Government—not by the Opposition—in the chain of legal Bills that have gone through this place this evening should be recognised in this Bill. The argument that an application involving a monetary claim must be commenced in a court competent to hear actions for the amount of the claim in the contract is what it is all about. It is fair and reasonable, and I ask the Minister to reconsider his position.

The Hon. G.J. CRAFTER: I have considered my position and thought about the words that the honourable member has uttered, but I stand by my position. The Government proposes that the parties themselves will decide the appropriate jurisdiction. It is suggested that in most cases the parties want the dispute resolved speedily, efficiently and at little cost, so they will want to have the matter heard in the small claims jurisdiction. However, the opportunity is open for them to have it determined in the District Court or the Supreme Court. The District Court has a role to determine whether it is an appropriate matter to be heard in that jurisdiction. The Opposition's amendment proposes that the parties and the court be overruled and be directed by the force of the Opposition amendment to fit into certain jurisdictional limitations. That is inappropriate in these circumstances.

Mr FERGUSON: I find it difficult to understand why the Liberal Party is proposing this change to the Bill because, in the time that I have been in this Parliament, members of the Liberal Party have been complaining bitterly (in particular the Deputy Leader) about problems associated with strata titles. Strata titles legislation, to my knowledge, has been in need of reform for at least 10 years. I represent a district where the number of strata titles is ever increasing, and the old flats of the 1960s have been split up and divided into strata titles. Many people who have invested in strata titles have found themselves to be living in great difficulties because they cannot get the rules of the strata title corporation properly attended to, and their only opportunity to do so under the present legislation is to go to the Supreme Court.

It is ridiculous to have to go to the Supreme Court when somebody is improperly using common ground or has parked a boat on common ground when the rules of the corporation suggest that that is not permitted. Maybe somebody has parked a caravan or a car in the wrong spot. Somebody may have a pet in a strata title situation where they ought not to, or are creating a nuisance for their neighbours by making small alterations. I have a situation in my district where a young fellow has installed a gym in the garage and people attend the gym late at night to use the equipment, to the great annoyance of other people in the strata title units.

The Hon. Ted Chapman interjecting:

Mr FERGUSON: I do not need funny remarks and do not have time for them. When older people are in strata title units—

Members interjecting:

Mr FERGUSON: This is a very important proposition and, no matter how long it takes, we ought to discuss it. Where somebody sets up a gym in a garage and they ought not to, and where the strata title rules do not allow such, the only redress, particularly for older people presently, is to take the matter to the Supreme Court. Nobody on a pension or a limited income (and we have heard much from the Opposition about people on limited incomes) can afford to take a matter to the Supreme Court. The proposition put up by the Opposition so far as its amendment is concerned will destroy the principle that the Government is trying to establish of allowing these people to go to the small claims court. Eventually if they cannot get what they consider to be proper redress in the small claims court, they can take the matter higher. With this amendment the Opposition is reversing the situation.

Under certain circumstances, if one cannot get the other a party to agree to have the matter heard by the small claims court, where do you go under the Opposition's propostion? To the Supreme Court! That takes us back to the current situation. The Liberal Party is trying to impose on pensioners, those on fixed incomes and those who do not have a lot of money but live in strata title units, a situation to force them into the Supreme Court. We on this side of the Committee do not care about the million dollar claims. The number of million dollar claims in the State would be very small indeed. I can understand members of the Liberal Party looking after the silvertails, particularly those from the eastern suburbs, but we have to look at the small person, the pensioners and people on fixed incomes living in strata title units and seeking redress in these circumstances. I oppose the amendment before us.

Mr INGERSON: It is a pity that the elegant, well-dressed member for Henley Beach, who represents the public in the western districts, did not come and listen to the debate all the way through instead of wandering into this place whenever it suited him. As usual, the member for Henley Beach has got it wrong, just as he has been getting the GST wrong in the past few days. He has only to look at the polls to see

what sort of impact the GST is having. I will read our amendment for the honourable member:

(a) an application involving a monetary claim must be commenced in a court competent to hear actions for the amount of the claim founded in contract;

If the honourable member had been in this place for the past three hours he would know that the Magistrates Court Bill sets a maximum limit of $5 000 for these small claims. Our amendment will enable every claim under $5 000 to go to the Magistrates Court, which in essence is the small claims court. If the honourable member opposite had been here partaking in debate on all the other Bills, he would know that our amendment will cater simply and adequately for every constituent who goes to the small claims court with a claim under $5 000.

