HOUSE OF ASSEMBLY

Thursday 29 October 1992

The SPEAKER (Hon. N.T. Peterson) took the Chair at 10.30 a.m. and read prayers.

INDUSTRIAL RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety) obtained leave and introduced a Bill for an Act to amend the Industrial Relations Act (South Australia) 1972 and to make related amendments to the Employees Registry Offices Act 1915 and the Long Service Leave Act 1987. Read a first time.

The Hon. R.J. GREGORY: 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 represents a major reform of the South Australian industrial relations system.

The major purpose of the Bill is to make changes to the industrial relations system in order to promote flexibility, efficiency and economic growth while at the same time protecting the work force against exploitation.

The clauses of this Bill dealing with certified agreements mirror provisions of the Federal Industrial Relations Act which is designed to facilitate enterprise bargaining. In particular, the proposed changes will—

- lead to a more flexible industrial relations system which enhances efficiency and equity in industry and at the enterprise level;
- continue to support the rights of the work force to professional representation through their trade unions;
- foster consultation and cooperation between workers, their unions and employers at the enterprise level.

The Federal Government has gone a long way towards developing a national industrial relations system which can more effectively respond to the needs of our times.

I now turn to the main proposals in the Bill.

The Bill has three main elements:

First, certified agreement provisions which will allow greater flexibility in the setting of employment conditions at the enterprise level.

Secondly, a range of minimum standard safety net provisions including—

- unpaid family leave;
- recognition of the rights of leaflet distributors and additional classes of outworkers including telephone promoters, clerical workers and freelance journalists, to have their conditions set by the Industrial Relations Commission;
- an improved capacity for the Industrial Commission to deal with unfair contracts;

and

- ensuring the ability of the commission to regulate or prohibit the performance of work where the employee is required to work nude or partially nude or in transparent clothing.

The third element of the Bill is a number of procedural and/or technical adjustments to the Act including—

- simpler processes for the recovery of unpaid award wages;
- facilitation of the powers of Commissioners to call compulsory conferences;
- expanded conditions under which the commission can award reinstatement of unfair dismissal in accordance with the International Labour Organisation;
- provision for prescribed 'registered agents' to represent parties for a fee before the court and commission;

and

- a revision of penalties under the Act bringing South Australia closer to the national average.

Certified Industrial Agreements

The Government's desire to encourage greater flexibility in the agreements parties reach at the enterprise level is proposed in a new Division of the Act to be titled 'Certified Industrial Agreements'. This Division is closely modelled on recent changes made to the Commonwealth Industrial Relations Act which strengthened similar provisions allowing such agreements.

It is proposed that the present sections of the South Australian Act which concern industrial agreements be retained in a Division entitled 'General Industrial Agreements' and that these continue to be available for use on the same basis as currently exists. For those parties who desire greater flexibility and certainty in setting the terms of their agreement, the proposed 'Certified Industrial Agreement' arrangements would be available.

Under the proposed certified agreement arrangements, the State Industrial Commission must certify an agreement if, and must not certify an agreement unless, specified criteria are met. These criteria are essentially that:

- The agreement must not disadvantage the employees to whom it applies in relation to their terms and conditions of employment when considered as a whole.
- The agreement must contain dispute resolution procedures.
- Unions who are to be parties to the agreement must consult on its terms with those of their members to be affected and report this to the commission.
- Unions in the industry are given an opportunity to be a party to the agreement, but only within the context of the Act's current objective of achieving a coherent national framework of employee associations.

It is proposed that agreements covering more than one enterprise may be refused certification by the commission if it considers certification would be contrary to the public interest. In the case of a single enterprise agreement, this restriction would not apply. There will instead be a limited ability for the Minister to intervene in such applications for certification, for the first 18 months after the new provisions come into operation. These enterprise level agreements will therefore give the parties much greater flexibility in negotiating conditions of employment that are adapted to the needs of the enterprise and the workers concerned.

The outcome of these changes will be that the Industrial Commission will have far less involvement in scrutinising the terms of such agreements. This much wider scope for agreements is intended to assist in parties achieving wider reaching, genuine improvements in flexibility and productivity. This mirrors the approach to certified agreements taken in the recent Federal amendments.

The greater flexibility of the proposed 'Certified Industrial Agreements' provisions will place greater responsibilities on the parties for developing genuine and industrially sophisticated agreements aimed at delivering lasting and equitable reforms in the workplace. To ensure that workers are not exploited under such arrangements the Bill allows only employers and associations registered under this Act to access the proposed certified agreements provisions.

Minimum Standard Safety Net Provisions

It is the belief of the South Australian Government that we have now reached an historical point where demographic, industrial and social trends make legislation for family leave appropriate.

A wealth of research has demonstrated the demographic and economic trends leading to the increased participation of women in the work force and the changes which have taken place in family structures in recent years.

The overall ageing of the Australian population is a key feature in this context and quite important in South Australia where the population is ageing at a somewhat faster rate than most. This 'greying of the population' as it is sometimes called, suggests that the next 30 years will see an almost 50 per cent

growth in the over 65 years age group and a drop of 22 per cent in the age group of under 15 years. Along with this, birth rates and fertility rates have been falling steadily over the past two decades and show no signs of reversing. In order therefore to sustain future economic growth, women in the 25 to 34 old age bracket will be a key source of skilled labour.

As for the present, large numbers of women workers are today in the work force, combining paid work with continued responsibility for care of children. One in three mothers in the labour force have school age children, almost two-thirds of mothers with primary school age children are now in the work force, and families with children with two working parents now outnumber families with one.

Women's careers are therefore becoming increasingly important both in the home economy and in the broader economy. Research associated with the State Government's 'Social Justice Strategy' in South Australia has revealed that couples are marrying later and having fewer children, women on average are having their first child at a later age and key areas of growth in employment in South Australia in the past decade have occurred in finance and business services, entertainment and recreation and community services—all important areas for the growth in women's employment.

Combining these trends with the fact of women's increasing participation in the paid work force, we can draw the conclusion that women's careers are becoming increasingly established and so they are more highly skilled by the time of child-birth.

This has important economic implications.

This Government is of the view that the increasing importance of women's careers in paid employment is integral to the development of future efficiency in industry. As a result the Government believes that workplace options need to reflect the needs of both the organisation and the employee recognising the support necessary to reconcile conflict between the demands of work and family.

On 29 June 1987, the South Australian Government indicated to the Federal Government formal agreement for the ratification of ILO Convention 156: Workers with Family Responsibilities.

The implications of such a convention are of course that International Labour Organisation member countries (and consequently, member States of a Federal system such as ours) ensure that, as a minimum standard, their policies and laws do not discriminate against workers with family responsibilities—and, indeed, more positively, that legal and policy provisions are adopted where possible which enables workers with family responsibilities to work without undue conflict between their responsibilities to their work and to their family.

The South Australian Government is committed to the implementation of ILO Convention 156. It has adopted the provision of family leave for its own employees and believes that the general availability of such leave in South Australia will further the principles inherent in this convention.

The South Australian Government believes that there are three main questions of equity in considering this proposal:

- it will further assist in providing equal employment opportunity to women workers;
- it will accommodate the changing patterns of both men's and women's labour force attachments and the trend of men's greater participation in family life;

and

- it will provide choice to parents to assist them to better balance the demands of work and family responsibilities.

The provision of paternity leave will be particularly helpful for the lone father families with young children.

The provision of the benefit to part-time employees or on a part-time basis to previously full-time employees recognises the increasingly diverse employment patterns in the work force and the fact that increasing numbers of jobs are available on a part-time basis. In South Australia approximately 22.4 per cent of the work force are part-time employees. It seems arguable that some of the 18.5 per cent of men who are employed part time are choosing this form of employment in order to enjoy closer parenting with their children.

In summary, the Government has had the experience where the negligible costs associated with such provisions are more than offset by the ability to retain skilled workers and create flexible and adaptable work patterns and staff.

It recognises that conflict between family responsibilities and those associated with paid employment has an adverse impact on the worker and on firm productivity through worker absenteeism, high turn over rates, lower working energy levels, poor concentration and increased worker stress. Absenteeism here is used in its broadest sense, to include physical absence (full work days, lateness, leaving early) and psychological absence (preoccupation with child care arrangements, other family worries) which affect morale and productivity.

This Government believes that family leave is an example of the kind of measures that can be taken to provide flexible and adaptable work patterns which in part can address these concerns.

Further protective reforms proposed by the Bill concern people who for all intents and purposes are employees but who by technicalities, fall outside of that category. The result is that these people, who are often in a weak bargaining position, do not have any of the protections of ordinary employees.

The Bill accordingly provides for the inclusion within the definition of 'employee' of persons engaged in the delivery or distribution of advertising material. In this industry, through the use of manipulative contractual arrangements people who work at very low hourly rates can fall into the category of independent contractors. It is proposed that those people will have access to the Industrial Commission.

Secondly, it is proposed to extend similar rights to outworkers who perform clerical-type work, telephone promotion or freelance journalism.

Australian Bureau of Statistics figures indicate that of 260 000 people employed at home in 1989, 40 per cent were clerks. Reports of the International Labour Organisation have also shown how developments in computer based technology have led to a proliferation of information handling work away from the usual environments. Research has shown that this has at times led to the potential for exploitation that would not be tolerated by our industrial relations system at a regular workplace. This situation is not considered desirable merely because the work is moved away from a commercial premises.

The Bill provides measures, complementary to the Commonwealth Act, as regards provisions which allow the commission to deal with unfair contracts. These set out more clearly the grounds for making application to have a contract varied, and they further identify considerations the commission may make in dealing with an application.

The Bill also proposes to remove any uncertainty as to the commission having jurisdiction to make an award regulating or prohibiting the performance of work where the employee is required to work nude or partially nude or in transparent clothing.

Procedural and/or Technical Adjustments to the Act

The Bill proposes a number of adjustments aimed at simplifying the process for the recovery of unpaid award wages and changes reflecting recent amendments to the Commonwealth Act in this area.

At present if the court is satisfied that the claim should have been satisfied without putting the claimant to the trouble of taking proceedings, it may order a penalty against the defendant in certain circumstances. It is proposed to adjust this provision in order that the commission may exercise this power either on the option of the defendant having been advised by an Industrial Inspector, that, in the inspector's opinion, the claim was justified or where the court is satisfied that the defendant had no reasonable ground on which to dispute the claim.

Further, in common with the Commonwealth Act, the Bill proposes to allow the court to order that successful claimants be paid an amount for interest additional to any monetary sum ordered. The interest would be calculatable for the period between the time when the original liability of the defendant to pay the amount fell due and the date of judgment.

It is also proposed to extend the tenure of the President and the Deputy Presidents of the Industrial Court by allowing these offices to be held until the age of 70, rather than 65 at present, bringing it into line with certain other judicial appointments.

The Bill proposes to streamline the process for the resolution of disputes by allowing all members of the commission and not simply the President to call compulsory conferences.

The current provisions of the Act concerning unfair dismissal place a total bar on applicants who are award free and who earn more than $65 000 per year. The reasoning for this prohibition

arose out of concern that these highly paid employees were utilising the cost free unfair dismissal jurisdiction for reasons outside of its primary purpose of reinstatement under the jurisdiction. The changes proposed will allow the Government to discharge its obligations pursuant to Convention 158 of the International Labour Organisation regarding termination of employment. The Bill aims to overcome the original problem while still allowing South Australia to conform with the International Labour Organisation standard. The measure allows these highly paid employees to bring an unfair dismissal application, but not do so merely to top up a retrenchment package.

The Bill proposes to amend those sections concerning representation before the court and commission. This measure arises from a requirement under the Legal Practitioners Act 1981 where an unqualified person may represent a party to proceedings in a court or tribunal for fee or reward, if the person is authorised by or under the Act by which the court or tribunal is constituted, or any other Act, to do so. As a result of this requirement, doubts have been raised as to the lawfulness of parties to a matter in the Industrial Court or commission being represented by an agent who charges a fee but who is not a legal practitioner. The Bill aims to make it clear that such representation is lawful. Such representation would be on a similar basis to the terms on which legal representation is currently allowed under the Act but shall only be allowable in cases relating to under payment of award wages or unfair dismissal. The Minister will be able, through regulations, to establish a register of such representatives, requiring qualifications and adherence to a code of conduct by such persons.

Finally, following the conduct of a survey of fines levied under the various Australian industrial Acts it has been revealed that maximum fines for offences against the South Australian Act are well below the national average for like offences. It is proposed to adjust the penalties under the Act to bring South Australia closer but still not above the national average for like offences.

Other Matters

Several other minor technical amendments to the Act are included in the Bill.

The provisions of the Bill are as follows:

Clause 1 is formal.

Clause 2 provides for the commencement of the measure.

Clause 3 relates to the definitions under the Act. The definition of 'employee' is to be amended to include any person engaged for personal reward to distribute various items by going from place to place, or by handing the items to passing members of the public, where the items are supplied free of charge. The legislation will also provide for a definition of 'registered agent', who will be a person who is registered under the regulations as an agent for the purposes of the Act.

Clause 4 will include some new categories of persons as 'outworkers' under section 7 of the Act. The proposed new categories are people who provide clerical services, people who carry out various marketing activities by telephone, and people who perform any journalistic service or public relations service.

Clause 5 alters the retirement age of the President and the Deputy Presidents of the Industrial Court to 70 years, which is consistent with the retirement ages of Supreme Court and District Court Judges.

Clause 6 makes a consequential amendment to section 13 of the Act and deletes unnecessary material.

Clause 7 alters the operation of section 15 (3) *(g)* of the act so that a penalty amount can be ordered either if the defendant was advised by an inspector that the relevant claim was justified, or if the defendant has no reasonable ground on which to dispute the claim, and the court considers that the defendant should have satisfied the claim. New subsections (5) to (8) inclusive will allow the court to award interest on an award under subsection (1) *(d)*. A new provision will allow registered agents to appear for fee or reward in section 15 (1) *(d)* cases.

Clause 8 makes a variety of amendments to section 19 of the Act to provide consistency with the new 'courts' legislation that has recently come into operation in South Australia.

Clause 9 expressly confers jurisdiction on the commission to regulate or prohibit the performance of work where the employee is required to work nude or partially nude, or in transparent clothing.

Clause 10 will allow any Presidential Member, or a Commissioner, to call a compulsory conference in respect of an industrial matter. (Section 27 of the Act presently limits this power to the President.)

Clause 11 amends section 28 of the Act to facilitate service outside the State of any summons or notice issued for the purpose of proceedings before the commission.

Clause 12 amends section 31 of the Act to remove the restrictions on applications to the commission set out in subsections (2a) and (2b), and replace those provisions with a new provision that will prevent certain payments of compensation in respect of the termination of employment where the applicant was earning in excess of $67 000 (indexed) per annum, and his or her remuneration was not covered by an award or industrial agreement. A new provision will allow registered agents to appear for fee or reward on behalf of parties to the proceedings.

Clause 13 re-enacts section 34 of the Act. The substantive change is to include references to registered agents in relation to the leave requirements that presently apply in respect of section 31 (6) conferences.

Clause 14 revises various aspects of section 39 of the Act relating to the review of unfair contracts. A person will be entitled to make application to the commission in relation to a contract that is unfair, harsh or against the public interest. The criteria that presently apply in relation to applications have been 'transferred' to new subsection (3), which sets out various matters that the commission will have regard to in reviewing a contract. The remedies remain virtually the same (now to be set out in subsection (4)). The commission will be given express power to make interim orders to preserve the position of any party pending the determination of an application.

Clause 15 will remove the ability of the Minister under section 44 of the Act to intervene in an application under Division II of Part VIII for the certification of an industrial agreement that applies only to a single business, part of a single business, or a single place of work.

Clause 16 deletes redundant material from section 48.

Clause 17 provides that the provisions of the second schedule have effect in relation to maternity, paternity and adoption leave, and in relation to associated part-time work.

Clauses 18 and 19 delete redundant material.

Clause 20 will remove the ability of the Minister to apply under section 100 of the Act for the review of a certified industrial agreement that applies only to a single business, part of a single business or a single place of work.

Clauses 21 to 29 (inclusive) are consequential on the proposed new provisions relating to certified industrial agreements. The effect of the amendments is that the existing provisions of Part VIII will be incorporated into a Division headed 'General Industrial Agreements'.

Clause 30 provides for a new Division, which will relate to certified industrial agreements. The parties to an industrial agreement will be able to apply for the certification of the agreement under the new Division if the agreement relates to a particular industry, business or place of work. The Minister will be given power to intervene under this Division in certain circumstances, but only for a period of 18 months after the commencement of the provision. (This right of intervention is separate to the right of intervention, as amended, under section 44 of the Act.) New section 113d sets out the various criteria and principles that will apply in relation to the certification of an agreement by the commission. An agreement will not operate unless and until it is certified by the commission. Special provisions will apply in relation to the variation or termination of a certified agreement.

Clause 31 amends section 146b of the Act to provide that the Full Commission is not required to have regard to principles established by the Commonwealth commission when acting in relation to a matter before the commission under Division II of Part VIII (Certified Agreements).

Clause 32 recasts subsection (8) of section 159 (as enacted by Act No. 34 of 1991).

Clause 33 removes redundant material.

Clause 34 provides that the regulations may establish the scheme for the registration and regulation of agents under the Act.

Clause 35 makes a consequential amendment.

Clause 36 provides for a new schedule relating to family leave. A female employee will be entitled to up to 52 weeks of maternity leave, subject to various qualifications set out in clause 3 of the schedule. Maternity leave will not be able to 'coincide' will extended paternity leave taken by the female's spouse. The leave will have to be taken in a single period, although the length of that period will be subject to negotiation. Leave will not extend beyond the child's first birthday. The leave will be unpaid leave. Various notice provisions are set out in the schedule. Certain provisions will apply if it is advisable that the employee be transferred to a 'safe' job. A person will be entitled to take special maternity leave in cases of sickness or termination of pregnancy. An employee, on returning to work after maternity leave, will be entitled to her 'former' position. Comparable provisions will apply for paternity leave, which may include an unbroken period of up to one week at the time of birth of the child. Adoption leave will be available in two parts—unbroken leave of up to three weeks at the time of placement of the child, and unbroken leave of up to 49 weeks in order to be the primary care-giver of the child. However, various qualifications will apply. Special leave will be available in order to travel overseas to obtain custody of a child, or to attend interviews and other commitments. A new Part will also allow part-time work, with the agreement of the employer. The leave will be available after the birth or adoption of a child, and may extend for up to two years.

Clauses 37 and 38 make various consequential amendments to other Acts.

Clause 39 revises certain penalties under the Act.

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

GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety) obtained leave and introduced a Bill for an Act to amend the Government Management and Employment Act 1985. Read a first time.

The Hon. R.J. GREGORY: 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

Following the introduction of the Government Management and Employment Act in July 1986, new arrangements were set in place to manage the South Australian Public Sector, and in particular, personnel management in the State's Public Service.

The Act was the culmination of several years work involving considerable input, consultation and negotiation by many people and organisations including employee organisations.

During 1989 the Government Management Board initiated an independent review of the Act. The review was conducted by John Uhrig, Chairman, CRA Limited and Fred McDougall, Professor, Graduate School of Management, University of Adelaide. The review team conducted wide ranging investigations and concluded at the time that the Act was generally achieving its aims and that there had been significant improvements in the operational performance of the South Australian public service. However, the review team also identified that the Act could be further strengthened through amendment in several areas.

With the benefit of our six years practical experience with the Act, the Commissioner for Public Employment has reported to the Government that the Act has been effective in moving towards modern management practices in the Public Service but that it was in need of amendment. According to the Commissioner and the Government Management Board, changes proposed in the Bill are necessary to ensure that the Public Service will continue to respond to the pressures put on it and to provide agencies with increased flexibility in managing human resources. The Bill will also assist agencies in their endeavours to provide high quality services which are both responsive and sensitive to the needs of the community and the expectations of Government.

The matters covered by the Bill will not change the fundamental principles of personnel management and public administration which underpin the Act.

Instead, the amendments are designed primarily to further reduce unnecessary paper work and simplify personnel administration with the aim of increasing productivity and enhancing flexibility in areas such as employee appointment and movement between positions.

For example, to provide increased operational flexibility in staff appointment and deployment, a new appointment category to be known as term appointment has been introduced. This category will replace the existing appointment category known as negotiated conditions. The new category will retain all of the benefits of being able to negotiate special employment conditions in selected cases. However, it will provide added advantages when appointing an employee for a fixed period of time under normal Public Service conditions.

If the term involved exceeds two years formal merit selection processes under the Act will be mandatory.

Existing temporary and permanent appointment categories will remain but the Act will now also include provisions to formally recognise casual employment as a valid category of employment. Existing employment categories under the principal Act do not adequately cater for casual employment arrangements.

At present, the Act contains no particular provision allowing special arrangements that may need to apply for part-time employment arrangements in the Public Service. Procedures and processes relating to part-time employment are catered for administratively under guidelines and determinations issued by the Commissioner for Public Employment. In view of developments surrounding work patterns and hours of work generally in the community, it is considered necessary to now give the Commissioner wider powers in relation to part-time employment. The Bill will ensure that in future there will be no ambiguity about the Commissioner's responsibility to recommend and give effect to new policies in the area of part-time work.

The Bill provides for increased flexibility in relation to the placement of employees who have been declared excess to requirements within the Public Service. In addition, new provisions have been included to enable excess public sector employees to be transferred to another set of duties elsewhere in the Public Service or the wider public sector. This change will significantly enhance the Government's capacity to deploy excess staff throughout the public sector. Safeguards have been incorporated to ensure that employees who are transferred will not be unduly disadvantage in terms of salary, leave or superannuation.

When the Act was proclaimed a number of special employment groups were not incorporated into the Public Service. This was done in order to ensure that those groups retained their independence from the Public Service. It was also intended that the Governor would have residual power under the Act to incorporate into the Public Service some of those excluded groups as required by the Government. The Governor's power to take this action was tested in the courts and was found to be invalid. The Bill will ensure that in future the Governor's powers will be legally enforceable as originally intended. The Bill will not amend existing provisions in relation to groups such as members of the judiciary, Police Force, Auditor-General, Ombudsman, Police Complaints Authority, Electoral Commissioners or officers of either House of Parliament.

The Bill will enable the Government to strengthen the private sector experience available on the Government Management Board which has been actively involved in assessing agency performance. The Government believes that changes to board composition, including a better gender balance and more frequent appointment of new members with appropriate skills will ensure a continuing flow of new ideas. This flexibility will be facilitated by a small increase of one position to the membership of the board.

At present, promotion appeal rights for employees are available up to the first level of the Executive Officer structure. The Bill will streamline the appeal process and reduce unnecessary overhead costs by providing instead such right of appeal only for certain classification levels designated by proclamation. Before determining the levels to be specified by proclamation the Commissioner for Public Employment will have further consultation with relevant industrial organisations. The integrity of the promotion system will not be adversely affected by this change. Greater emphasis will be placed on strengthening selection criteria, selection procedures and the composition of selection panels to ensure increased compliance with the merit principle.

In relation to those levels that will be open to appeal the Bill incorporates provisions to prevent frivolous or vexatious promotion appeals. This change will be consistent with the Act's grievance appeal provision. Under this change the Promotion and Grievance Appeal Tribunal may decline to hear an appeal if the appeal is instituted without sufficient grounds or is unworthy of serious attention.

In order to provide increased flexibility and fairness in disciplinary matters, the Bill will enable Chief Executive Officers to have discretionary power to temporarily reassign an employee to different work during the conduct of disciplinary proceedings. This will be possible in cases where the Chief Executive Officer suspects that the employee may be liable to disciplinary action or where the employee has been charged with a serious offence. The Chief Executive Officer's decision to temporarily reassign an employee or take other temporary action will not be subject to any appeal by the employee.

In addition, if a Chief Executive Officer is satisfied that an employee is liable to disciplinary action, it is presently only possible to impose one of the penalties listed in the principal Act. Legal opinion concludes that it is not possible for the authority to impose a combination of penalties even if in the circumstance of a particular case a combination of penalties is warranted. Experience has shown that it is desirable for the disciplinary authority to be provided with as much flexibility as possible under the Act in determining what action should be taken against employees who breach the Act. For that reason the Bill incorporates provisions to enable a combination of penalties to be imposed rather than the present approach which enables only a single penalty to be imposed.

Also under the Act at present the disciplinary authority cannot suspend a penalty if the employee complies with some other conditions set by the Chief Executive Officer which aim to help rehabilitate the employee. For example, the condition may be that the employee undergo counselling and provide proof of attendance. In such a case the penalty set would only be invoked if the employee failed to meet the condition set. Again to provide increased flexibility for the disciplinary authority the Bill will enable suspended penalties to be imposed.

In addition under the Act an employee suspended without pay still continues to accrue leave entitlements. This means that if an employee resigns before completion of the disciplinary process there is currently no way to prevent the employee accruing leave credits for the period of suspension.

The Bill will prevent accrual of leave credits unless the suspension is revoked or the disciplinary authority considers it appropriate to allow accrual.

The Bill will enable the Government to address several recommendations contained in the 62nd Report of the Public Accounts Committee relating to the coverage of public sector employees by the Government Management and Employment Act long service leave provision. The amendment will provide the Commissioner for Public Employment with discretionary and retrospective power to extend Government Management and Employment Act long service leave provisions to a broader range of public employees or to deny coverage.

Under the Act at present it is not legally possible for an employee to decline a nomination for reassignment or for a Chief Executive Officer to withdraw a nomination once approved. In some cases, lengthy appeal proceedings have taken place for no useful purpose. These costly appeal hearings could have been avoided if provisions were available to allow nominations to be withdrawn. The Bill incorporates provisions which will overcome present difficulties. Necessary safeguards have also been incorporated to protect the interests of employees.

At present the Act prescribes procedures to deal with employees who are not capable of performing their duties because of mental or physical disability. The Act also contains provisions to enforce disciplinary proceedings against employees who wilfully do not perform adequately. The Bill now aims to increase Public Service efficiency and productivity by incorporating a provision to address employees who are incompetent at their work and the incompetence is not wilful and not related to mental or physical disability. Under the Bill such employees can be transferred to other work elsewhere in the Public Service or if no such work is available, be retired from the Public Service. Employees will have appeal rights if they feel unfairly treated under these provisions.

In order to achieve increased flexibility in the deployment of staff, the reassignment provisions of the Act have been modified. The Bill will provide Chief Executive Officers with increased powers to reassign employees to different work at corresponding classification levels. Existing provisions relating to reassignment to higher level positions will remain unaltered although the Commissioner will be given discretionary powers to extend temporary reassignments beyond the three year limit presently imposed by the Act. These measures have been incorporated to provide management with increased flexibility in the deployment of staff and to enhance mobility and career development opportunities for employees.

The Bill will also introduce provisions to cater for situations where an employee, for personal reasons, requests reassignment to a position with lower level responsibilities and classification. The Act presently does not cater for requests of this type from employees. The Bill will overcome this difficulty and enable reassignment to a lower classification level provided the employee affected agrees.

Finally, the Bill will incorporate provisions to formalise the present practice of allowing employees to hold more than one public office at the same time. However, the Bill will also preclude an employee from holding more than one office if appointed on a term and subject to negotiated conditions under the Government Management and Employment Act. This restriction is necessary because a person appointed for a term with negotiated conditions is required to relinquish all permanent tenure in the public sector as an offset against any special pay or conditions negotiated. This could not be achieved if the employee was allowed to retain a right to return to public office on completion of the term of appointment.

There are other minor machinery changes that are explained in the attached explanation of the clauses of the Bill.

Clause 1—Short title. This clause is formal.

Clause 2—Commencement. This clause provides for the commencement of the measure. Subclause (2) provides that clause 21 is to have retrospective effect to the date of operation of the principal Act. Clause 21 makes amendments relating to the application of the long service leave provisions of the principal Act to public sector employees who are not employed in the Public Service.

Clause 3—Amendment of section 10—Constitution of the board. This clause provides for an increase in the membership of the Government Management Board from six to seven members. The clause also inserts a new provision requiring that the board's membership include at least two men and at least two women.

Clause 4—Amendment of section 21—The structure of the Public Service. Section 21 currently requires that all public employees (other than persons excluded from the Public Service by or under the provisions of schedule 2) be employed in positions in the Public Service. The clause replaces this provision with a requirement that, subject to schedule 2, all persons employed by or on behalf of the Crown be employed in the Public Service under Part III of the principal Act. The change from a reference to 'public employees' to a reference to 'persons employed by or on behalf of the Crown' is desirable to avoid the circularity resulting from the definition of 'public employees' under section 3 of the principal Act as persons appointed to the Public Service or employed by the Crown or a State instrumentality.

Clause 5—Amendment of section 37—Special provisions relating to appointment of Chief Executive Officers. This clause makes several amendments of a minor technical nature. Section 37 provides, amongst other things, that a former Chief Executive Officer who has ceased to hold the position at the end of a term of appointment or who has ceased to hold the position otherwise

than through a process referred to in subsection (2) is, subject to the conditions of the person's appointment as Chief Executive Officer, entitled to be assigned to some other Public Service position with a salary level not less than a level specified in the section. The clause amends this section to make it clear that any such assignment to another position is to be effected by the Commissioner for Public Employment or that, alternatively, the former Chief Executive Officer may be transferred by the Governor to some other Public Service position at that salary level.

The clause also amends the section to make it clear beyond doubt that the Chief Executive Officer of an administrative unit ceases to hold the position if the administrative unit is abolished or ceases to exist.

Clause 6—Amendment of section 48—Review of classifications. Section 37 establishes a procedure under which an employee may apply for review by a classification review panel of his or her classification but excludes from the procedure certain categories of employees including those appointed to the Public Service on the basis of negotiated conditions. This clause adds to the categories of employees excluded from the classification review procedure those employees appointed to the Public Service on a casual basis or for a fixed term and changes the reference to appointment on the basis of negotiated conditions to appointment for a fixed term and subject to negotiated conditions. These amendments are consequential to amendments to section 50 (Basis of appointment to the Public Service) proposed by clause 7.

The clause also amends the section to allow the review panel (rather than the Commissioner or Chief Executive Officer) to determine the date of operation of a reclassification determined by the panel.

Clause 7—Amendment of section 50—Basis of appointment to the Public Service. Section 50 sets out the current forms of appointment to the Public Service—appointment on a permanent basis, temporary basis or negotiated conditions. The clause amends this section to introduce two new forms of Public Service appointment—appointment on a casual basis and appointment for a fixed term. Under the clause, appointments on a casual basis may only be made for the performance of duties over a period not exceeding four weeks or for hours that are not regular or do not exceed 15 hours in any week. Applications need not be sought before such an appointment is made. The conditions of appointment on a casual basis (including conditions fixing the duties and remuneration) will be as determined from time to time by the appointing authority subject to any directions of the Commissioner and will prevail, to the extent of any inconsistency, over the other provisions of the principal Act. A casual appointment may be terminated at any time.

Appointments for a fixed term may only be made for a term (not less than 12 months nor more than five years) determined by the appointing authority. Any such appointment that is for a term exceeding two years must be of a person selected through the merit-based selection processes provided under the principal Act and the regulations and any extension of the term of a person who has not been so selected may not take the aggregate term beyond that two years limit except in a particular case approved by the Commissioner. An extension may take the term of a person who has been selected through the merit-based processes beyond the five years limit in a particular case with the approval of the Commissioner. Where a person was, immediately before appointment for a fixed term, employed in the Public Service on a permanent basis, the person will, at the end of the term, automatically return to such permanent employment in the person's former position or, if that position is no longer available, a position at the same classification level.

The clause changes the expression appointment on the basis of negotiated conditions to appointment for a fixed term and subject to negotiated conditions. The provisions governing such appointments remain essentially the same.

A new provision is inserted making it clear that a change in the basis of a person's appointment to the Public Service does not affect the person's continuity of service or the person's existing and accruing rights in respect of leave. The Superannuation Act 1988 makes appropriate provision for a change in the basis of appointment for superannuation purposes.

Clause 8—Amendment of section 51—Filling of positions through selection processes. This clause amends section 51 to remove the requirement for the employee selected for a position as a result of selection processes to be nominated if applications for the position were sought on the basis that the successful applicant will be appointed to the Public Service for a fixed term or for a fixed term and subject to negotiated conditions. In addition, under the current provision, for a nomination to be required the position must be below a classification level prescribed by regulation. Under the amendment, for a nomination to be required the position must be at a level specified by proclamation. The requirement for nomination attracts the operation of promotional appeals under section 53 of the principal Act.

The clause also inserts a new provision that provides for the withdrawal of a nomination at the request in writing of the nominated employee or with the approval of the Commissioner and allows some other applicant to be selected for the position through the same selection process.

Clause 9—Amendment of section 52—Reassignment. Section 52 (3) currently imposes restrictions on the capacity of a Chief Executive Officer or the Commissioner to reassign an employee to another position without conducting selection processes for the purpose of filling the position. Any such reassignment to a position with duties of a continuing nature may only be for the performance of urgent work, training and development or wider work experience or part of a reorganisation of an administrative unit. A promotional reassignment may only continue for a maximum of three years. The clause removes these restrictions and allows promotional reassignments to be made subject to conditions determined by the Commissioner and to continue for more than three years in any particular cases with the approval of the Commissioner.

The clause also makes provision for reassignment of an employee to a position at a lower classification level with the employee's consent.

Clause 10—Amendment of section 53—Promotion appeal. The clause inserts a new provision allowing the Promotion and Grievance Appeals Tribunal to decline to entertain an appeal in respect of selection processes if the tribunal is of the opinion that the appeal is frivolous or vexatious. Section 53 (7) currently denies appeal rights in respect of selection processes to temporary employees with less than 12 months service and persons employed on negotiated conditions. This restriction is extended by the clause so that it also applies to casual employees and persons employed for a fixed term. The reference to appointment on the basis of negotiated conditions is changed to appointment for a fixed term and subject to negotiated conditions.

Clause 11—Insertion of section 57a—Payment of remuneration on death. This clause inserts a new section 57a empowering the Commissioner to direct payment of outstanding remuneration directly to the dependants of a deceased employee rather than to the deceased's personal representative. The new section corresponds to clause 12 of schedule 4 of the principal Act relating to leave payments.

Clause 12—Amendment of section 59—Excess employees. This clause simplifies the provisions relating to excess employees (that is, employees whose services have become under-utilised) and, in particular, allows the Commissioner, rather than as at present the Governor, to transfer an excess employee to another position in the Public Service. The clause adds as a precondition to the exercise of the power to transfer or retire an excess employee a requirement that reasonable consultations must have taken place with the appropriate recognised organisation.

Clause 13—Substitution of section 60—Procedure where employee found to be incapacitated. This clause simplifies and revises the procedures for dealing with employees who are unable to perform their duties satisfactorily or at all due to mental or physical illness or disability. The new provision clarifies the practice followed in many cases of relying only on medical reports supplied by an incapacitated employee before making a determination that the employee be transferred or retired as a result of the incapacity. The new provision also allows the Commissioner, rather than as at present the Governor, to transfer an incapacitated employee to some other Public Service position with duties that are within the employee's competence.

Clause 14—Insertion of section 60a—Incompetent employees. This clause inserts a new provision establishing a procedure for dealing with any employee who is not competent to perform his or her duties, or the duties of any other position to which he or

she could be reassigned (that is, at the same classification level), where this does not result from mental or physical illness or disability or causes within his or her control. Under the new provision, the Commissioner is empowered to transfer such an employee to a position within the employee's competence or to recommend that the employee be retired from the Public Service by the Governor. Provision is made for the implementation of such a decision to be delayed to allow the employee concerned an opportunity to apply to the Promotion and Grievance Appeals Tribunal for a review of the decision.

Clause 15—Amendment of section 63—Retirement from the Public Service. Section 63 provides for compulsory retirement from the Public Service at age 65, but allows a person over that age to be employed on a temporary basis or on negotiated conditions. This exception is extended so that it also applies to employment on a casual basis and employment for a fixed term. The reference to appointment on the basis of negotiated conditions is changed to appointment for a fixed term and subject to negotiated conditions.

Clause 16—Amendment of section 68—Inquiries and disciplinary action. Section 68 (5) currently empowers a disciplinary authority who is satisfied that an employee is liable to disciplinary action to make one of a range of disciplinary orders. The clause amends this provision so that a combination of such orders may be made if appropriate. The clause amends the provision allowing suspension of an employee without remuneration so that the suspension may also be without accrual of rights in respect of recreation leave or long service leave if the disciplinary authority considers this to be appropriate. Finally, the clause empowers a disciplinary authority to suspend a disciplinary order made in respect of an employee subject to compliance by the employee with conditions specified by the authority.