The argument that the honourable member has put to the Committee is arrant nonsense. When the honourable member puts an argument that is fair and reasonable I will be quite happy to listen to him but, when he puts an argument that is incorrect, I think it is right that our position be clearly spelled out to the Committee. We believe that claims above $5 000 should be handled in line with the Government's amendments to the courts system (which Bills recently passed this place). Our amendment is in line with that, as any claim over $5 000 automatically goes to the District Court, and any claim above the jurisdiction of the District Court automatically goes to the Supreme Court.

I would have thought that that was 100 per cent consistent with what the Government—not the Opposition—put before this place this evening. While I recognise that the honourable member opposite likes to float in and float out, and have a little bit of a go when it suits him, I think it would be much better if he got his facts right. I hope the Government will recognise that our amendment is not, as members opposite have said, geared up for the silvertails. It is geared up for every person in this State to go into a court which is suitably competent on a monetary basis to handle the particular claim.

Mr FERGUSON: I know that you, Mr Chairman, are anxious to get this debate through, and I support you in every aspect, but—

The CHAIRMAN: Order! The Chair has no view on the speed of the debate.

Mr FERGUSON: I beg your pardon, Mr Chairman, if I have offended you by saying that. I cannot let what the member for Bragg said pass without commenting. How very generous of the Liberal Party to determine a limit of $5 000 for those people who are in strata title units!

The Hon. Ted Chapman: It's too late to get nasty.

Mr FERGUSON: I am sorry, but I do not agree with the argument that has just been put. This legislation has needed reforming for the past 10 years, and in that time we have heard nothing from the Liberal Party as to how and why it should be reformed. There has been plenty of opportunity in the past decade to do something about it. As soon as the Government introduces legislation that produces fair and equitable reforms the honourable member opposite wants to bring in an amendment that changes it radically. What is wrong with accepting the Government's proposition and seeing whether it works? The honourable member does not even know whether it will work, and here he is trying to destroy the reforms that are being brought in by the Government. I cannot accept the argument that has been put up by member for Bragg.

The Hon. Ted Chapman: Then vote against it.

Mr FERGUSON: Have no fear, I will vote against it. I cannot accept the member for Bragg's logic. I know he has to support those people who voted him into this Parliament, and he has to look after the interests of those people who are in the higher income bracket, but when it has taken so long for this reform to be introduced into this Parliament—

Mr Ingerson: Whose fault is that?

Mr FERGUSON: I have just been asked by the member for Bragg, 'Whose fault is that?' I have been waiting for the Liberal Party to introduce a private member's Bill that would do something about it. I have been waiting for a long time for the Liberal Party to produce its policy on this matter, but I have not seen any policy so far. When a proposition is introduced by the Government to produce some much needed reforms for those people who are in strata title units—and I know that strata title units are not generally in Opposition members' electorates, but they certainly are in proliferation in the western area—members opposite try to change it. I oppose the amendment.

The Hon. G.J. CRAFTER: I will attempt to clarify the conflict that the Opposition has in dealing with this matter. The great majority of cases that will be dealt with in this area will not have a monetary value but will be about some conflict with respect to parking, a neighbourhood-type dispute or use of property. The reality is that where there is a monetary component to the conflict it can be dealt with at the choice of the parties—in the small claims court, where it can be dealt with speedily and cheaply, or it can be taken to the District Court or, in some circumstances, to the Supreme Court. Therefore, I believe that the concerns of the Opposition are without foundation.

Amendment negatived.

Mr INGERSON: I move:

Page 3, lines 31 to 34—Leave out paragraph *(e)* and substitute:

(e) in the case of the District Court or the Supreme Court—by order, alter the articles of the corporation;

(ea) by order, vary or reverse any other decision of the corporation, or any decision of the management committee of the corporation;.

It is our belief that the District Court and the Supreme Court should be the only courts in which articles of association, articles of the corporation or any decisions made by the management committee should be reversed. We do not believe it should be done at Magistrates Court level, and that is why I have moved this amendment.