Clause 17—Amendment of section 69—Suspension or transfer where disciplinary inquiry or serious offence charged. Section 69 currently empowers a disciplinary authority to suspend an employee with or without remuneration where the employee faces a serious criminal charge or is given notice of a Public Service inquiry into his or her conduct. The clause amends this section so that such a suspension may also be with or without accrual of rights in respect of recreation leave and long service leave. The clause empowers the disciplinary authority to determine that the employee be transferred to another Public Service position as an alternative to suspension pending the determination of the criminal proceedings or disciplinary inquiry. Finally, the clause adds a new provision excluding any appeal or review of a decision to suspend or transfer an employee made under section 69.

Clause 18—Substitution of heading to Division VII of Part III. This clause changes the heading to the last group of provisions of the principal Act from a Division of Part III (which relates to the Public Service) to a new Part IV—Miscellaneous. This is necessary in view of certain new provisions to be inserted by the Bill which relate to the public sector and not just to the Public Service as such.

Clause 19—Insertion of section 73a—Transfers of excess employees within public sector. Proposed new section 73a (1) empowers the Commissioner to transfer an excess Public Service employee to a position in the employment of a State instrumentality rather than to a Public Service position.

Proposed new section 73a (2) provides that, where a State instrumentality determines that one of its employees is excess (which is defined in the same terms as for Public Service employees under section 59 of the principal Act), the Commissioner may transfer the employee to a Public Service position or to a position in the employment of another State instrumentality.

Proposed new section 73a (3) provides that, subject to any different agreement between the Commissioner and the employee concerned, a transfer under the new section may only be for a term not exceeding 18 months and that the employee must, at the end of the term, be transferred back to his or her former position or one with at least the same salary. Provision is made to preserve existing and accruing leave and superannuation rights and to maintain the employee's remuneration at the same level during the term of such a transfer.

The Commissioner may not make a transfer under the new provision except at the request of, or after consultation with, the State instrumentality or instrumentalities and the Chief Executive Officer of any administrative unit concerned.

Clause 20—Insertion of section 74a—Commissioner may approve arrangements for multiple appointments, etc. This proposed new section is designed to provide a mechanism under which it will be clear that Public Service employees may hold or be engaged in some other office or employment while remaining in Public Service employment and that persons may be employed in the Public Service while continuing to hold or remaining in some other office or employment. This may occur under arrangements approved by the Commissioner and any such arrangements will have effect according to their terms and notwithstanding any other Act or law. However, the Commissioner may not approve any such arrangements under which a person may be employed in the Public Service for a fixed term and subject to negotiated conditions while continuing to hold or remaining in some other office or employment of the Crown in right of this State.

Insertion of section 74b—Directions relating to part-time employment. This clause also inserts a new section 74b conferring on the Commissioner power to issue directions to make provision with respect to employment in the Public Service on a part-time basis. Under the new section, any such directions are to have effect according to their terms and may override other provisions of the principal Act.

Clause 21—Amendment of section 75—Extension of operation of certain provisions of Act. Section 75 (1) currently empowers the Governor to apply, by proclamation, specified provisions of the principal Act to specified classes of public employees (with or without modification). Subsection (2) currently declares that the long service leave provisions of schedule 4 apply to all Crown employees remunerated at hourly, daily or weekly rates of payment. The clause removes subsection (2) with retrospective effect from the date of commencement of the principal Act (see clause 2) and replaces it with new provisions that also operate from that date of commencement. Under proposed new subsection (2), all public employees remunerated at hourly, daily, weekly or fortnightly rates of payment who perform duties that form part of the operation of an administrative unit and are subject to direction by the Chief Executive Officer of the unit are brought under the Public Service long service leave provisions of schedule 4 together with any other officers or employees of the Crown of a class to whom the Commissioner directs that those provisions apply. However, this is made subject to proposed new subsection (3) which allows the Commissioner to direct that the provisions do not apply to officers or employees of a specified class and proposed new subsection (4) provides that any such direction (or a proclamation under subsection (1)) may, if it so provides, have retrospective effect from a date not earlier than the date of commencement of the principal Act.

Clause 22—Amendment of schedule 1—Transitional provisions. This clause inserts appropriate transitional provisions consequential on the introduction of the new casual basis of employment and other amendments proposed by the measure.

Clause 23—Amendment of schedule 2—Persons excluded from the Public Service. This clause makes an amendment to schedule 2 intended to make it clear that a proclamation may be made under Division I of Part III of the principal Act, incorporating within the Public Service a group of public employees consisting of or including officers or employees appointed under the Education Act 1972 or the Technical and Further Education Act 1976 together with certain other Crown officers or employees who would otherwise be necessarily excluded from the Public Service.

Clause 24—Amendment of schedule 3—The Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal. This clause removes the provision excluding Public Service employees from eligibility for appointment to the positions of Presiding Officer or Deputy Presiding Officer of the Promotion and Grievance Appeals Tribunal.

The clause inserts provisions under which any member of the Disciplinary Appeals Tribunal or the Promotion and Grievance Appeals Tribunal may, despite the person's membership having come to an end, continue as a tribunal member for the purpose of completing part-heard matters. The clause also makes new provision to make it clear that the Commissioner is a party to all proceedings before either tribunal.

Clause 25—Amendment of schedule 4—Hours of attendance, holidays and leave of absence. This clause makes a series of

amendments excluding persons employed in the Public Service on the new casual basis from the provisions of schedule 4 governing hours of attendance, recreation leave and sick leave. In relation to casual employees and long service leave, the clause amends clause 9 (2) of schedule 4 (which empowers the Commissioner to determine a part-time employee's salary during long service leave) so that it also applies to casual employees. The clause amends clause 4 (1) of schedule 4 to make it clear that the regulations may impose preconditions to the taking of recreation leave and cater for the calculation of recreation leave entitlements of part-time employees. Finally, the clause inserts a provision empowering the Commissioner to increase the sick leave entitlements of a particular employee or class of employees where appropriate.

Mr INGERSON secured the adjournment of the debate.

THE STANDARD TIME (EASTERN STANDARD TIME) AMENDMENT BILL

The Hon. R.J. GREGORY (Minister of Labour Relations and Occupational Health and Safety) obtained leave and introduced a Bill for an Act to amend The Standard Time Act 1898. Read a first time.

The Hon. R.J. GREGORY: 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 provides for the adoption of Eastern Standard Time throughout South Australia by stipulating standard time as the mean time of the meridian of longitude 150° east of Greenwich (England).

This has the effect of advancing our clocks by 30 minutes bringing this State in line with the time zone of States on the eastern seaboard.

The Government has announced its commitment to moving to Eastern Standard Time in response to the Arthur D. Little report. Although this issue has previously been debated in Parliament, the current economic circumstances require action to be taken to link business activity in South Australia with the wider Australian market place.

The adoption of Eastern Standard Time is an issue of direct importance to the future of our State and should not be viewed as a matter of regional distinction.

The chronometrical advancement of 30 minutes is more than simply a change to Eastern Standard Time; it sends a signal to our community, and in particular to the business sector, that the regional economy of this State is most definitely and inextricably linked to the eastern seaboard. The strategic alteration to our current time zone is important to those doing business with the biggest markets in Australia and is an overdue micro-economic reform.

The Government is aware of the diversity of views expressed on this issue and of the specific concerns of the rural communities in the western section of this State. However, the benefits of this change in time zone make the move an economic imperative.

Proposals by the Government for South Australia to become a transport hub highlight the significant intrinsic importance of being on Eastern Standard Time. Other advantages of the proposed time change are:

- An improvement in the competitive position of South Australian firms in the Australian market by an increase in the communication time available during office hours with the Eastern States.

  Approximately 80 per cent of the nation's population lives in that region making it the main market for the consumer goods industries.
- Improved communications for firms with interstate branch offices and particularly for South Australian companies that source their supplies or raw materials from other States.
- Time or cost disadvantages which Adelaide money market operators and the Stock Exchange suffer would be removed.
- The State's recreation and tourism and entertainment industries will reap the benefits of South Australia's unique summer climate.
- The impression of South Australia's 'remoteness' from the eastern seaboard would be eliminated for business and tourism alike.
- Timetable and scheduling of interstate transport links will be simplified.

The benefits to South Australia in adopting Eastern Standard Time make this move one which must proceed for the continued development of the State.

I commend this Bill to the House.

Clause 1—Short title. This clause is formal.

Clause 2—Commencement. This clause is formal.

Clause 3—Substitution of section 3. This clause repeals section 3 of the principal Act and substitutes a clause that provides that standard time in South Australia is the mean time of the meridian of longitude 150° east of Greenwich in England.

Clause 4—Transitional provision. This clause provides that the principal Act, as amended by this Act, applies to any Act, order in Council, rule, regulation, by-law, deed or instrument enacted or made before the commencement of this Act.

Mr INGERSON secured the adjournment of the debate.

FRIENDLY SOCIETIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 857.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill. I presumed that we would be dealing with the Bill in respect of the Public Actuary first because this in some ways is consequential, but I shall deal with the Bills in the order that they have been placed on the Notice Paper. Because of the abolition of the position of Public Actuary, a number of changes have to be made to various Acts in which the Public Actuary plays a key and important role. Friendly societies are directly regulated by the Government, but that may well change when we have the uniform credit laws that are slowly coming to fruition. The Parliament dealt with the rules governing building societies and credit unions in the last session, as members will remember. There is a great deal of sense in having a uniform set of rules prevailing throughout Australia so that people can do business in each State with confidence that the rules that apply in those States are uniform. There is a movement in that direction, and there will be further pieces of legislation to enable that to occur.

In this regard the friendly societies are still out of this regulatory system. At the time the Bill went through last session I commented that I had some grave difficulty with the way in which the matter was being organised. A Bill that was presented to the Queensland Parliament was used as the blueprint for the legislation to be adopted by other States. My most recent advice is that that legislation is still not uniform and that New South Wales has had difficulty with it and has not approved it.

That legislation was quite long and involved and placed a great deal of regulation on the industry. It

presented problems because of the appeal provisions through the Queensland Supreme Court and, to my mind, it was not in the best interests of Australians to have that Bill passed in that form because it will not appear on the statutes. We merely make reference to the Queensland legislation and adopt it. So far as I am aware it is the first time that we have adopted another State's legislation and have not had the capacity to have that legislation incorporated into our statutes. I expressed reservations at the time and I still hold those reservations. However, this Bill is not about that. I thought that I would merely mention that there are changes to the control and regulation of financial instrumentalities throughout Australia.

Under this Bill we are dealing with changes to be made to the regulation of friendly societies. As members would appreciate, there are 10 friendly societies that fall within the definition of 'friendly society' and they include Lifeplan Community Services, Manchester Unity Friendly Society, the Independent Order of Odd Fellows, the Albert District, No. 83, Independent Order of Rechabites, Salford Unity, Mutual Community Friendly Society of South Australia, Savings and Loans Friendly Society, the South Australian United Ancient Order of Druids Friendly Society, the South Australian Friendly Societies Association, Friendly Societies Medical Association and the Mount Gambier United Friendly Societies' Dispensary Incorporated.

There are about 10 of these organisations. The arrangement as far as control and regulation is concerned, as I said previously, will change. However, because of the abolition of the position of the Public Actuary, who was the person primarily responsible for ensuring that all the friendly societies conformed to the rules, that they provided adequate returns and that those returns were properly documented and audited, who would have been called upon to make judgment in crisis situations and who was responsible for the promulgation of new rules, we must now change the system.

The amendments to this legislation go a little bit further. The friendly societies have been asking for some time to have their scope of business widened. We note that there is some widening in the area of what friendly societies can do. I know that the Minister has agreed to the request by the friendly societies, for example, to widen the scope of their operation to include the establishment of funds for educational purposes. Further changes are being made in relation to the separation of funds in the event of wind up, the securing of bond money and the payment of administration costs to the Treasurer. The changes are very sensible; they are an update. They are certainly supported by the friendly societies, and we are pleased to support the proposition. There is one area of possible contention, and I will be questioning the Minister during the Committee stage, that is, in relation to the charges that may be imposed by the Treasurer for the services provided by his department. The Opposition has pleasure in supporting the measure.

The Hon. FRANK BLEVINS (Treasurer): I wish to thank members opposite, in particular the member for Mitcham, for their support of the Bill. The friendly societies area is an important and interesting area of our society. We ought to support it and do what we can to encourage it to fulfil its function in a proper manner. I am delighted that the member for Mitcham supports friendly societies so fulsomely.

Bill read a second time.

In committee.

Progress reported; committee to sit again.

STATUTES AMENDMENT (PUBLIC ACTUARY) BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 855.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill. As I mentioned with reference to the Friendly Societies Bill, this measure relates to the statutory obligations that are performed by the Public Actuary, so we have in train a system of deletions to the various Acts in which the Public Actuary is represented. It is the intention of the Government to abolish the position of the Public Actuary on the basis that, first, it is difficult to retain suitably qualified personnel on the salary being paid (that was not in the second reading explanation but I presume that is the case); secondly, there has been a significant turnover of public actuaries within the service; and, thirdly, a number of public actuaries in South Australia—six at the last count—are more than capable of performing the services that were previously performed by Government.

Members would recognise that 20 years ago it was very difficult to obtain the services of a public actuary outside the State Government. My recollection was that you had to go to Victoria to engage the services of a public actuary in the private sector. The situation has changed dramatically. A number of insurance companies had their own actuaries, but it was difficult to get independent advice. Because of the significant qualifications required to be an actuary, I assume that is why we created the position of the Public Actuary, to ensure that the public sector had one or more persons with sufficient expertise to guide the Government in a number of areas where such technical expertise was required.

With the increasing complexity of government and private enterprise, the requirements placed on public actuaries are increasing daily. Recently this House debated the Workers Compensation and Rehabilitation Act and, in that circumstance, the actuary plays a key or pivotal role because it is that person's responsibility to gaze into the crystal ball and tell us what liabilities will accumulate in the future. The House has also debated superannuation. The Deputy Premier and Treasurer said on radio that the $3.5 billion of superannuation liability was not a problem because it would only become due if everyone retired tomorrow. Of course, it is an accumulated liability and, because the rest of the world is coming to grips with it and South Australia is not, that made me say that we have to get our liabilities under control. So, there are a number of crucial areas of government where the Public Actuary plays a very important role in advising the Government about future liabilities.

The Public Actuary has also been responsible for advising the Government on rate setting. Not only does the actuary project forward but the officer also ponders what rates can be applied to achieve a certain outcome. In relation to workers compensation, the Public Actuary has said that the average premium of 3.5 per cent is insufficient to cover our future liabilities. Much of the debate on that issue has revolved around whether or not workers compensation should be fully funded.

It is important that superannuation contributions by public servants meet the demand originally deemed to be appropriate. We know, for example, that if the earnings on the superannuation fund from the contributions of members fall below what is expected—and there is a formula that is being used—the probability is that the Government will have to place more funds to meet the superannuation liability.

In terms of the compulsory third party fund, it is not a matter of simply looking at the figures and saying, 'This is what the scheme is costing us; and this is what we have paid out this year.' In this Parliament everybody would recognise that it is important to understand what an accident today will cost in the future and how much the fund will continue to pay out when serious injury is involved. So, the Public Actuary has played a very important role, and in my recollection—and I have looked at matters such as this over a long period—Public Actuary has given very fine service to this State.

I would not say the same for the Government in power, which has ignored the very good advice that has been given on a number of occasions because it has been deemed to be expedient to do so. The Public Actuary, without fear or favour, has delivered a quality service to Government, and the people who have held that position, the actuaries who have been involved, have been a credit to this State, and I wish to place on record my commendation for the services that they have performed.

The Bill removes reference to the Public Actuary. Actuarial tasks will now be undertaken by fully qualified or appropriately qualified persons who are fellows or accredited members of the Institute of Actuaries of Australia, and they will be required to do certain things. A number of Acts are affected by this Bill, namely, the Benefits Associations Act 1958, the Construction Industry Long Service Leave Act, the Judges' Pensions Act, the Motor Vehicles Act, the Parliamentary Superannuation Act, the Police Superannuation Act, the Superannuation Act and the Workers Rehabilitation and Compensation Act, and specifically in that Act the Mining and Quarrying Industries Fund.

Where the Governors believe it is appropriate and important that we have the expertise of an actuary, the requirement for the Public Actuary to perform that duty has been replaced by the requirement that a fully qualified fellow or member performs that role. In other areas the Public Actuary has performed more of a regulatory role and the Opposition has no difficulty in accepting that there is no particular need for a person of that skill and qualification to do that job. The Public Actuary has been over qualified for some of the roles which he or she has performed over the years.

There is a question in respect of whether the regulatory roles will be adequately catered for. During the Committee stage I will ask the Minister how many other committees, besides statutory organisations, the Public Actuary performs a service for; what the Minister intends to do and the sort of qualifications that will be necessary to fill the blanks where the Public Actuary is being removed, and who will be responsible for certain areas over which question marks remain. In principle, the Opposition supports the Bill. There are a number of questions, and I am sure the Minister will be able to satisfy my curiosity during the Committee stage.

The Hon. FRANK BLEVINS (Deputy Premier): Again, as I thanked the Opposition for its support of the second reading of the previous Bill, I thank the Opposition, particularly the member for Mitcham, for its support for this Bill. As the honourable member said, it is a very sensible Bill and a very sensible way to arrange actuarial advice that the Government requires. I remember when I first became Minister of Finance, a number of years ago, that one of the problems we were having was finding an actuary. I suggested then that we should do away with the position, amend the Acts accordingly and buy our expertise outside. That was very early in my career as Minister of Finance, and I did not think too much more about it until the proposal came back, so I have made an impact without thinking about it deeply. It seemed to me at the time to be a very sensible thing to do, if actuaries are hard to find, and there are plenty out in the private sector who are only too capable and too willing to do the appropriate work.

Members interjecting:

The Hon. FRANK BLEVINS: More actuaries are being sued? Well, we all have our problems. I thank the member for Mitcham, and I will respond to his specific questions in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Interpretation.'

Mr S.J. BAKER: I have three questions that I will ask as general questions on this clause, because we have a number of amendments to different Bills. First, according to the second reading explanation, we have one Public Actuary in place. What is happening to that person? Secondly, other than the statutory instrumentalities mentioned in the Bill, on which committees does the Public Actuary currently perform a role? Thirdly, what are the cost implications of the change?

The Hon. FRANK BLEVINS: The answer to the first question is, 'Hopefully nothing.' We have a very fine Public Actuary, and I hope he is with us for many years to come. Of course, he is available to the Opposition at any time for discussions, consultations, etc. As to the second question, we are having some difficulty in understanding that question. However, I undertake to examine the question and perhaps talk privately to the member for Mitcham to draw out a little more information from him as to the position. Obviously, the Public Actuary holds all the statutory positions that are covered in the Bill, but I am sure that is not what the honourable member is asking, because that goes without saying.

As to the third question, in the scheme of things the costs will not be significant. I do not have an estimation, but I will attempt to obtain one and provide the member

for Mitcham with a written response. Actuaries who work in the private sector do considerably better than those who work in the public sector.

Mr S.J. Baker interjecting:

The Hon. FRANK BLEVINS: Well, I tried. We do have the problem that there is a marketplace and we have great difficulty in meeting the market. However, we have been blessed from time to time by being able to find public actuaries who also have a great deal of dedication to public service, and I would like to put on the record that the present holder of that office is one of those people. However, I will obtain more details from the member for Mitcham regarding his second question.

Mr S.J. BAKER: I wish to clarify my original question. I presume that the Public Actuary has played an active role on a number of working parties and committees. I am not talking about statutory positions; there must be other areas in which the Public Actuary has contributed his expertise. What are those areas in which he has performed?

The Hon. FRANK BLEVINS: I am advised that the Public Actuary, as a Treasury official, will stay on those committees. However, if that answer is not complete, I undertake to supplement it later.

Clause passed.

Clause 5—'Investment of contributions.'

Mr S.J. BAKER: Section 5a (2) provides:

> . . . the value of the fund must be maintained at a level at least equal to the liabilities of the fund certified annually by an actuary.

Which accounting standard will be applied?

The Hon. FRANK BLEVINS: I understand that no particular accounting standard will be applied; the procedure is that the actuary will certify according to his or her own professional standard. However, I will examine the question and, if I can tease any more out of it, I will respond.

Clause passed.

Clause 6 passed.

Clause 7—'Investigations by Minister.'

Mr S.J. BAKER: This is a blanket question that applies to other clauses also. Clause 7 more or less refers to a number of regulatory type functions that are currently performed by the Public Actuary. Can the Minister say what type of person will now be responsible under his delegation for performing those same duties?

The Hon. FRANK BLEVINS: In the short term, the Public Actuary will continue to perform that function, but in the longer term it may be that the function will be handed over to the State Business and Corporate Affairs Office.

Clause passed.

Clause 8—'Provisional recommendations where society has a deficiency.'

Mr S.J. BAKER: In terms of an investigation to be carried out by an actuary, will the Minister say how that actuarial service will be engaged? Is it to be by tender or by some other form of engagement?

The Hon. FRANK BLEVINS: In the short term, the Public Actuary will continue to perform that role, but in the medium to long term we will approach a consultancy firm, I anticipate in Adelaide or perhaps further afield, to negotiate its services. I undertake to provide in writing a more detailed answer to that question.

Clause passed.

Clauses 9 to 13 passed.

Clause 14—'Delegation by Minister.'

Mr S.J. BAKER: I refer to the delegation of power by the Minister. In fact, the Minister has already answered part of my question by saying that the current Public Actuary will continue to perform those duties. Will the Minister give an undertaking, as far as he can give one, that any replacement will be of such quality and calibre and with appropriate qualifications to ensure that that role is performed in an equally efficient fashion?

The Hon. FRANK BLEVINS: Absolutely.

Clause passed.

Clauses 15 and 16 passed.

Clause 17—'Adjustment of pensions.'

Mr S.J. BAKER: My question relates to who performs the role of calculating the long-term liability in relation to judges' pensions. The function described in this Bill is a matter of using a calculator, and even I could perform that role. However, in relation to advice on the budget and the long-term liabilities of the judges fund—and the same relates to the Parliamentary Superannuation Fund—who has the specialist expertise to ensure that we know what the long-term liabilities are?

The Hon. FRANK BLEVINS: I assume that the member for Mitcham means apart from the judges. Treasury officers do those calculations, and the figures are made available. If the member for Mitcham has not seen particular figures in relation to this fund, he is very welcome to have what is available.

Clause passed.

Clause 18—'Inquiries into premiums.'

Mr S.J. BAKER: This is one of the few areas of the Bill with which I have problems. Under this amendment it is proposed that we no longer have the Public Actuary on the committee that reviews compulsory third party insurance premium rates. I should have thought that it was highly advisable that we have that expertise on that committee. I know that the Minister will say that, whilst the Public Actuary is still with us, he will continue to perform that role. However, we know that the world changes and it may no longer be appropriate in the future to have that level of expertise, given the changes that have already taken place with the CTP fund.

It is my strong view that we should have actuarial expertise on the premiums committee to ensure that the calculations are professionally carried out and that motorists in South Australia can feel assured that they are not paying any more than they need to for the right to drive a car. As I said, this is the one area of concern that I have, and it may well be the subject of an amendment in the other place if I still feel concerned about it. I believe that this area needs to be tidied up.

The Hon. FRANK BLEVINS: We assume that the present Public Actuary will continue in that role. It is to everyone's advantage, and particularly to the Government's, in the light of recent history, that people on these various committees holding these roles are of the highest calibre and have the highest possible qualifications. So, I can assure the member for Mitcham that we will be looking for that also, in our own interests, Sir. I would point out that SGIC gets reports on all the various parts of its business from actuaries also, so, the actuaries are well involved with the CTP fund and other parts of SGIC. Problems with SGIC cannot be sheeted

home to actuaries. I think the problems lie with some of the decision-makers elsewhere.

Clause passed.

Clauses 19 to 29 passed.

Clause 30—'Amendment of schedule 1.'

Mr S.J. BAKER: On whose recommendations are these changes taking place? Should we be inserting 'the Minister' or 'the board' here?

The Hon. FRANK BLEVINS: Obviously, 'the board' is appropriate in this clause but, again, I will hear argument from the member for Mitcham, and he can tell me what his concerns are. I will have those concerns examined and respond again by letter, but I think it will need a discussion again before we can tease out the concerns.

Clause passed.

Clause 31 passed.

Clause 32—'Amendment of first schedule.'

Mr S.J. BAKER: The only difficulty I have with this clause is that it gives the date of 30 June 1992. It is very unusual to have an Act before this Parliament with a prior date shown in this form. I wonder about the validity of that and whether it has already been carried out. It is a very strange reference, as members would understand. I think it would already have had to be done. If it has not been done, I do not know how the Parliament can require it to be done back at 30 June 1992.

The Hon. FRANK BLEVINS: That was in the original draft of the Bill. I understand from the Public Actuary that that has actually been done.

Mr S.J. BAKER: I accept the Minister's word that it has already been done. It is a very unusual thing to put in the Act in this form, and it may be appropriate in the passage of the Bill between the Houses that the Minister undertake to remove that passage.

The Hon. FRANK BLEVINS: I do not know about taking it out, but I will certainly get some more—

Mr S.J. Baker: Change it to 'three years after 30 June 1992'.

The Hon. FRANK BLEVINS: We will certainly look at that.

Clause passed.

Title passed.

Bill read a third time and passed.

FRIENDLY SOCIETIES (MISCELLANEOUS) AMENDMENT BILL

Adjouned debate in Committee.

(Continued from page 1169)

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. FRANK BLEVINS: I move:

Leave out this clause and insert the following clause:

3. Section 3 of the principal Act is amended by inserting before the definition of 'society' the following definitions:

'actuary' means a Fellow or Accredited Member of the Institute of Actuaries of Australia:

'child' includes a grandchild of any degree:.

The purpose of this amendment is to clarify the Government's intention when giving drafting instructions for the Bill. It was the Government's intention to ensure that a society may maintain a fund for the object of education of members, their spouse or grandchildren, and I stress 'grandchildren'. I understand that what is in the Bill does not achieve that aim. That would be unfortunate. Therefore, I commend the amendment to the Committee to ensure that it is beyond doubt that grandchildren can be provided for in these particular funds.

Mr S.J. BAKER: I do not have a difficulty with the amendment, but I am trying to find out where 'child' actually features in the rest of the Bill.

The Hon. FRANK BLEVINS: 'Child' is referred to quite considerably in the Bill. If this change were not made then the definition of child would be a very narrow one and this apparently broadens it, clarifies it and assists the societies in marketing their products.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5—'Objects for which funds may be maintained.'

The Hon. FRANK BLEVINS: I move:

Page 1 lines, 25 and 26—Leave out 'wives, children or grandchildren or any degree' and insert 'wives or children'.

This is consequential on the carriage of the previous amendment.

Amendment carried; clause as amended passed.

Clause 6—'Loans.'

Mr S.J. BAKER: My comments on this clause are similar to the ones that I made on the Bill dealing with the Public Actuary. Again, I make the point that a number of these regulatory roles that are to be performed need to be performed by people with skill and diligence. Clause 6 does not matter, because it deals with returns, but there are a number of matters in clause 7 for which, if we should lose our Public Actuary, we need people properly qualified and experienced to ensure that the job is done properly. Again, I ask for the Minister's undertaking.

The Hon. FRANK BLEVINS: I give that undertaking again absolutely.

Clause passed.

Clauses 7 to 15 passed.

Clause 16—'Appointment of qualified auditors.'

The Hon. FRANK BLEVINS: I move:

Page 4, lines 1 and 2—Leave out paragraph *(b)* and insert the following:

(b) by striking out subsection (2) and substituting the following subsection:

(2) In this section, 'qualified auditor' means—

(a) a person who is, or is taken to be, registered as an auditor for the purposes of Division 2 of Part 9.2 of the Corporations Law;

or

(b) a firm of which at least one member is a person referred to in paragraph *(a)* who is ordinarily resident in Australia.

I am advised that section 28a (2) of the Act stipulates a requirement that is technically probably unable to be satisfied by any of the large accounting firms, namely, that to be a qualified auditor for the purpose of the Act each of the partners in a firm must be registered or deemed to be registered as a company auditor. The amendment takes away that technical difficulty and I am advised that it will overcome this problem.

Amendment carried; clause as amended passed.

Clause 17—'Annual returns to be sent to Minister.'

Mr S.J. BAKER: This is a key clause for the friendly societies. It allows the Minister to prescribe a fee. How will that fee be prescribed and what are the ground rules?

The Hon. FRANK BLEVINS: The fee will be prescribed by regulation, so we will all have the opportunity to discuss it when it appears. Obviously there will be prior consultation with the Friendly Societies Association, which is very responsible and reasonable. I am sure that we shall be able to reach agreement with it. I should be very surprised if that is not the case, knowing it as I do, and knowing how reasonable our Treasury officers are. The fees will be set purely to recover the costs incurred by the Government in regulating the industry. I do not anticipate any great difficulties in arriving at agreement with the association. However, in an abundance of caution, the regulations setting the fee will come before Parliament and can be argued again before being finally confirmed.

Mr S.J. BAKER: I thank the Minister for that answer. I am sure that the friendly societies will appreciate it. There are one or two further follow-up questions. As this has been an area of contention, has the Minister or the Public Actuary given some order of magnitude that would prevail for the fees that will be charged to the friendly societies?

The Hon. FRANK BLEVINS: They are remarkably reasonable fees—pennies a day. They will be about $35 000 to $50 000, and I understand that has been agreed with the association. It is a very amicable arrangement.

Mr S.J. BAKER: With special investigations and difficulties involving any one of the societies, I presume that the fees will increase. How will the Minister prescribe that matter in regulations?

The Hon. FRANK BLEVINS: At all times we would negotiate with the association; we have never found any difficulty in doing so, and I am sure we never will. In the unfortunate circumstances described by the member for Mitcham, obviously we would discuss the matter with the association, and I am sure we would arrive at a solution satisfactory to all parties.

Clause passed.

Clauses 18 to 26 passed.

Clause 27—'Penalties for offences.'

Mr S.J. BAKER: This clause amends section 40 of the principal Act by striking out subsection (2), but I believe that that subsection is important, as it states:

It shall be the duty of the Public Actuary—

who presumably would become the Minister—

to require every society and each of its officers to comply with the provisions of this Act.

That requirement may be stated elsewhere, but can the Minister explain why this provision is being removed from the Act?

The Hon. FRANK BLEVINS: My advice is that it is not deemed necessary, but a more detailed response will be forwarded to the honourable member.

Clause passed.

Clauses 28 to 31 passed.

Clause 32—'Dissolution by award of Minister.'

Mr S.J. BAKER: This clause amends section 45f. The amendment provides, in part:

. . . 'Public Actuary may, by himself, or by any actuary or public auditor whom he may appoint in writing under his hand,' and substituting 'Minister may';

I question whether that amendment makes sense. Will the Minister check the grammar and the wording? I believe that one word too many is taken out. If the Minister appoints an actuary in the circumstances provided here, what process will be involved in appointing that person?

The Hon. FRANK BLEVINS: I will certainly take up the question of grammar with those who advise me on the drafting of these things. I would use whatever expertise and advice I thought was appropriate when exercising these discretions. It would not be one of my mates on the wharf—there is plenty of advice around and no shortage of people advising Ministers how to run the State.

Clause passed.

Clause 33 passed.

Clause 34—'Delegation by Minister.'

Mr S.J. BAKER: This is the delegation power to which we have referred previously in the Public Actuary's Act. I should like an undertaking from the Minister that the delegation will at all times be appropriate with the skills necessary to fulfil the role herein described.

The Hon. FRANK BLEVINS: I can give that guarantee absolutely: all my delegations are appropriate.

Clause passed.

Title passed.

Bill read a third time and passed.

EXPIATION OF OFFENCES (DIVISIONAL FEES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 October. Page 692.)

Mr MEIER (Goyder): The Opposition supports this Bill, mainly because it tidies up some of the paperwork, some of the read tape, that has applied to expiation of offences in the past, and it makes it a more streamlined operation. But you, Mr Speaker, would be aware that I for one am opposed to the general issuing of expiation notices and the way it is randomly applied. That has really been highlighted recently with respect to expiation notices issued in connection with the operation of speed cameras.

The whole issue of expiation notices is a reflection on our society; in fact, it does make our society appear to be somewhat lawless to the extent that we have given up trying to police it in other ways and have simply said, 'Look, we will have to continue to hand out tickets to supposed wrong doers.' It dispenses with commonsense and, being a country member of Parliament, having been born and bred in the country, I feel that the rural areas of this State have generally been brought up on commonsense: people in those areas see the need for continued commonsense, and it is very frustrating and annoying when things have to be so tightly regulated and slotted in that we have either a right or a wrong situation—there are no shades of grey.

It does not matter whether an offence is deliberate or accidental: using expiation notices to dispense with those offences deprives so many people of being able to argue

their position. I know that the Minister might say, 'There is the benefit of the courts to go through', but so often the people who are victimised are the ones who can least afford to go to the courts to prove their point, so reluctantly they accept the option of paying the expiation notice.

It is a concern that a growing number of offences are expiable, with the making of provisions for an expiation fee tending to remove the exercise of discretion by enforcement officers. In the past, one expected a caution or a warning but, where expiation notices may be issued, the inducement is to issue those notices and collect a fee rather than to exercise discretion.

This matter raises a number of concerns. For example, the other day I was transferred by taxi from this very establishment. In his conversation, the taxi driver said to me that he had been informed of a person who received parking fines on many occasions but who had not paid one of those fines for two years. I suggested that he would now have spent some time in gaol. The taxi driver replied, 'Oh, no, he has never been caught.' I asked how that was possible after two years and many fines, fines which were established through the expiation system, and the taxi driver told me that this person learnt some time ago that you can take the expiation notice off your windscreen wiper and transfer it to another car's windscreen wiper. He has got away with it for two years. Many other drivers who receive expiation notices do not even bother to check the registration number; they just pay the fine.

Perhaps there is another explanation. On occasions in this place members mention the case of people who, on receiving an expiation notice, have said, 'Look, it is not even my car. They have got it wrong. I am not going to pay it.' If an honourable member highlights it in this place, on many occasions those expiation notices are withdrawn. We are dealing with a very dangerous instrument. I hope that this Government—for that matter any Government—will continue to be acutely aware that these notices are abused, perhaps in the way that I have pointed out, namely, by people transferring a notice to an innocent person and by the person or agency issuing the notice.

The definition of 'responsible statutory authority' is amended in this Bill so that it embraces not only the responsible Minister or chief executive officer but also statutory authorities and local councils which may be responsible for the administration or enforcement of relevant statutory provisions that give rise to expiable offences. This Bill expands the role of expiation offences to local government, in the main. I do not deny that there are some areas in local government where the policing power of the officer or officers is very limited.

I well remember being contacted by a health officer who was very frustrated in trying to apply real pressure to a backyard confectionery business. I will explain what I mean by that. This couple decided that they would make confectionery, particularly chocolate confectionery, in the backyard of their home. It was exposed to the elements. They sold it via various distributing agencies, and I guess that they made a reasonable amount of money from it. Understandably, the health officer was very concerned about what provisions were being implemented for the health of the consumer.

It appears that it was very difficult to actually pinpoint the offence and he was very restricted through the Health Act as to what he could do. It was at that stage that he asked me whether I could assist and I actually went to the premises and looked at the particular place where this confectionery was being made. In this case, as we see in this Bill, giving local government the option of issuing an expiation notice is going to be a simple and effective measure where those people are brought to task quick smart. I am not aware of what the expiation notice would be but it obviously will make those people aware that they are committing an offence. If they dispute the expiation notice they will either have to go to court or dispute it with an authorised officer who may be able to withdraw such an offence. At least it gives some power, as in the case I have highlighted, where it is needed. On the other hand, it concerns me that if we have too many constables running around, having the power to issue expiation notices—

Mr Lewis: Or inspectors.

Mr MEIER: Or inspectors, as the member for Murray-Mallee indicates, then this society is going to suffer as a result. In fact, we are going to find that our every move will be subject to tighter law enforcement methods. That is if you can call expiation notices a law enforcement method.

Mr Ferguson: It is.

Mr MEIER: I will not disagree with the member for Henley Beach, but I simply question whether it is the type that we want in all case—because it does away with so much common sense. It does away with reasoning in many cases. There is no such thing as a grey area, it is either black or white.

The Hon. T.H. Hemmings: You have had a tendency to talk more about black just lately.

Mr Lewis: Don't be racist.

The SPEAKER: Order!

Mr MEIER: This Bill at least seeks to streamline certain elements where they need to be streamlined. As the Minister said in his second reading speech, he felt the most important change made by the Bill was in clause 4, where it changes the scheme of the Act so that offences will be expiable under the Act where the words 'expiation fee' appear at the foot of a provision of an Act or regulation. This will replace the present system whereby offences are made expiable by being designated in the schedule to the Expiation of Offences Act. In simple terms, what this means is that people are not going to have to plough through the various Acts to see whether an expiation notice can be effected or not. It is going to be very straightforward, it will be easy to see and therefore will cut out some of the unnecessary red tape. In that respect, it is a positive step forward.