The Hon. G.J. CRAFTER: The Government opposes the amendment, and it does so for eminently practical reasons which I will outline to the Committee. The Government believes that it would simply undermine the less expensive and very accessible dispute resolution system, which is the rationale for this Bill and which all members have applauded. The amendment elevates the articles of a strata corporation to heights it may not deserve. For example, schedule 3 of the standard articles for strata title units provides that a person bound by the articles must not park a motor vehicle in a parking space allocated for others and a person must not, without consent of a strata title, damage or interfere with the lawn, garden, tree or shrub. Provision is made for persons bound by the articles to keep a receptacle for garbage covered adequately. Under this amendment, that matter would be elevated to the higher courts of the State, whose operation, including counsel fees, costs tens of thousands of dollars a day. It is an inappropriate elevation of these matters.

Such matters do not necessarily require adjudication by the District Court or the Supreme Court—whether it concerns a rubbish bin, whether a tree or shrub is appropriate or whether garbage is covered adequately. It simply misses the whole point of why it is appropriate that these matters be dealt with in the small claims jurisdiction. If the small claims court is to have adequate jurisdiction in these disputes, it is appropriate that it have the power to alter the articles dealing with these matters because in most schemes

the articles deal with the sort of things that I and other members have mentioned in this debate.

I point out again that the structure of the Bill is such that it allows matters to go to the District Court or to the Supreme Court in certain circumstances, and I have little doubt that an issue of major importance or of legal or factual complexity in relation to articles will end up in the higher courts. However, if it is a matter concerning cats, garbage receptacles or motor vehicles being parked inappropriately or left abandoned, it seems appropriate that the small claims court have this power as part of its dispute settling procedures, which are provided for in the Bill before the Committee.

Amendment negatived; clause passed.

Clause 11 and title passed.

Bill read a third time and passed.

SHERIFF'S ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 1435.)

Mrs KOTZ (Newland): This Bill was part of a package of courts restructuring Bills debated by Parliament in 1978. The legislation was enacted in 1978 consequential on the new scheme in the Enforcement of Judgments Bill, which was also enacted in 1978, although it was never proclaimed. This Bill provides a number of minor amendments. The major intent of these amendments is to give recognition to the status of the sheriff of the court as an officer of the court. The 1978 Act omitted that recognition.

The Bill provides that the sheriff is appointed only upon the recommendation or with the concurrence of the Chief Justice of the Supreme Court and cannot be dismissed or reduced in status after appointment except on the recommendation or with the concurrence of the Chief Justice. It is therefore deemed to be an appropriate safeguard for an officer of the court, who is part of the judicial branch of government, but employed under the provisions of the Government Management and Employment Act. The position of sheriff must not be compromised and it is to that end that it must be made exceedingly clear that the sheriff is not part of the Executive arm of government. The sheriff must always be and must always be seen to be part of the judicial branch of government.

The Bill seeks to clarify that status by asserting that the sheriff will be an officer of the Supreme Court. Deputy sheriffs and sheriff's officers are employed under the Government Management and Employment Act and the sheriff may appoint deputy sheriffs or sheriff's officers who are not by virtue of that appointment Public Service employees. The sheriff has the responsibility of carrying out the orders of the court and, therefore, is an important officer in the structure of the administration of justice. It is also appropriate to provide that deputy sheriffs and sheriff's officers who are employed under the Government Management and Employment Act are employed only with the concurrence of the sheriff.

The Hon. Trevor Griffin was successful in moving amendments, supported by the Attorney-General, which mean that this Bill embraces that provision. One amendment inserted a new subsection, which provides:

> A person cannot be appointed as a deputy sheriff or sheriff's officer under subsection (1), nor can a person so appointed be dismissed or reduced in status after appointment, except on the recommendation, or with the concurrence, of the sheriff.

Under the scheme in the Enforcement of Judgments Bill, execution of judgment is the responsibility of the sheriff. For the time being, the sheriff may have to delegate his authority to bailiffs in the District Court and the Magistrates Court, but this is provided for in this Bill. The definition of 'court' is also substituted, altering the references to Local Court and District Criminal Court to District Court and Magistrates Court in light of the District Court Bill and the Magistrates Court Bill. Other amendments are consequential on the enactment of the District Court Bill and the Magistrates Court Bill.