Likewise, the Bill also provides that the expiation notice must be in a form approved by the responsible authority based on the model form which will be prescribed by the regulations. I hope there will not be any problems in this area, because again I recall an incident, probably a year or two ago, where I received a parking fine from a council that is well known for its hefty fines.

The Hon. T.H. Hemmings: You got one?

Mr MEIER: I was parking in an area that prohibited parking up to 9 o'clock on that morning; it was in a side street.

Mr Ferguson: Was it the Adelaide City Council?

Mr MEIER: No, it was the Unley City Council. I parked in this side street and there was no sign anywhere near where I parked and there were many other cars. In fact, I was lucky to get a park in that area. It was at about quarter to nine, and I think the no parking restriction applied from half past seven until nine o'clock. I went to a meeting and when I came out I found the fine notice affixed to the windscreen. I assumed that it would involve a relatively small expiation fee. The notice had no specific identifiable offence with respect to the offence I had committed, but written in on a spare line on the notice was the offence that I had committed: parking in an area where parking was prohibited until 9 a.m. The trouble is that the maximum possible fine, which I believe was $35, was imposed.

Members interjecting:

Mr MEIER: Members opposite ask whether I paid the fine. First and foremost, I went to the Unley City Council and objected to the fine because I thought it was not a serious offence. It was a relatively minor offence. I was passed from one person to another and, in the end, I had no option but to pay the fine. In relation to this Bill, it disturbs me that, whilst measures are made available for a prescribed form, the various local government authorities will be able to generate their own form by their own printer or computer equipment, provided that it is based on the model form. I certainly hope that the provisions in the Bill are tight enough so we will not have variations such as the one I highlighted where the particular offence was not included on the form and simply written on it in addition to the other offences. If that is the case, it will be a further abuse of the expiation system, something that I and, I hope, all members of this House do not want to see.

The Bill also seeks to redefine who may issue expiation notices. Clause 4 makes it quite clear that only those who are authorised in writing by the relevant Minister, statutory authority or council are empowered to do so. Provision is also made for an authorised person to withdraw expiation notices. In this House in the past week or two we have seen an absolute fiasco as it relates to expiation notices over speed cameras.

The Hon. B.C. Eastick: Also in relation to House management.

Mr MEIER: Yes, as the member for Light says, also in relation to House management. I will deal briefly with the expiation notice problems with respect to speed cameras, as that relates directly to this part of the Bill. We have seen at least two expiation notices highlighted in this Parliament with respect to speeding offences subsequently withdrawn. They were withdrawn basically because the Minister himself had to step in to the whole saga. He realised that things had got completely out of hand, to such an extent, as reported in the *Advertiser* recently, that we had the unprecedented withdrawal of all police radar units from South Australian roads which could have been responsible for up to 7 000 fines in the past six weeks. It appears that a faulty camera issued some 669 infringement notices during the period that the fault was known.

One would imagine that, if there was any doubt concerning an expiation notice, the Government, the authorising officer or the inspector would immediately withdraw those notices without question because, in the first instance, so many of them were possibly issued to people who may have simply needed a caution, a warning. Because the camera was not operating properly, it is highly likely that many of those offences never occurred. The Minister has said that the Government has no intention of withdrawing those 669 expiation notices. It is all very well to have provision in the Bill to enable an authorised person to withdraw expiation notices, but any such provision should be enacted rapidly to ensure that, if there is any question about a person's wrongdoing, appropriate consultation will occur. I do not want to see it reach the situation that applies in respect of local councils, which take people to court unnecessarily.

This Bill also provides that in certain cases an officer or an employee of a council will be given specific power to issue expiation notices. I would like to know why that provision is worded in that way, because it seems to me that if it were simply the council's responsibility it would not work. Obviously, someone must be designated to do this. I refer again to the confectionary business which I highlighted earlier in this debate. Obviously, the health inspector, an employee of the council, had to take the required action. I assume that that is what is meant by this provision. When the Bill was first introduced in another place in April, it did not contain that provision. So, I would love to know how the legislation is supposed to operate. In any event, I will find out more about that in the Committee stage. The Minister's second reading explanation states:

> In all, the proposed machinery amendments to the Act are considered to be desirable for the better and wider public administration and enforcement of relevant statutory provisions as well as enabling more detailed scrutiny of those offences which will be expiable.

I have no problems with that if that leads to further efficiency, but if it hits innocent people this Bill will have to be looked at again in the future. There is no doubt that the Government has used expiation notices to raise revenue during most of the 10 years it has been in office. I highlight three examples. First, I refer to expiation notices that are issued for exceeding the speed limit by not more than 15 km/h. In 1983, that offence attracted a fine of $35; in 1987, the fine was increased to $50; in 1990, it was $65; and today, together with the $5 victims of crime levy, it is $84—an increase of 150 per cent. Everyone knows that salaries and inflation have not increased by that much, yet these fines have.

With regard to the offence of exceeding the speed limit by more than 30 km/h, the fine has increased from $100 to $130 to $183, and now it is $210. The Government argues that it wants to cut down speeding. The offence of failing to keep left of barrier lines attracted a fine of $50 in 1983; in 1987 the fine was increased to $60; in 1990, it was $75; and now it is $131 (including the victims of crime levy).

That is also an increase in excess of 150 per cent. The Government told a big fib to the people of this State when it said that it would increase expiation notices to try to cut down speeding. It increased them right across the board in areas such as failing to keep left at barrier lines, and I could highlight many other examples where the increases have been of the order of 150 per cent. That type of thing is a clear indication that expiation notices are used as a money making system where the

Government needs revenue, and it will use any means to grab that revenue. Because the basis of this Bill seeks to streamline the expiation notices, the Opposition is supporting it but, as I have pointed out, the whole system of expiation notices leaves much to be desired. It takes away much of the commonsense and, I believe, common rights of people in this State.

Mr GUNN (Eyre): I appreciate the opportunity to participate in this debate about expiation fees and expiation offences, because this program, which was put into effect some years ago as a method of streamlining the administration of minor offences, has now got completely out of hand and is becoming nothing more than a revenue raising measure by which the Government, basically through the Police Department, is dipping its slippery hands into the pockets of the unsuspecting public, and all those associated with it ought to be thoroughly ashamed of themselves.

One needs to refer only to the Auditor-General's Report to see what is taking place, and I hope that Government members have read this. On page 131 there is a very brief mention, but it reads as follows:

> The payment of 'on-the-spot' fines allows offenders to expiate legal action for proclaimed offences under the Road Traffic Act; and under the Controlled Substances Act. The increase in receipts from infringement notices of $8.2 million to $23 million is due principally to an increase in the number of notices issued of 111 500 to 315 500.

Mr Hamilton interjecting:

Mr GUNN: I put it to you, Sir, without the assistance of the rantings from the Government benches, that too many notices are being issued. It is far too easy for the police. These tickets are being handed out to people on the most trifling issues, and people know that they cannot go to court because the cost of defending oneself is far in excess of the offence. That, in itself, is a disgrace. Already before this Parliament we have a measure protesting about legal costs in this State, yet we have had served up to us today another measure that will make it easier for petty bureaucracy and other officials to plunder the pockets of the unsuspecting motorist. I, for one—

The Hon. G.J. CRAFTER: On a point of order, Sir, I believe that the honourable member is confused with respect to the measure before us. The measure now before us has nothing to do with expiation offences or offences under the Road Traffic Act. They are dealt with under a separate piece of legislation. This measure deals with other matters.

The DEPUTY SPEAKER: I uphold the point of order and would ask the member for Eyre to come back to the Bill that is before us.

Mr GUNN: I am not a bit confused. There is a principle involved here, and I used the example from the Auditor-General's Report to show how this system is being implemented—

Mr Hamilton interjecting:

The DEPUTY SPEAKER: Order!

Mr GUNN: —and how it is being used, because I believe in a fundamental principle—

Mr Hamilton interjecting:

Mr GUNN: You will never get me to vote for it again, make no mistake about that. If you people are administering it—

Mr Hamilton interjecting:

The DEPUTY SPEAKER: Order! I ask the honourable member to take his seat, and I would ask the member for Albert Park to contain himself. If he wishes to enter this debate, there is plenty of scope for him to do so. He can follow the member for Eyre, if he wishes to. I would ask him to contain himself so that we can hear this debate in a reasonable manner. The member for Eyre.

Mr GUNN: It is this Government which has the administration of this Act and which is permitting this scheme, which was originally introduced to free up the courts and streamline operations where people who had committed reasonably serious offences and who admitted to them did not have to go through the courts system. However, it has now been used as nothing more than an agency of the State Taxation Office, and all Government departments that are using this system should change their name to 'Agency of the State Taxation Office'; they should put that name on their vehicles—and that includes the Police Department.

When he responds to this debate, I want the Minister who is now representing the Attorney-General to inform the House what instructions will be given to people who have the authority, whether they are the police, people employed by the Health Commission and others who have been involved, in relation to the issuing of those dreadful notices. Who determines whether they are given a caution? I was always led to believe that the law should be administered in a reasonable manner, not in a harsh or unreasonable way.

I put to the House that the law has been implemented in a harsh and unreasonable manner in relation to the issuing of these tickets, and it is the responsibility of this House to intervene on behalf of people who are not in a position to defend themselves when over-zealous officers issue those tickets to them. If people have the ability to defend themselves, they can contest it strenuously and they can make representations. I believe that the law is very deficient and that amendments ought to be moved to provide clearly that, where a person believes one of those dreadful tickets has been issued to them for an offence of a minor or trifling nature, they should be able to go to an independent authority and have the matter adjudicated without having to go to court and, where that person determines that they should not have been issued with the notice, the person who issued it should immediately be fined the equivalent amount. It should be put right back on them. We now have a society where people have far too much authority over the lives of others, and all that these sorts of proposals are doing is bringing law enforcement authorities into conflict with the public.

I ask the Minister representing the Attorney-General whether he is aware or whether the Government is concerned about the ongoing conflict between the public, the police and other law enforcement agencies because of the obsession of the administration of those departments in issuing as many on-the-spot fines as possible. I believe this Parliament is entitled to be told. I know that, when one complains to middle ranking officers, we are told, 'We have our instructions.' When we go higher, they say, 'We do not give instructions.' I want to know the facts. I have not yet gone to the step of putting 50 or 60 questions on notice; that is not really my style but, unless we get some clarification, that is the next step. I make no apology for that. On a regular basis I have people

complaining to me about getting pinged for minor, trifling matters when they should not be. When they have been stopped, they believe they should have been given a caution.

The question has to be asked whether the officers are under instructions. The figures I have quoted clearly indicate that a concerted effort is made to issue huge numbers of these dreadful on-the-spot fines, and I want to know from the Government whether it is its aim and intention to have as many of the enforcement authorities issue as many as possible or whether the Government believes they should be a last resort. I repeat: if we continue in this way, all those people administering the various laws will be in constant conflict with the community, because the community has nearly had enough. In many parts of the State, the standing of the police has reached a low ebb because of the issuing of fines for trifling offences.

An honourable member interjecting:

Mr GUNN: I know from the people who come to complain to me on a very regular basis.

The Hon. T.H. Hemmings: It is the law breakers who complain.

The DEPUTY SPEAKER: Order!

Mr GUNN: The honourable member is like a parrot, repeating a line that some of the Government minders told him to say. He does not have the wit or wisdom to think of it himself, but he accuses me of supporting law breakers. In a democratic society people are entitled to object when the Government becomes heavy handed, unreasonable and unfair. That is what this Parliament is assembled for and that is why I am standing up to defend these people. What is happening is that average, good South Australian citizens who commit a minor breach are suddenly issued with a substantial on-the-spot fine, which they have difficulty in paying—and they should have been given a caution. If the honourable member classes all those people as law breakers, I believe he has his facts confused and he is living in a world of unreality.

The reality is that it should not be the role of Government or the authorities deliberately to harass the public on an ever-increasing basis. It will be interesting to see how many on-the-spot fines are reported in the Auditor-General's Report next year. Can the Minister give me an assurance that there will be fewer issued this year than in the past financial year? I want to know what is the policy.

I have a lot more to say on this issue before this session of Parliament concludes. The lengths I am prepared to go to inform the House of various information will depend upon the answers I receive. I believe in being fair and reasonable in this world, but I am sick and tired of average law-abiding citizens being pinged. I believe there is too much emphasis placed on traffic offences and not enough on more serious crime. Therefore, I appreciate the opportunity to participate in this debate and I look forward to some reasonable answers from the Minister.

Mr HAMILTON (Albert Park): It is rarely that I am provoked into making a contribution, but my good friend the member for Eyre has done exactly that. As a man for whom I have had a great deal of respect—

The Hon. T.H. Hemmings: And still have.

Mr HAMILTON: Yes, and I still have a great regard for him. But on this occasion, frankly, the member for Eyre has fallen out of his tree. He has not even addressed the Bill. Sir, you, being the great Deputy Speaker that you are, provided him with a great amount of flexibility in his contribution to this House. One can only say in response to some of the comments he has made in relation to this Bill that it was his crowd—the Liberal Party—that introduced the traffic infringement notices way back in 1981-82.

I remember that vividly, because unlike some others at that time I did not deny them. They went away at Christmas time, had their holidays and I thought,'Good luck to them.' However, I stayed at home and went through all the traffic infringement notices and exposed the deficiencies. Yet, the member for Eyre has the temerity to stand up here and criticise this Government when his lot, when they were in power, would not even attempt to educate the community in relation to this matter—they would not provide any information to the media in any shape or form.

I have a long memory about particular issues. I can remember the media, particularly the *News*, exposing kids being pinged for riding around without mudguards or bells on their pushbikes. Now, we have this feigned hostility by the member for Eyre, who was covering up—or attempting to cover up—for the inadequacies of those people who breach the law or who are attempting to breach the law. I remember vividly his trying to justify the actions of those people who had pieces of equipment on their number plates so that the speed cameras would not detect them speeding.

The Hon. T.H. Hemmings: They used gladwrap.

Mr HAMILTON: They used all sorts of gimmicks. I am disappointed with the contribution today from the member for Eyre. The bottom line is that if we break the law we pay; it is as simple as that. When we raise children we teach them discipline. If we do the right thing, they do not get into trouble. However, if we go off at a tangent, if we drive on the wrong side of the road, if we are half drunk, or if we want to drive without our lights on—

Mr Lewis interjecting:

Mr HAMILTON: I suggest that the member for Murray-Mallee has forgotten to turn his lights on this morning—or a whole range of things, we break the law. We all know, and the member for Murray-Mallee, despite the rough time that he gives to members on this side of the House on occasion, knows all about the separation of powers. Members should know that the Government cannot give instructions. That was highlighted in this place the other day when one of my colleagues made a *faux pas* about instructing the Police Commissioner. We all know that that cannot be done by members of this House. A request can be made, but we certainly cannot instruct the Police Commissioner or his staff.

There are minor amendments in this Bill. I consider the member for Eyre an adversary in the political sense, but outside this Parliament he is in the main a very logical person. However, it was just rhetoric, garbage, that he was feeding up about the traffic infringement notices. He and I and others who were here when the traffic infringement notices were introduced by the Tonkin Liberal Government know that they were responsible for

this. They did not jump up and down and squeal about the costs to motorists at that time; they did not jump up and down and say that their Minister or Premier was instructing the Police Commissioner to have police hiding behind bushes, or whatever, in order to detect speeding motorists.

We all know that what the member for Eyre is trying to convince the public about is absolute nonsense. In the *Border Watch* at Mount Gambier, a former police Minister quite succinctly stated:

If you don't want to pay the Government by some diverse way any money in terms of traffic infringement notices or the police, then don't speed and don't break the law.

Mr LEWIS (Murray-Mallee): I do not have any great quarrel with the basic principles that have been advanced in this Chamber by way of argument by any of those who have spoken on this measure since the Minister, by leave, incorporated his second reading explanation speech. That does not mean that I do not see conflicts between members on minor points, such as the members for Albert Park, Eyre and Goyder. I note that, but it is not a major problem.

However, I believe that in a procedural context that we should be taking this measure cognately with item 4 on the Notice Paper, Bill No. 34. I do not know why we are not doing that; it would have saved a lot of time in debate. I would not have found that difficult to accommodate. Perhaps it is beyond the wit of the managers of the House to think of doing that where it is relevant to do so.

I want to draw attention in this legislation, acknowledging that I cannot explicitly address matters referred to in the next item on the agenda in this process, to things which are consequential upon the passage of this measure through this House. The first is that expiation notices are administratively convenient. At the time they were instigated, everybody had the best will in the world about their purpose and role.

I am no longer satisfied of that. It does not mean that I am at variance with the principles or with what the member for Albert Park said about those principles. However, the member for Albert Park, unlike the members for Eyre or Goyder, did not address, either by inference or implication, what I now address directly, and that is, that having at once seen and understood how expiation fees work, the people who make the rules about the things to which they will apply and the severity of them are developing a different mindset.

All we have to do is look at the kinds of responsible authorities, as defined in the Act, and behind that definition to be found in clause 3, and consider the additional roles and responsibilities that those authorities have in their respective domains of responsibility, their respective roles and functions, if you like. Why is it, for instance, that it becomes necessary to state in the Act, as will be the case if the Bill passes the Parliament, that:

Where an officer or employee of a council is authorised by an Act to exercise powers as an inspector or other authorised officer or person for the enforcement of a provision of that Act, the council will be taken for the purposes of this Act to be responsible for the enforcement of the provision in addition to the Minister or statutory authority (if any) otherwise responsible for the enforcement of the provision.

So that says that the people making the decision are responsible and they get the money; except in other circumstances where half of the money will go into Consolidated Account, such as we see in section 7 (3) of the principal Act:

If an expiation notice is issued by or on the authority of a council or by an officer or employee of the council as a result of reporting an offence by a member of the Police Force or other officer of the Crown, half of the amount of the expiation fee paid pursuant to the notice must be paid into Consolidated Account.

The Hon. T.H. Hemmings: What is wrong with that?

Mr LEWIS: Well may the member for Napier ask: it means that they share the revenue. Is that not so, Mr Deputy Speaker?

The Hon. T.H. Hemmings: That is the way I read it.

Mr LEWIS: The member for Napier is beginning to cotton on to my point. One of the ways in which the police can obtain income for the Crown is to hop in to all the regulations there are in local government—and I am sure that this point is not lost on the member for Napier or on the member for Goyder—

The Hon. T.H. Hemmings: Are you making accusations?