A new section provides that there will be a sheriff who will be a public servant, but appointments to the office of sheriff and removals from that office are now subject to the decision of the Chief Justice of the Supreme Court. A further measure provides that there will be such deputy sheriffs and sheriff's officers as necessary. These officers are also public servants. In addition, the sheriff may appoint deputy sheriffs or sheriff's officers on a temporary basis. Those officers are not public servants and are entitled to the fees set out in the regulations. The new provisions bring the legislation into line with the Government Management and Employment Act 1985, clarifying the nature of the appointment of officers by the sheriff and the role of the deputy sheriffs and sets out the duties of the sheriff.

New section 10 alters the current provision, which requires that any person arrested by the sheriff, a deputy sheriff or any sheriff's officer must be brought before the court out of which the process under which the person was arrested was issued. The new section provides that the person arrested must be brought before a court as soon as reasonably practicable and must in the meantime be kept in safe custody. This Bill also provides immunity to a deputy sheriff from civil liability to the same extent as the sheriff and the sheriff's officers.

This Bill is not a matter of great moment, but it does ratify procedures currently in practice and, I am told, proven to have worked satisfactorily for a number of years. In supporting this Bill, I wish to acknowledge the Hon. Trevor Griffin for his preparatory work on the Bill and his astute ability to amend what was once again a basically flawed Government Bill, which was less than suitable as initially presented. With the advantage of these amendments built into this legislation, I am most happy to support the Bill.

The Hon. G.J. CRAFTER (Minister of Education): I thank the Opposition for its support for this measure and for the full description of the measure that the member for Newland has just given the House. I am not sure that one more word could be said to further explain the Bill. It is a brief but nevertheless an important Bill. It clarifies the status and role of the Sheriff and officers of the courts that are associated with the function of the sheriff. That office is somewhat romantically named to the lay person, but nevertheless it fulfils a very important function in the administration of justice in this State, and is occupied by an outstanding public servant and now officer of the court. I commend the measure to all members.

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

ADJOURNMENT

The Hon. G.J. CRAFTER (Minister of Education): I move:

That the House do now adjourn.

Mr VENNING (Custance): I rise tonight on a matter of grave concern. The number of South Australian teenagers accessing higher education is appallingly low. Only 1 per cent of South Australian rural young adults receive a tertiary education. These figures are very concerning, particularly as we end one year and start another. It concerns me greatly that next year fewer rural students will be seeking tertiary education than ever before for many reasons, which I will explain later. It is a very grave situation. As we realise, life on the land is very difficult, and if ever we needed our young people to have a higher level of tertiary education, it is now, but we see appallingly low figures.

Australia has the lowest level in the Western World of students seeking tertiary education. That gives South Australia the very sad distinction of being the worst State in the worst country in the Western World in that regard. The rural sector, the sector that I represent, is therefore the worst sector in the worst State in the worst country in the Western World. These figures are quite horrific. Nobody interjects: nobody disagrees with me.

Before I came into this place, I did several studies on this subject area, particularly when I was a representative on the South Australian Rural Advisory Council, a council that advises the Minister of Agriculture. He knows, and no doubt the Minister of Education knows full well, the grave situation I am highlighting now. The situation has deteriorated in the two years that I have not been a member of that council, and it is of extreme concern to me. Only 1 per cent—one in every 100—of people living outside Adelaide seek tertiary or further education. It is a staggering figure. I am amazed that this issue has not been raised in this House on more than one occasion.

The access rate for young rural people is 90 per cent lower than for Adelaide students. Specifically, in the 15 to 19 year old bracket, the figures are shocking—by far the worst of any State in Australia. The level is 40 per cent lower than in New South Wales and Victoria, 65 per cent lower than in Queensland and 80 per cent lower than in Western Australia and Tasmania. These figures are not just plucked from the air: they are well documented. I appreciate that the Minister is in the Chamber this evening and listening in silence. No doubt he must agree that the situation is grave indeed. Therefore, it is bad luck for a teenager who lives in rural South Australia and hopes to continue his or her education.

I do not have crocodile tears on this issue. I have children in that age group, and their friends are also in that age group. What future do they have? Rural South Australia is becoming a second rate part of the world in which to live, where the chances of continuing education are very bleak indeed. It is not that young country people are not interested in tertiary education. It is the same old story: this education is concentrated in the city. The rural crisis ensures there is no spare cash for country folk to send their children to live in Adelaide to gain that valuable education.

As we also know, and it has been well documented, the Austudy provisions for asset rich but income poor rural families does not help either, and we have heard the politics of that, particularly in the Federal Parliament. Nothing is done: all we hear is rhetoric. We are about to end one year and start another and, as each year begins, the rural students, our future farmers and business people, miss out again. We hardly hear a whimper from this House.

I know that the Minister agrees, but he seems powerless to do anything about it. It is discrimination at the greatest level against rural communities. The lack of access to higher education and to Austudy is geographical discrimination. A report released recently by the National Board of Employment, Education and Training entitled 'Toward a National Education and Training Strategy for Rural Australians' included figures for the 15 to 19 year age group and for the 20 to 24 year age group. It provides the disgraceful statistic that less than 1 per cent of our State's young adults outside the metropolitan area seek any tertiary education at all. That is one in 100. So what is the future of South Australia? What is the future of our rural industries?

These statistics include TAFE students, and I give credit to the Minister of Employment and Further Education (Hon. Mike Rann), who says much about this subject, particularly about video conferencing in accessing distance education. These are trends in the right direction, but we are far short of covering the gap. We need to see a huge increase in both expenditure and the Minister's push at least to try to cover this great gap. TAFE is out in the rural community, but it is neither funded enough nor encouraged enough to try to fill these gaps. The pupils most likely to succeed tend to be the girls. Boys lack suitable role models in rural communities. Teachers, doctors and so on come from out of town and tend to move on. Rural South Australia is almost one-third of our State's population.

A whole generation of rural South Australians will be forced to abandon what they should be able to expect as rightfully theirs, that is, a full education. There will be no doctors, lawyers, chemists, accountants, mechanics, electricians, plumbers, hairdressers, nurses and so on raised in the country. What makes it even worse is that those people who are trained in the city in those various professions will not come to the country, because it is seen as the backwater in which no facilities are left. We will have a serious void if we do not do something about this matter quickly. Those pupils want to learn, but they cannot.

In the country, if a school does not offer the necessary subjects, students leave school. They do not pursue a trade. In the city, the students can change their bus route and go to the school that offers them what they need. Country families cannot afford to send their children away. There is no Austudy and, given the rural crisis, all the students can do is to drop out of the system. We need the rural community because it provides us with our daily bread. It should not be forgotten. A whole generation of rural South Australians are being denied higher education right now. The long-term ramifications are both enormous and horrendous.

From my position on the Rural Advisory Council—as the Minister would know—I saw various measures proposed to assist this serious situation. I pay tribute to Ms Lesley Jacobs of Rural Affairs for her assistance. Government-funded boarding houses in Adelaide were to be adjoined to the larger South Australian public schools in the city; it was a great idea but it did not see the light of day because of lack of funds. We also saw the idea of building up many regional centres with boarding houses in the country areas. One such boarding house is operating successfully at my home town of Crystal Brook. It is attached to St Mark's Catholic school in Port Pirie and is working so well that the building has been increased in size three times. It is being increased yet again right now. This is a serious situation. Once again, I urge the Minister to look for options seriously and diligently to try to solve this serious problem. Surely rural South Australians have as much right as anyone else to have a choice of further education.

Mrs HUTCHISON (Stuart): It gives me great pleasure to talk about a project which is called the Country Aboriginal Youth Team and which was set up by the Department for Family and Community Services at its northern country

region, based at Port Augusta. The project began in May 1991, and this assessment covers the period May to October—a six month period. The director responsible for the project was Kim Dwyer, and the program leader was Roger Hooper, from the Port Augusta office. One of the objectives of the program was the early prevention of offending by young Aboriginal people and, as members would be well aware, there is a high proportion of young Aboriginal people in my electorate. The program was also aimed at increasing the social education skills within that target group, that is, young Aboriginal people, and achieving change in community attitudes towards Aboriginal youth, building a positive image in the community of young Aboriginal people.

It was anticipated that the number of first offenders in the target group would be reduced (and the target group was aimed at 10 to 16 year olds) and that there would be a reduction in the recidivism rate of these young people. It was also hoped that there would be an increase in self-confidence in the target group, resulting in participation in existing community activities. I am sure that you, Mr Speaker, would be interested in a program such as this, which was set up in the District of Stuart, in the north of South Australia.