Mr LEWIS: These are not accusations but observations about the way that the legislation works and the psychology of it on the people who make decisions about who will do what and who gets what. The point is that the expiation fee now takes on a life of its own in the minds of the people responsible for its determination, and they start to look at the market forces that are involved in deriving revenue from their efforts. They start to look at that. It is not now simply a matter of trying to get people to stop doing certain things. What we are now doing is considering who gets the money, and why they should get it, or because they did the work to catch the offender. But why does that mean that the money ought to go to them? Turn it on its head: if they do work to catch the offender, they are getting a contribution towards the income side of their activities, financing their department's operation, their divisions's operations, their authority's operations—whoever or whatever that may be.

So, the notion of the market force takes over, and the decision makers, who direct what shall be enforced and who determine the price to be paid in the process of enforcement where alleged offences are committed, then begin to assume a different dimension and form a different basis in their mind. They set the expiation fee in relation to the ultimate fine that might otherwise be paid, were the matter to go before a court for adjudication. They set it at a figure which will mean that the vast majority of notices issued will never be contested. That is why the changes have been made to the level of the fee to be collected through expiation, because they know the market will stand that price. There is no relationship whatever to what they regard as the trifling nature of the offence, which should not occupy the time of the courts. It now takes on the dimension of being the amount which can be screwed out of the offender without the risk of the matter having to go to court where the alleged offence can be contested and possibly an injustice overturned.

The other aspect of the market force is that to take it to court costs a lot of money—not just the fine, but lost income through time spent by the alleged offender and money having to be spent to pay for professional advice and representation. That is the kind of thing that is now motivating the system: the bureaucrats within the

authorities—whether they are State or local government does not matter—determining the level at which the fee will be set. It bears no relationship whatever to the seriousness of the offence. I challenge members opposite to go and look at the scale of fees in terms of cost of expiation and then compare the types of alleged offences which are expiated by those comparable costs. There is no relationship whatever there: it is just a matter of what the market will stand. That is cruel; it is absolutely and utterly outrageous that we should allow that to happen in this Parliament. That is why I stand here to make the point.

Having made that point, I want to ensure that members understand the seriousness of that situation, because what it is doing is enabling the inspecting authority or authorities to go out and issue a whole lot of expiation notices to people who would not otherwise be booked for doing something that is allegedly wrong. Not only do they get revenue but the down-side and the worse consequence of it is that public's mind, individual by individual, is turned against the authority and against the bureaus which control the function of that authority (and the people in them are called bureaucrats). Their attitude then becomes one of antagonism.

I know that you, Mr Speaker, know that there is mumbling and grumbling from the citizen who brings the expiation notice into the office of anyone of us as elected members, saying, 'I know it is trifling, Peter'—or Fred, John, Jack or Joe—'but this happened to me; I can't believe it; and I didn't do that.' We, in sympathy, have to agree. But we cannot do anything about it, other than to say, 'Your right in law is to take it to court.'

That is unfortunate because it means that they will pay the fee. They will curse us as law-makers and they will doubly curse the administrators of the system of expiation notices. Subconsciously, they shift their attitude away from compliance with the rule of law to one of antagonism to the rule of law and develop an attitude to the law which was extant in the minds of people prior to the incident at Runnymede in 1215 when Magna Carta was signed, which prevented the king from making prerogative decisions about what he thought was meant by something that was said. An absolutely outrageous position used to exist where, if the king thought something about a citizen or group of citizens, that was the law; that is crook.

That is what is happening out in the public. We are alienating people from the fundamental tenor in a democratic, law-abiding society that the law is made in their interest on their behalf, and that to me is a great worry. Every bureaucrat needs to bear in mind that an erosion of the respect which citizens must have for the rule of law is a further erosion of the certainty with which we can wake up tomorrow and believe that the day will be peaceful, that there will not be civil disobedience, riots, violence or damage to property, life and limb. I do not want to see us go further down that road of alienation; hence the reason for my trying to graphically illustrate to members what I regard as my concern.

I want to underline it further by illustrating the stupidity of the current system where, as you know, Mr Speaker, there are wags or lairs, as some people describe them who are really vandals. It is a charitable term to describe bad behaviour and, on occasions, one or more of them become possessed of the mood of frivolity and skylarking and grab a parking sign and turn it around, or pull it up and put it somewhere else.

Mr Hamilton: Vandals.

Mr LEWIS: It is as much as vandalism. I know it incurs an expense to replace the sign to its proper position but it affects the unsuspecting member of the general public, who, in the period before the correction is made, parks a vehicle where he thought it was lawful to do so, only to find on return that he has got an expiation notice attached to the windscreen. That person complains, 'Why can this be so?', and that is because it has been gazetted as such. That person goes to the relevant authority and says, 'For goodness sake, this is wrong.' The person at the counter says, 'I'll just get my boss.' He comes out and says, 'I'll get my boss.' As the member for Goyder said, after you have seen four or five people, you know it is not worth the effort. No-one wants to listen to you. They do not believe you, even if you are telling the truth about what has happened, and you pay the fee because it will cost you too much to try to defend it. You feel outraged, but that is how it happens, and that is unfortunate.

I commend the provisions within the legislation which enable the exercise of discretion to withdraw an expiation notice relevant to an alleged offence, but that of itself does not solve the problem entirely because it means that the withdrawal of those things can be abused. We are placing temptation in the hands of bureaucrats to do favours for friends, friends of friends or fellow travellers, and that is bad. There is no review. We have a messy system and we need to be aware that further amendment and refinement of it will be necessary lest we alienate the community further in their lack of respect for us and local government bodies that make such laws or give them the force of law in regulation as subordinate legislation.

The last issue I want to address is the unfortunate set of circumstances in which we now find ourselves in South Australia, and I do not know that even the Minister understands this. We have abolished certain departments or otherwise renamed them and rearranged divisions of those departments as to the heads of the department to which those divisions are attached. The heads of those departments are no longer known as the director. Changes have occurred to the titles of Ministers to whom the heads of departments refer. We have done that in very recent days. The law, however, refers to a particular departmental head as a director. The law also refers to a particular Minister as, say, the Minister of Agriculture, the Minister of Lands, or whatever. What we have done is abolish the Director of Agriculture, and the Minister of Agriculture. We have made the Minister of Lands the Minister of Land Management. As far as agriculture is concerned, we have created a Minister of Primary Industries. Yet, we have done nothing to change the statutes. So all the regulations established under those statutes are now *ultra vires*. When I spoke in this Chamber on 8 October, three weeks ago today, when I first noticed what was happening to the rearrangement of departments, I tried to draw the Government's attention to the mess into which it was taking us. That is the very matter to which I have tried to get the attention of all

members in this place, with limited but increasing success to date.

It is an abuse of process to expect that the citizen will abide by the law when he does not even know what that law is. Members here and some people in the community think they know what the law is, but the fact is that the law is not that, because it has been written differently from the way in which Ministers can now administer it through their respective portfolios. In my judgment, more than anything else that will bring us into contempt.

The Government's desire, as a matter of political expediency or damage control, to do away with that deserves the contempt with which this Chamber has treated it thus far. Statutes need to be amended and quickly so that we do have a law which any citizen can understand, should they refer to it, rather than finding themselves in the position where what they thought was the law in fact was not.

The Hon. T.H. HEMMINGS (Napier): When the member for Murray-Mallee commenced I thought today would be my red letter day, because for the first five minutes, for the first time since 1985 when he came into this Chamber, he seemed to be talking sense, not the usual rubbish or gibberish that we are all so used to.

Mr LEWIS: On a point of order, Mr Speaker, in the kindest possible way, can I draw attention to the fact that whilst the electorate of Murray-Mallee first came into existence in 1985 I, as a member of this place, arrived here in 1979.

The SPEAKER: There is no point of order but the honourable member has certainly made his point.

The Hon. T.H. HEMMINGS: I do correct myself. It is not since 1985 that I have been hearing rubbish and gibberish, it has been since 1979. As I say, when the honourable member first started off I thought, 'Well, at last we are hearing someone who can really understand what this is all about.' But I parted company when the member for Murray-Mallee started to rant on about this devious plot, about a split in the fees, whereby under clause 7, an officer of the State, that is, the State Government, was serving a notice on behalf of a local council.

The member for Murray-Mallee, in response to an interjection that I made—but you, Sir, were not in the Chair at the time so I got away with it—said he understood that if there is a split service there should be a split fee. Then he went on to develop a theme that this was one way to increase the coffers of the Consolidated Account. It is a line that members opposite often use with respect to law and order—that this Government uses law and order to increase revenue.

We had a contribution by the member for Eyre that had nothing to do with the Bill, when he went down his usual track of defending lawbreakers. The Liberal Party professes to be the only Party in favour of law and order: hang them from every tree, but its members are the ones who stand up, day in day out, defending lawbreakers. My colleague the member for Albert Park followed that by saying, 'If you break the law, you must pay the price.' I know that that sentiment is something that is dear to everyone on this side of the House.

The idea of sharing the fee, which is referred to in clause 7, is purely and simply what it is all about. If an officer of the State carries out a service on behalf of local government, the State should be able to receive half that fee. If the member for Murray-Mallee is so much against that, he should provide an alternative. He is always talking about the police being used for a task other than catching criminals, yet he is quite happy to see that included in the amendment. His argument is not that we are taking officers of the Police Force away from the task of catching criminals, but that there is some devious plot by the Treasurer to increase the coffers of the Consolidated Account.

As to the rest of the time he wasted in this debate, let us say there was some degree of validity. Let me remind the member for Murray-Mallee that this system, about which he is so worried, was started by his own Party.

Mr Lewis: That doesn't make it right.

The Hon. T.H. HEMMINGS: The honourable member says, 'That doesn't make it right.'

Mr Lewis: Or wrong.

The Hon. T.H. HEMMINGS: Or wrong, as he says, but did he vote against it? Because I thought he came into this Parliament in 1985, I was prepared for him to plead 'not guilty', but he could not, because he reminded us, in a point of order, that he entered Parliament in 1979, so he was part of the rabble that was in Government. He never did anything about it. If there is a problem with the expiation system, it was the Liberal Party that set that cancerous sore running through the system.

Mr Hamilton: That's a nice phrase!

The Hon. T.H. HEMMINGS: It is a very nice phrase. I repeat: it was the Liberal Party that set this cancerous sore running through the system. I again remind the House—and I do not want to embarrass my colleague the member for Albert Park—that the member for Albert Park gave up two weeks of his holidays, as well as serving his constituents, to expose the Liberal Party for what it was doing. Each time the member for Albert Park exposed the Liberal Party over a certain expiation fee—and there were hundreds of them covering the whole of the statutes—the Liberal Government accused him of being a troublemaker.

In fact, it carried out a vindictive attack against my colleague, someone who is renowned as a compassionate and sensitive person, one who fights for the disadvantaged. There is not a bad bone in his body, but he had to suffer vile attacks from the Tonkin Government. I suspect that the remaining members of the Liberal Party will not follow the line explored in this debate by the member for Murray-Mallee. Despite their usual lack of understanding of what legislation is all about, members opposite see some merit in what is happening.

The member for Murray-Mallee cited an example of someone moving a parking sign 10 metres along the road: a provision in this Bill will prevent that. I urge all members to support the Bill and to ignore the ramblings of the member for Murray-Mallee so that we can proceed with the Bill and have an early lunch.

Mr BRINDAL (Hayward): I was not inclined to make a contribution until I heard the member for Napier's comments. He is very good at coming into this House and talking about the gibberish, ranting and

rambling of the member for Murray-Mallee. He is the first person to point the finger. I thought he would have been a little more restrained and quiet today, because contributions from any member must be measured against past performance. Only last evening my colleagues and I sat in this place and listened to the member for Napier who abides by Shakespeare's admonition that self-love is not so much as vile a sin as self-neglect. We could never accuse the member for Napier of neglecting himself. He stood here last night and said that one thing he had learned from his years in the Caucus, the important thing about his years in the Labor Party, was the ability to count. What did he do? He then precipitated a division, one that was firmly lost.

The Hon. T.H. HEMMINGS: Mr Speaker—

The SPEAKER: Order! Does the member for Napier have a point of order?

The Hon. T.H. HEMMINGS: Yes, Mr Speaker. The member for Hayward has, in effect, accused me of lying.

Members interjecting:

The SPEAKER: Order! This is a very serious allegation. What words were used?

The Hon. T.H. HEMMINGS: The words used by the member for Hayward were that, last evening in a debate regarding a private member's motion while you, Mr Speaker, were in the Chair, I precipitated a division. I rise on a point of order because I did not precipitate that division.

The SPEAKER: Order! If the Chair recollects correctly, it was alleged that the question asked by the honourable member precipitated the division. If that is the point, the member for Napier is out of order, and the member for Hayward has the floor. The member for Napier.

The Hon. T.H. HEMMINGS: Mr Speaker, I am well aware of your strong views on frivolous points of order, and I have always attempted never to transgress that.

The SPEAKER: I accept that comment in the spirit in which it is made; however, will the honourable member be specific about the point of order that he is raising for the second time?

The Hon. T.H. HEMMINGS: *Hansard* will show that yesterday I did not precipitate a division, where the speech today—if I could, Sir?

The SPEAKER: No, you cannot. The Chair is of the opinion that the member is only seeking to correct the record, therefore there is no point of order and, if a further point of order is taken on the second ruling I have given, the Chair will look very grimly at the member for Napier. I suggest that the member for Napier can make a personal explanation or even take a five minute grievance, if he wishes.

Mr BRINDAL: I will not detain this House long. Your absolute impartiality and fearlessness in your position are well known to this House, Sir, but I believe that there are some members here who are more to be pitied than censured.

The SPEAKER: Order! I would ask the member to come back to the subject of the debate.

Mr BRINDAL: The member for Napier in his contribution, which I regard as somewhat denigrating of my friend and colleague the member for Murray-Mallee, accused the member for Murray-Mallee of time wasting, yet I have just witnessed a series of incidents in relation to which I believe that accusation might equally be levelled at the member for Napier.

The SPEAKER: Order! I again remind the member for Hayward of the need for relevance to the debate.

Mr BRINDAL: Thank you, Sir. I am disappointed in this Bill. The matter of the week has been largely associated with expiation notices, yet we came in here today to see a Bill which, in the typical manner of this Government, does not go nearly far enough. It addresses one small problem with expiation notices, and that is late payment. It does not address the problems about which many of my electors constantly contact me and about which, I believe, many of yours, Sir, would contact you.

There are severe problems related to people who find themselves in harsh economic circumstances. This morning I had a phone call from an invalid pensioner who has a problem relating to the payment of expiation notices. It is fine for members opposite to sit there and laugh about this sort of thing, but they are the ones who daily call the people of this side of the House silvertails—and the member for Albert Park is a great offender—saying that we are only for big business, for the employer, and let the worker be damned—yet, at the same time, when it comes to something like this which affects people, particularly people who cannot afford to pay these fairly strong expiation fines which, in some cases, are of several hundred dollars, they sit there and joke about it.

I hope that some people do read *Hansard*, because they will see the behaviour of a Government that is quite happy to stand up and trumpet principles of social justice, yet does nothing about them. I do not believe that the Government's handling of this Bill and the matter of expiation fees goes far enough for people who cannot afford to pay. It deals with late payments and late payments alone. It does not deal with community service or with any way of paying part payments or payments by instalment. Neither of those two things is currently allowed.

The Government knows that but it has done nothing at all about it. So, we have incidents such as I noted last week, when an aged pensioner rang me saying that she had two expiation notices to pay and that her only alternative is to go to court and suffer the extra fees involved so that she can ask for payment over time. That is an outrageous situation and one in which this Government is, once again, penalising its natural constituency, those who cannot afford to pay the fees—and doing it quite deliberately and quite without scruples.

I know that members opposite will stand up very shortly and again berate us. Again they will say that we are silvertails yet, at the same time, they will penalise the people who cannot afford these things—and they will do nothing about it. Actions speak louder than words. Let them act; let them do something for the people whom they reckon they represent, and perhaps then the people on this side of the House might have more respect for them.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank all members who have contributed to the rather long and tedious debate on this issue. The

contribution of many members was off the point and, in fact, I doubt very much whether many members had read the second reading explanation, let alone the Bill, in the context of the original Act, because this does not deal with many of the matters that were raised by honourable members in the examples that they provided.

I think there is a good deal of confused thinking about the administration of justice in this area. The member for Eyre was seeking an assurance that the Auditor-General would receive a direction from the Government that he would write his next report to this place in a particular way, and simply, that is not possible. He also asked for there to be a definition of a minor or trifling offence and that instructions or some training be given to officers throughout the State about the definition of offences which (I presume) he believes should remain offences but which should not be enforced. I think that is the surest route to bringing the law and indeed this place (which is the source of the law) into disrepute. So, the comments made by the member for Murray-Mallee about the rule of law are quite contradictory in that context.

In his example of the commission of an offence, the member for Goyder raised the dilemma that is evident in the speeches that have been made by members opposite. He said that he had committed an offence; he acknowledged that to the House, but he believed that he should not have received a penalty for that offence because of the nature of the offence. He chose to deal with that in an administrative way, that is, to discuss the issue with various officers of the authority that had brought down that penalty according to the law that is sourced here in this Parliament. He chose not to challenge the decision that was taken to bring down a penalty against him as a result of the offence that he committed by not paying the expiation notice and going to the court and having it adjudicated there as to whether it was a minor or trifling offence. That is a matter that is known in the law, and an appropriate penalty can be brought down if that is shown. He chose to deal with the matter outside the appropriate processes by trying to have an officer (who obviously had no authority to do this) adjudicate on the matter.

That is a great difficulty, with which Opposition members must come to grips, in terms of whether they want to see these sorts of offences remain as offences or whether they want to take them off the statutes books altogether. Presumably, if the honourable member had parked his vehicle in an area that was declared a no parking area, for example, after 9 o'clock, presumably, there was a reason for the law stating that access was required for businesses in that area, for residents or some other use in the public interest.

That raises that very fundamental issue of when an offence is minor or trifling. That situation is often vastly different in the eye of the offender from the situation in the eyes of those who have been offended, disrupted or in some way harmed in the community by the actions of the persons who have broken the law in one form or another. I would suggest that that needs to be resolved by the appropriate procedures, not by trying to work some other way around that process by administrative action. Secondly, I refer to the matter of the role of local government. I understand that from the period of the late 1970s the funds collected by way of fines would be paid totally to consolidated revenue under the provisions of the Local Government Act, in the circumstances provided therein.

It is appropriate that those fines that are collected as a result of action taken by appropriate local government officers should remain the property of local government. Where, for example, a State officer enforces a law, 50 per cent of the fine should be returned to consolidated revenue. I would have thought that that matter would receive the support of the Opposition. In fact, it was very strongly attacked by the member for Murray-Mallee and I find that somewhat surprising. I foreshadow an amendment of a technical nature that has been flagged in another place.

Members interjecting:

The SPEAKER: Order!

The Hon. G.J. CRAFTER: It has been the subject of correspondence to the Opposition because it arose out of the debate in another place and I will explain that in a little more detail during the Committee stage.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Expiation notice may be issued.'

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

Page 3, after line 8—Insert new word and paragraph as follows:

and

(i) by inserting after subsection (4) the following subsection:

(5) A power under an Act to prescribe a penalty for the contravention of a regulation will be taken to include the power—

(a) to provide that an alleged offence against or under the regulation may be expiated in accordance with this Act;

and

(b) to prescribe an expiation fee not exceeding a division 9 fee for that purpose.

As I indicated in my second reading speech, the amendment before us is of a technical nature. As members would be aware, one of the objects of this legislation is to secure clarity so that it will be evident from an Act which penalties are expiable. The same clarity is desirable in regulations, and the Expiation of Offences Act currently makes expiable certain offences under the regulations of the Education Act, the Explosives Act, the Dangerous Substances Act and the West Terrace Cemetery Act.

It is not possible to amend regulations by an Act of Parliament. It is intended that these individual regulations will be amended with effect from the proclamation of this measure. In order that there is no doubt that this can occur, this amendment makes certain that, where the regulation-making power in an Act permits the prescribing of a penalty for breach of the regulation, that power will be taken to include the power to prescribe an expiation fee not exceeding a division 9 expiation, which is to the amount of $100. The making of any regulation and reliance on the power under this provision will, of course, be subject to the usual scrutiny of the Legislative Review Committee.

Mr MEIER: The Opposition has no problem with the amendment.

Amendment carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 1 to 2 p.m.*]

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) AMENDMENT BILL

Her Excellency the Governor, by message, recommended to the House the appropriation of such amounts of money as may be required for the purposes mentioned in the Bill.

PETITIONS

CRIME

A petition signed by 430 residents of South Australia requesting that the House urge the Government to introduce harsher penalties for those who commit violent acts on members of the community was presented by the Hon. J.H.C. Klunder.

Petition received.

HINDMARSH ISLAND BRIDGE

A petition signed by 268 residents of South Australia requesting that the House urge the Government to suspend the project to build a bridge to Hindmarsh Island and fully re-examine alternatives of upgrading ferry operations was presented by the Hon. Dean Brown.

Petition received.

ADELAIDE AIRPORT

A petition signed by 224 residents of South Australia requesting that the House urge the Government to maintain the curfew at Adelaide Airport was presented by Mr Becker.

Petition received.

QUEEN ELIZABETH HOSPITAL

A petition signed by 26 residents of South Australia requesting that the House urge the Government to reduce the waiting lists at the Queen Elizabeth Hospital was presented by Mr Hamilton.

Petition received.

QUESTION

The SPEAKER: I direct that the following written answer to a question without notice be distributed and printed in *Hansard*.

PRISONER PROTECTION

In reply to **Mr MATTHEW (Bright)** 21 October.

The Hon. R.J. GREGORY: Prison records show no incidents of this nature took place in the week prior to the honourable member's question. However, I am advised that the last four occasions in which female prisoners inflicted injury to themselves at the Northfield Prison Complex over the last month were:

29.9.92 (1 person)
07.10.92 (2 persons)
11.10.92 (1 person).

Two of the prisoners who injured themselves were sentenced prisoners who are serving substantial sentences. The other two prisoners were on remand for serious crimes at the time of the incidents. None were fine defaulters.

It is not correct as the member for Bright alleged that all of the incidents occurred in Unit 2 Cell Block. Two of the prisoners were housed in Unit 2 and the other two were in Unit 3. In each instance the prisoner(s) concerned received medical attention. Two of the self-inflicted injuries required sutures and the other two self-inflicted injuries were superficial in nature.

It is not possible to say precisely why each prisoner inflicted injury on herself. Two of the prisoners were referred for psychiatric counselling after the incidents, and the information gained by the psychiatrist of course remains confidential to the Prison Medical Service. A third prisoner's explanation of her actions has been drawn to the attention of the Prison Medical Service for possible referral to a psychiatrist. Investigations have not revealed that the self-inflicted injuries were related to any issues of intimidation or threats from other prisoners.

Remand, fine default and sentenced prisoners are not separately accommodated in the Women's Prison in the Northfield Prison Complex and, given the pressures on that facility, this is not appropriate. The Government is progressively taking action to remedy the situation. $32 million extensions of the Port Augusta Prison were recently opened and this new modern facility now contains six beds for female prisoners in low security cottage accommodation and 12 beds for female prisoners in medium/high security accommodation. The low security accommodation is already fully occupied and the medium/high security accommodation is being progressively occupied as commissioning is completed. This should significantly ease the current overcrowding in the Women's Prison at the Northfield Prison Complex.

The Government is currently in the process of evaluating tenders for the construction of a new prison for Mount Gambier. This facility will provide appropriate accommodation for six female prisoners of the medium to low security rating when it is completed in April 1994. The number of women prisoners has been steadily increasing in line with the trend in male prisoners, although not at the same rate. I will continue to monitor this situation closely.

SPEED CAMERAS

The Hon. M.K. MAYES (Minister of Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.K. MAYES: As requested, the Commissioner of Police has provided me with a complete and comprehensive report on the operation of speed cameras in this State. As members would be well aware, I asked for this report following the issue and subsequent withdrawal of two infringement notices issued in respect of separate vehicles monitored on Diagonal Road, Somerton Park, on 16 September 1992.

In summary, the Commissioner of Police has advised me that the investigation of all aspects of the technology and review of operational procedures undertaken by his officers, in conjunction with AWA Defence Industries, the manufacturers of the equipment, the RAA, who represent the interests of the motoring public, and representatives from the National Association of Testing Authorities, who provided independent scrutiny of testing undertaken by AWA, has resulted in the following findings or procedural changes.

The issue of two infringement notices from speed camera deployment on 16 September 1992 was the result of a faulty microwave transceiver in one unit. This has been rectified and the manufacturer's certificate has been provided to enable it to be redeployed for speed detection purposes.

The Commissioner has also advised that an extensive audit of film assessment since this particular unit was used at Somerton Park shows 669 infringement notices have been issued. Furthermore, all film involved has been reassessed by prosecution services, and the final adjudication process has ensured that notices have been issued only where there is sufficient evidence. On this basis, in conjunction with the appeal procedures which are already in place to enable drivers to have any concerns investigated, he has not recommended the refund of any expiation fees. The adjudication section has been upgraded to fast track these inquiries to satisfy any public concern.

No other faults have been found in any other equipment. However, extensive testing of all vehicle speed radar units used in the speed camera program has been undertaken by AWA Defence Industries. They have been redeployed, and certificates of conformity to specifications have been provided.

In future speed camera operators will be located in a position so that they can monitor traffic flows and speed readings registered by the radar unit. This has enabled procedures to be put in place to ensure that the manufacturer of the speed camera equipment, AWA Defence Industries, is advised immediately of any abnormality to allow that organisation to undertake tests, perform any maintenance or repairs required and recertify the equipment. Furthermore, all radar equipment used in the speed camera program will be returned for maintenance and recalibration at least every six months, and that is a 100 per cent upgrade of these requirements under the Australian Standards.

In the prosecution area, the training program for all officers involved in the assessment and adjudication of film is to be upgraded to ensure a complete understanding of the set-up and operating procedures for speed camera equipment. This will ensure that all officers involved can identify any problems direct from the film in conjunction with the supporting documentation provided by kerbside operators, and appropriate action can be taken. It is clear from the extensive testing of equipment undertaken, the review of practices and procedures and the audit of infringement notices that the overall reliability of the technology is unquestioned when set up and used in line with the manufacturer's recommendations.

The upgrading of the practices and procedures advised by the Commissioner will provide additional safeguards which, I agree with the Commissioner, will engender public confidence and support for this part of the road safety program.

Finally, I believe it is only appropriate to thank the representatives from the RAA and the National Association of Testing Authorities for their valuable assistance in resolving this matter. In particular, I must express my thanks to AWA Defence Industries for the way it willingly opened its factory and test procedures to independent observation and scrutiny. This has in no small way added significantly to the assurances provided on the reliability of speed camera technology.

In conclusion, I would call on the motoring public to support with me the Police Commissioner and his officers in their endeavours to make our roads safer for all of us and our children. I have been provided with the Commissioner's full and very extensive report only within the last hour. Copies of that report are currently being prepared and will be available to members and other interested parties later today.

DUCK HUNTING

The Hon. M.K. MAYES (Minister of Environment and Land Management): I seek leave to make a further ministerial statement.

Mr Brindal interjecting:

The SPEAKER: The member for Hayward is out of order.

Leave granted.

The Hon. M.K. MAYES: The member for Murray-Mallee yesterday asked me a question in this House concerning the number of duck hunting licences which have been issued in return for a payment of a $20 fee and I undertook to seek further details and report back to the House. I can now inform the House that the $20 fee to which the honourable member refers is not in fact a licence fee but a fee paid by hunters undertaking the compulsory wildfowl identification test. Members of the House will recall my predecessor in this portfolio having announced that all persons hunting duck in the 1993 season would be required to have passed a water fowl identification test and, as a result of this initiative, members of the Wildlife Protection Branch have been busily conducting tests for the past several months.

The testing procedure employed is identical to that used in Victoria where 25 000 hunters have already undergone the duck identification course and passed the test. In South Australia the test is being administered under contract from the Department of Conservation and Environment in Victoria, and contract conditions require strict security and protocol over test materials and testing. Indeed, all tests are being marked by examiners of the Victoria Department of Conservation and Environment.

The $20 fee is being levied in order to cover the cost of conducting the test and issuing the required certificate. Indeed, the $20 does not quite cover the total cost of supplying test material, hiring public venues and paying wages for staff who administer and mark the test, and a grant of $43 000 has been allocated from the Wildlife Conservation Fund in order to cover the shortfall.

Of the 4 000 hunters who regularly shoot ducks in South Australia each year, 500 have passed the required test either in Victoria or at Victorian TAFE courses run in Mount Gambier. A further 750 hunters have indicated their intention to undertake the test by paying the $20 fee and nominating a test venue, and many have already undertaken the test. To this date tests have been carried out at Norwood, Underdale, Christies Beach, Elizabeth, Murray Bridge and Port Augusta as well as a number of country centres in the Riverland, the South-East and on the West Coast. Arrangements are currently in hand to

carry out tests at Port Lincoln, Yorke Peninsula and in the Far North.

As part of the testing procedure, provision has been made for hunters with disability to undertake the test under special conditions, and staff administering the tests have been instructed to make allowance for the needs of hunters who may be aged or hearing impaired. In addition, efforts have been made to overcome language difficulties for those for whom English is not a first language. I should also report that, although results have so far been encouraging, a number of hunters have not yet undertaken the test, and I would advise them to do so before Christmas in order to avoid a last minute rush in the lead up to the 1993 duck season.

Details of the 1993 season have not yet been gazetted, and it is not customary to gazette details until much nearer to the opening of the season. However, hunters should be aware that this year's proclamation of an open season will be accompanied by a notice requiring all hunters to have passed the duck identification test, and it would be unfortunate if hunters missed the opening of the season because they had forgotten to obtain the necessary qualification.

LEGISLATIVE REVIEW COMMITTEE

Mr McKEE: I bring up the minutes of evidence given before the Legislative Review Committee on regulations under the Optometrists Act 1920 relating to optometrists and optical dispensers and move:

That the minutes of evidence be received.

Motion carried.

SELECT COMMITTEE ON RURAL FINANCE

Mr FERGUSON (Henley Beach) brought up the report of the select committee, together with minutes of proceedings and evidence.

Report received.

SELECT COMMITTEE ON BUSHFIRE PROTECTION AND SUPPRESSION MEASURES

The Hon. T.H. HEMMINGS (Napier): I move:

That the time for bringing up the committee's report be extended until Wednesday 18 November.

Motion carried.

SELECT COMMITTEE ON JUVENILE JUSTICE

The Hon. T.R. GROOM (Minister of Primary Industries): I move:

That the time for bringing up the committee's report be extended until Wednesday 18 November.

Motion carried.

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

The Hon. D.J. HOPGOOD (Baudin): I move:

That the time for bringing up the committee's report be extended until Wednesday 18 November.

Motion carried.

SELECT COMMITTEE ON PRIMARY AND SECONDARY EDUCATION

The Hon. S.M. LENEHAN (Minister of Education, Employment and Training): I move:

That the time for bringing up the committee's report be extended until Wednesday 18 November.

Motion carried.

QUESTION TIME

The SPEAKER: Before calling for questions, I wish to advise that questions otherwise directed to the Minister of Labour Relations and Occupational Health and Safety will be taken by the Minister of Emergency Services.

STATE BANK

The Hon. DEAN BROWN (Leader of the Opposition): My question is directed to the Premier. Has the Government taken any preliminary steps towards the sale or privatisation of the State Bank? Does the Premier intend, before the next election, to change Government policy to allow any sale or other privatisation of the State Bank? Last year the Premier ruled out any sale or privatisation of the State Bank of South Australia.

However, the Federal Labor Government issued 243 million Commonwealth Bank shares to the public in August 1991. The One Nation statement earlier this year announced the freeing up of Australian banks to further the cause of foreign banks. One Nation specifically stated that the Federal Government would consider bids from foreign banks on a case by case basis for second tier domestic banks other than the big four Australian banks.

The Hon. LYNN ARNOLD: There has been no change in the Government's policy on this matter, and the Leader himself has identified what that policy is. Any question of even considering the sale of the State Bank would always have to be premised upon the net benefit of any move either to sell or to keep the bank with respect to the taxpayers of South Australia. The activities of the good bank or the core bank have been firmly re-established, and are looking very positive in terms of the trends: we see some very good prospects for that bank in the future. There is the very real prospect of a good income stream coming back to the State Government from that banking activity; hence it would be of benefit to the taxpayer. Any concept of selling would therefore have to provide a better net return to Consolidated Revenue—hence to the taxpayer—than that income stream.

The other question that needs to be taken into account is the suggestion that has been made to sell off good bits

of the bank but not to sell off bad bits. That would leave a liability for taxpayers in this State without, as I have said, the income stream to match that. So, Government policy on that matter has not changed.

HOME OWNERSHIP

Mr De LAINE (Price): My question is directed to the Minister of Housing, Urban Development and Local Government Relations. Will the Minister say whether he intends to seek the same deal from the Deputy Prime Minister for South Australian first home buyers as that being offered by the Federal Coalition? On the Keith Conlon program yesterday morning, Wednesday 28 October, the shadow Treasurer (Peter Reith) told radio listeners that under a Federal Coalition Government first home owners would be eligible for a grant of $2 000.

The Hon. G.J. CRAFTER: I thank the honourable member for his interesting, important and relevant question. Home ownership is a very important issue in the South Australian community. Seven out of 10 South Australians currently live in their own home. In their lifetime, nine out of 10 South Australians will be owners at some stage. This means that the health of the housing industry and the impact that Government policy has on it are matters at which people look very carefully indeed.

The Federal Opposition's policy on housing, as I understand it, is to provide $2 000 to first home buyers to assist them to buy their own home. However, there is some important fine print in this offer, which seems to be the way with so many of the policies that emanate from that source. It is not simply a generous grant to assist first home buyers to buy their first home. The grant is, in fact, in the form of compensation—compensation against the impact on house prices of the Coalition's proposed GST.

What is the impact of the GST on house prices? According to the Coalition's figures, the GST will add a net additional amount of $2 856 to the price of an average home. So, that is, in the best case, compensation of $2 000 for an increase in house prices of $2 856. If one takes the more realistic view, most industry analysts say that a net increase in house prices of 4 per cent is the more likely scenario following the introduction of the GST. On an average home, that would mean an increase of $4 800. Remember: that is $2 000 compensation for a price hike of $4 800 on an average house.

If you think that is alarming, one local industry commentator recently went public advising investors to buy property now in case the Coalition got the chance to introduce its GST. An article in the *Advertiser* of 23 October states:

> Established house prices could soar, resulting in big capital gains if the Federal Opposition's goods and services tax is introduced.

It went on to quote a Mr Paul Brenac, Managing Director of Property and Building Services, as saying:

> New housing was likely to increase by up to 15 per cent because of the GST. There is potential capital gain to be made by buying residential real estate before a GST is introduced.

For an investor, a 15 per cent rise in one investment is obviously a very good thing, but let us not forget what we are talking about here, and that is the price of housing. On an average house, a 15 per cent price rise would add $18 000 to the price of an average home. That is $18 000 more that a first home owner needs to borrow or save for. Or, if the first home buyer is in receipt of income of less than—

The Hon. JENNIFER CASHMORE: On a point of order, Mr Speaker, it seems that there is no doubt that the Minister is debating the question at considerable length, and I believe he should draw his remarks to a conclusion.

The SPEAKER: Order! It appeared to the Chair yesterday that the questions and explanations were extraordinarily long. The Chair could certainly cut down the time of the answers if the questions and explanations were made shorter, so I would ask the Minister to bring his response to a close, but I will also be watching the length of questions and explanations. I ask the Minister to draw his remarks to a close as quickly as possible.

The Hon. G.J. CRAFTER: If the combined income of a couple who are seeking to buy their first house is less than $40 000 per annum and they are therefore eligible for the Coalition's $2 000 compensation grant, they will need to find an extra $16 000, and that is the real impost of what is being offered to the Australian people.

Members interjecting:

The SPEAKER: Order!

TOURISM SOUTH AUSTRALIA

Mr INGERSON (Deputy Leader of the Opposition): Does the Minister of Tourism support the statements and attitude of Mr Roger Phillips, senior executive of Tourism SA, for which one of Australia's largest travel agency companies has demanded a full and unreserved apology; and what action will he take to repair Tourism SA's reputation outside South Australia? I have in my possession a copy of a letter sent to the Premier by Mr Paul Fleming, Managing Director of Harvey World Travel. Both Harvey World Travel and Australian Airlines paid about $500 000 for the national convention in Adelaide for 340 travel agents. As hosts of the State convention, Tourism SA was asked for sponsorship of between $5 000 and $20 000 to cover morning or afternoon teas or a meal for the delegates and to provide a session of up to an hour to 'sell' South Australia's tourism.

Tourism SA rejected the involvement and, in the event, the Queensland Government agreed and put on an extravaganza for an hour, extolling the tourist virtues of Queensland. Mr Fleming states in his letter that Mr Phillips subsequently implied to the media that Mr Fleming's request had been a rort and that he had asked for drinking money in return for allowing Tourism SA the right to make a presentation to the convention. The letter demands a full, unreserved apology and concludes:

> For one of your senior public servants to try and give the impression that these three full days of travel education were just a party to take the heat off his own shortcomings and denigrate our very professional image in this industry borders, we believe, on defamation.