The problem was—and I am sure all members would be aware of this—that there was a high proportion of young Aboriginal people in my electorate, mainly in the 10 to 14 year age group, but it did include some youths to perhaps the 16 year age group who have nothing to do in the evenings and on the weekends. One of the problems of the climate in which we now find ourselves is that the probability of youths getting a job when they leave school has been reduced markedly, and this is particularly so in our community, as it is in the Aboriginal community. The expectation of obtaining a job of those young people is very low; in fact, they do not anticipate being able to get a job.

For those young people there is also a high degree of risk that some of them will be led into offending behaviour by the high profile offenders in their own age groups. Alternatively, the very boredom they experience may itself lead to antisocial behaviour and activities, especially vandalism. That is not unique in the State of South Australia or Australia, because young people throughout the world, because of a lack of jobs, are tending to drift towards offending behaviour and vandalism. That is one of the great problems that we must look at in this Parliament—and in Parliaments all around the world, for that matter.

Port Augusta is currently experiencing a community backlash against all young offenders, particularly, unfortunately, Aboriginal youngsters, and it is urgent that preventive programs be initiated or attempted to try to mitigate that sort of behaviour. I am proud to say that the Department for Family and Community Services in Port Augusta did that: it looked at the problem and decided that it would attempt to do something about it. So, effectively it set up a pilot project to see whether it could do something to help these young people, to stop them from falling into a pattern of offending. It was decided that this pilot would be a preventive recreational program which would utilise the services of young Aboriginal adults who would model positive behaviour; in other words, they would provide the role model for these young people.

A senior group worker was to be responsible for the team, and two male and two female Aboriginal workers were employed on contract. In turn, they selected 10 other younger Aboriginal people, who were offered contract hours with intensive training through Skillshare and Department for Family and Community Services staff. The program involved a series of recreational, social and educational activities on Wednesday evenings, graduating to the weekends as well. The contents resembled closely—and I am sure all members would be aware of this—school holiday programs, and I am sure that you, Mr Speaker, would have those school holiday programs in your electorate, and indeed the member for Custance would be aware of those, as would the Minister of Education, who is sitting on the front bench.

The activities and events were to take place mainly in the evenings and at weekends, and I am sure that we are all aware that the main problems with young people who do not have anything to do occur mainly in the evenings and at weekends. Maximum use was to be made of existing equipment, resources and facilities, which were already owned by the community and the Department for Family and Community Services. The administrative base was to be the Department for Family and Community Services Centre, the program leader being a gentleman called Roger Hooper, who was to be directly accountable to the district manager of the Department for Family and Community Services in Port Augusta.

Some of the anticipated spin-offs of the program were that the profile of that bored and aimless Aboriginal youngster around the town would be lessened, so reducing the tension and confrontation which seemed to be building up in the community of Port Augusta at that time. It was also to give the Department for Family and Community Services centres an opportunity to observe several Aboriginal adults at work with these young people. It was quite good for me to find that this program was successful in the six months that we have been able to look at it.

It provided an opportunity to experience ways of working with young people at risk, which I think is terribly important. I am pleased to report that, to date, the outcome of this program is that attendances are consistently high—and that is rather unusual in this area; an average of 60 children benefit from a minimum of three activities weekly, which is quite an achievement; there has been a reported change in community activities; the relationship between agencies has never been better; and joint programs are a feature of ongoing goals. Further, a number of young part-time workers have been employed on this project. I am happy to say that, as a result of this project, some of those young people have been employed by the Education Department to work on a one-to-one basis with school children.

It is interesting to note that one of the results of this program is increased attendance at school, with less truancy. Aboriginal people who have worked on this program have created a very high profile for young Aboriginal offenders, and that has been quite successful. This program has offered to these young people an avenue of long-term employment, which is very important, because one of the main problems in this area is the fact of no employment potential for these young people in the long term. As there now appears to be that employment potential, they are creating a very important role model for the people with whom they are working.

I cannot speak too highly of the fact that Family and Community Services in the northern region, at Port Augusta, has been responsible for this program. I know that primary school principals in that area are quite impressed by the marked results from this project. As I have pointed out, it was a pilot project, but it is very important because it may provide a model for other members' electorates. All members should look at this project to see what it can do in their electorates to make a marked difference in the patterns of behaviour of young people.

The SPEAKER: Order!

Motion carried.

At 10.2 p.m. the House adjourned until Thursday 28 November at 10.30 a.m.