The SPEAKER: Order! That is exactly the sort of long question and explanation I drew to the attention of the member for Coles.

The Hon. M.D. RANN: It seems that Mr Fleming is like the Leader of the Opposition in that he can dish it

out but cannot take it. On Sunday and Monday Mr Fleming was giving some prominence on radio and television (interestingly enough, those that run Harvey World Travel advertising but I am sure that was purely a coincidence) about the refusal of Tourism SA to sponsor a dinner or cocktail party at the conference held on 23 and 26 October. By the way, I was tipped off that the Deputy Leader would be asking me this question; it was supposed to have been asked on Tuesday, but he could not get himself organised.

Tourism SA responded by stating that it did not see value in buying conferences, but would be happy to provide a presentation to the conference on South Australia, new products in the market and details of our recently released interstate 'Out of the Ordinary' campaign and how Harvey World Travel agents could become involved in Tourism South Australia. So, Tourism South Australia wanted to be involved in something productive for South Australia but Mr Fleming stated that the only way TSA could address the conference was to buy the dinner or cocktail party, that other State tourist commissions had previously sponsored his conferences in their States and that he was doing us a favour by bringing the conference to South Australia.

By the way, this conference was aimed mainly at people who were interested in outbound tourists. Is the Deputy Leader of the Opposition telling us that, in the unlikely event that he was ever to become Minister of Tourism, anyone could come along and say, 'You fork out the money—taxpayers money—do not even put it in writing, just on a phone call, and we will put up the money'? If that is the case, he will have a big queue of people to his door. The cost of sponsorship was estimated between $5 000 and $20 000. Tourism South Australia correctly refused to sponsor these events, which were not regarded as serious opportunities.

An honourable member interjecting:

The Hon. M.D. RANN: That's for Queensland to answer. Let me just make this point: Mr Fleming did not bother to telephone me; he went to the media—too smart by half—and he has taken a few days to organise the Deputy Leader of the Opposition. If he thinks he has a case—and I do not know what Roger Phillips said on air—in terms of defamation, let him go for it.

LEAVE LOADING

Mr FERGUSON (Henley Beach): Has the Premier noted the correspondence tendered to him by the Premier of Victoria that all annual leave loading for Victorian Government workers, public servants and people under State awards will be removed, and will he apply the same philosophy to workers in South Australia? Yesterday, the new Kennett Victorian Government introduced a mini budget, which includes abolition of the 17.5 per cent annual leave loading to State award employees, and called on both Federal and State Governments to do likewise.

The Hon. LYNN ARNOLD: I thank the honourable member—

Mrs Kotz interjecting:

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

The Hon. LYNN ARNOLD: I would like to know what the view of the member for Newland is on this matter. I have received correspondence from the Premier of Victoria and he has asked for my support in this matter and he has asked that we take similar action to that which he has taken. He has also indicated that the Victorian Government does intend to apply to the Australian Industrial Relations Commission for the entitlement to be removed from Federal awards and seeks my cooperation in that area. I guess he will not be too surprised to hear that he will not get my cooperation. This Government does not intend to go along that path.

Members interjecting:

The Hon. LYNN ARNOLD: There is a much more important matter involved here. What Jeff Kennett has done was not something he told the electorate in Victoria before the election. He cannot claim he has a mandate for this because it was not part of his pre-election policy. Following the election he suddenly introduced this. That is very telling because, if we take the Leader's own comments this morning, he tried to get himself on some kind of high ground in relation to Jeff Kennett in Victoria. He tried to distance himself from Jeff Kennett. But when actually put to the crunch he ended up having to say:

> Keith, it is too far out from even an election, let alone getting down to those sorts of negotiations.

In other words, he quickly slid down from the high ground that he was placing himself on. He ended up having to say:

> No, no, I really don't want to talk about this now.

In the end, of course, Keith Conlon said:

> Well, you are wimping out, aren't you? You really are just refusing to come clean with what you really want to do on this matter?

In the end there was more equivocation and more of the flip flop attitude of the Leader of the Opposition.

Members interjecting:

The SPEAKER: Order! The Premier will resume his seat.

Mr BRINDAL: I rise on a point of order, Mr Speaker. I ask you to rule on the fact that I believe the Premier is debating the answer to the question.

The SPEAKER: I uphold the point of order and ask the Premier to stick to the question and be as precise as possible.

The Hon. LYNN ARNOLD: I will certainly be as precise as possible, Mr Speaker. I thank you for your ruling on that matter, and I look forward to hearing some clear views from all who would put their policies before the electorate in South Australia on this matter. The electorate is entitled to know that. I think that the comments made by the Leader this morning are not a clear explanation of where he stands on this matter. I have given my view on this matter and that is what I stand by.

ELECTRICITY TRUST

Mr SUCH (Fisher): My question is directed to the Minister of Public Infrastructure. Has ETSA discovered that it will be unable to locate its large mainframe computers at No. 1 Anzac Highway when its

headquarters are transferred to that building; if so, what additional cost will be incurred in locating its computers in alternative premises? The Economic and Finance Committee was advised that it would cost up to $11.4 million to fit out No. 1 Anzac Highway to meet ETSA's needs. I have now been informed that there will be additional costs because ETSA will have to find additional premises for its computers because of difficulties in locating them at No. 1 Anzac Highway.

The Hon. J.H.C. KLUNDER: It is now some weeks ago since I was briefed on this matter. At that time ETSA was looking at whether or not it was cheaper to locate its computer services elsewhere than No. 1 Anzac Highway. Since then I have not caught up with the situation. I have a meeting with ETSA officials later today, and I will check on that situation.

GOVERNMENT BORROWINGS

Mr OLSEN (Kavel): I direct my question to the Treasurer. Following the revelation by the Federal Treasurer that he had known that the former Victorian Labor Government had breached its Loan Council borrowing limits by $1 267.2 million by financing its deficit by 90-day temporary borrowings which were constantly rolled over, will the Treasurer advise the House whether, since the 1989 election, the Government has ever financed its mounting deficits and losses by using short-term borrowings which were outside its annual Loan Council limits?

The Hon. FRANK BLEVINS: I will obtain a full report on that matter for the member for Kavel. To the best of my memory, at the time that we—

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: —had to approach the Federal Government to exceed Loan Council limits for budget purposes, because of the State Bank problem, we applied for that extension, and I think all the other States agreed. I do not think it was an issue, but I will obtain a report for the member for Kavel.

ELECTRICITY TRUST

The Hon. T.H. HEMMINGS (Napier): Will the Minister of Public Infrastructure inform the House, particularly for the benefit of the Leader of the Opposition, about the extent of fundamental reform that has occurred within ETSA in the past few years? In an interview on the Keith Conlon show on Tuesday, while acknowledging that he would not do a 'Kennett' and sell off ETSA, the Leader said that there needed to be a fundamental reform of the whole of ETSA to increase productivity. He said, 'I know they have started that process but they have been very slow in doing so.'

The Hon. J.H.C. KLUNDER: It is an indication of just how far behind the Leader of the Opposition really is. I thank the honourable member for the opportunity to put the record straight and to contribute to the education of the Leader. The facts are that ETSA has been at the forefront of the public sector reform process in South Australia and is remaining there. I will quote a few of its achievements over the past five years. There was the introduction of strategic planning concepts into ETSA, under which all activities are guided by a rolling five-year corporate plan which summarises the organisation's major goals, programs and business outcomes.

There has been greater efficiency through a simplified organisational structure (six divisions instead of 12) and redesigning of the Customer Services and Supply Division into five more efficient regional business units instead of the previous 12. An independent survey of electricity customers, conducted in Sydney, Melbourne, Brisbane, Perth and Adelaide during 1991, showed ETSA as having the highest overall customer satisfaction rating.

Units of electricity sold per employee have increased by 61 per cent mainly due to a 27 per cent reduction in employee numbers from 5 965 to 4 350 as at 30 June. I indicate that employee numbers in ETSA are now down to the levels that they were in the early 1960s.

Following recent closures of old plant and the deferral of major new generating plant, generating capacity available to cover the demand for electricity in South Australia is now in line with the world's best practice. Since mid 1987, ETSA's average electricity prices have fallen 15 per cent in real terms and cross subsidies are being gradually modified to benefit industry and commerce.

I will not embarrass Opposition members by quoting what happened to electricity prices when they were last in office. The year's average tariff increase of .4 per cent was the second lowest in the country and, as members would know, for a certain number of groups there was a decrease rather than an increase even in nominal terms of the cost of electricity. Despite real reductions in tariffs, ETSA's financial performance continues to improve with an increasing rate of return on assets. Net indebtedness has reduced in real terms by 15 per cent with ETSA having the best financial structure in the Australian electricity supply industry.

Members interjecting:

The SPEAKER: Order!

The Hon. J.H.C. KLUNDER: Operating expenses were reduced by $10 million last financial year over the previous year—the first time in ETSA's 46 year history that operating expenses have reduced year on year.

The Hon. D.C. Wotton interjecting:

The SPEAKER: The member for Heysen is out of order.

The Hon. J.H.C. KLUNDER: This is only a snapshot rather than the full picture, but it certainly makes nonsense of the Leader's contention that progress has been very slow. Finally, the fact that ETSA has undergone such radical restructuring, including significant work force reductions, without any significant industrial disputes, is to the credit of ETSA employees, the unions and ETSA management. I can therefore assure the House that the only slow processes are associated with the Leader's understanding of the situation.

TRAINING 2000

Mr QUIRKE (Playford): My question is directed to the Minister of Education, Employment and Training.

Can the Minister provide details of the strategy being developed by the Vocational Educational and Training Plan for South Australia known as Training 2000?

The Hon. S.M. LENEHAN: I certainly can provide those details for the House. The program Training 2000 will be developed in partnership with industry to ensure that South Australia's training efforts match the needs of the long-term economic strategy while still addressing the urgent need to employ more of our young people. Some of the key elements of this plan, which is currently being developed, are: technology transfer training centres will be established; advanced manufacturing skill centres will be established; there will be an increase in export of TAFE education and training expertise and services, and flexible learning systems using advanced communications and technologies, such as TAFE Channel, of course, will be introduced.

Training 2000 was announced by the Premier on 24 June 1992 as part of the Government's response to the interim findings of the Arthur D. Little report on new directions for the South Australian economy, and I will be outlining these proposals to industry later this year. I would like to take this opportunity to acknowledge the work of my predecessor in this area, who actually put a lot of this in place. It is with great pleasure that I am going to pick up this initiative and make sure we implement it as soon as possible.

QUEEN ELIZABETH HOSPITAL

Dr ARMITAGE (Adelaide): My question is directed to the Minister of Health, Family and Community Services. Why is the Queen Elizabeth Hospital unable to provide for the closure of a colostomy for a patient despite previous advice that it was necessary in September? A man, aged 34, had a bowel operation at the Queen Elizabeth Hospital in June. At that time he was told that he would be able to return to the Queen Elizabeth Hospital in September to have his colostomy closed. The man is employed as a diesel mechanic and has been unable to work since his operation because his job requires him repeatedly to climb in and out of machinery and this could damage the medical appliance he must wear. I have a Health Commission letter which states:

> It appears unlikely that further treatment will be available to him in the near future.

I also have a letter signed by a senior visiting surgeon explaining why this man must wait for treatment. The letter states:

> Regrettably on some weeks we are only able to admit urgent cancer operations from our waiting list and of necessity this waiting list is becoming longer and one would say almost unmanageable.

The letter also advises:

> We can only say that we are doing our best under circumstances more difficult than I have encountered during my 25 years as a senior visiting surgeon at the Queen Elizabeth Hospital.

The surgeon makes the additional point that he has never seen a Health Commission official at the hospital to inspect the problems first hand.

The Hon. M.J. EVANS: The member for Adelaide again raises individual cases in relation to waiting lists. I am quite prepared to take those individual cases on board and have them examined by the Health Commission. Whether he wishes to do that directly with me as Minister of Health, or whether he wishes to bring them up through the processes of the House—obviously, on days when the House is not sitting, I hope he will contact me directly so there is no further delay in relation to any of these individual matters—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. EVANS: Indeed, and, if the member for Adelaide wishes the individual cases examined in this way, I am prepared to assist him and cooperate in that matter, because the care of patients is something which I believe we both place as the first priority in this business, and I am sure that all members of the House would agree with that. The management of individual waiting lists in individual hospitals is something that is primarily the responsibility of those hospitals. That matter is clearly on the record of this House. Whether that dates back to the time the honourable member's Party was last in government, or whether it relates to this Government, that is the case. That is what applies to our hospitals. However, individual cases must be examined, and I am more than prepared to do that. I certainly give the member for Adelaide the undertaking that, if he wishes to make that data available to me, I will have it examined.

ENDANGERED SPECIES

Mr HAMILTON (Albert Park): My question is directed to the Minister of Environment and Land Management. Has the South Australian Government any plans to enact endangered species legislation similar to legislation under consideration by other States? The recent passing of endangered species legislation in the Federal Parliament has brought about a number of inquiries at my electorate office by people seeking information as to whether the State Government intends to introduce similar legislation. My constituents have pointed to the article that appeared in yesterday's *Advertiser* headed 'Species Bill go-ahead.' I believe that that article has prompted the questions.

The Hon. M.K. MAYES: Certainly, this is an important matter in the current environment. The Federal Cabinet, according to information available to me, resolved last Tuesday that the draft Bill would be presented to the Parliament. So, it is very relevant. From the State's point of view, many provisions are available already. Victoria and New South Wales already have a specific legislative program for the protection of endangered species. So, already those States have something on the books to provide protection for endangered species.

I have set up a working party which will look at the implications for South Australia, and we propose to provide that as a green paper to the community so that it can be available for public comment throughout the community. I hope we do move in a complementary way with the Federal Government to see the establishment of endangered species legislation here, either as part of that or as a singular Act in its own right. I look forward to those discussions which I am sure will be very useful

within the community and which will identify many of the areas of need, not only outside the House but also, I expect, within this Chamber during the debate when the matter comes before the House.

STATE BANK

Mr S.J. BAKER (Mitcham): Does the Treasurer still claim that yesterday's Queensland property auctions by the State Bank were not a fire sale, and how does he justify his approval for these auctions while the property market is so depressed? At the State Bank auctions yesterday, one property on the Gold Coast sold for less than one-third of its previous value, and three other properties were not sold. A letter dated 24 August 1992 from the State Bank's auditor states that, under the latest indemnity amendment deed, the GAMD or bad bank is:

> . . . subject to the complete and unfettered direction and control of the Treasurer . . . the bank is not allowed to deal in any GAMD asset without obtaining the prior written consent of the Treasurer . . . the bank irrevocably appoints the Treasurer as its attorney for the purposes in dealing with respect to a GAMD asset.

The deed establishes the Treasurer's responsibility for approving the Queensland property auctions at a time when the market is severely depressed.

The Hon. FRANK BLEVINS: We appear to be revisiting these questions. I point out in passing—

Mr S.J. Baker interjecting:

The SPEAKER: Order!

Mr S.J. Baker interjecting:

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

The Hon. FRANK BLEVINS: —by way of an opening comment, that this is about the third time this question has been raised. However, I will go through it—

Members interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: —and, with deference to your comments at the start of Question Time, I will be as brief as possible.

Members interjecting:

The SPEAKER: The Chair would appreciate being able to hear the answer. The Treasurer.

Mr Becker interjecting:

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

The Hon. FRANK BLEVINS: The policy of the Group Asset Management Division and the Government has been stated in this House a number of times, but I will go through it again. All these impaired assets—

The Hon. Dean Brown interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: —as they are somewhat whimsically called, I feel, are managed in a way that is standard in the industry. The number of impaired assets throughout this country is very large. They do not reside exclusively with the State Bank, although that bank seems to have more than its fair share. I think Westpac has problems on a similar scale, and the ANZ Bank has somewhat fewer problems, although nonetheless significant, and most financial institutions are disposing of impaired assets in exactly the same way as the State Bank is doing, because it is a very well understood and ordinary procedure.

Every asset is assessed individually as to the holding costs and as to the market, and a number of other matters are considered. A decision is then taken as to whether that asset should be put on the market to see whether there are any buyers, even those negotiated privately, and a calculation of the holding cost is made, and so on. It is a very simple, ordinary procedure—nothing new, nothing novel—and I always feel rather sad. Nevertheless, that is the way it is done. I have offered to members of Parliament a briefing from the board of GAMD, but I am not sure whether anyone has taken it up.

Mr D.S. Baker interjecting:

The Hon. FRANK BLEVINS: I will ignore the interjection, but I again make the offer as I have to the press. Some members of the press have taken up the offer—they are more interested in doing their homework than members opposite. If the member for Mitcham wants a full briefing on the procedures that were entered into all he has to do is let me know and I will arrange it, and he will not have to waste time during Question Time constantly asking the same questions.

Members interjecting:

The SPEAKER: Order!

LEAVE LOADING

The Hon. D.J. HOPGOOD (Baudin): My question is directed to the Minister of Education, Employment and Training. How much money is committed in the Minister's budget to leave loading and what does this represent in terms of the average take home pay of teachers?

The Hon. S.M. LENEHAN: The amount of money currently allocated to leave loading within the Education Department is $6 million. That translates to a maximum of $21.27 per day for up to 20 days. A teacher on step 11 would receive the maximum of $425.40 per annum. It is interesting to note that the proposals announced by the Kennett Government in Victoria, if adopted by a future Liberal Government in South Australia, would have the effect of reducing not only every teacher's pay packet by approximately that amount but also the pay packet of every public servant in this State. That includes right across—

Members interjecting:

The Hon. S.M. LENEHAN: As I am reminded, it has an enormous impact upon the tourism industry right across the country. It is relevant to this question to note that in the *Australian* as recently as yesterday it is stated that Victoria's State school system has been singled out for significant spending cuts. I was delighted to hear the Leader of the Opposition say this morning that the Opposition had absolutely no intention of touching leave loading. However, I was a little concerned to hear him say, in answer to Keith Conlon's question about what he would do to meet the reductions he announced on the Keith Conlon program, that it would be through enterprise bargaining. Then, when pressed, 'What if you can't get agreement?' he said, 'We would revert to the present awards and agreements.' I am concerned about what has happened in Victoria, and I quote from the President of the Victorian Secondary Teachers

Association, Mr Brian Henderson, who said as recently as yesterday—

Mr OSWALD: On a point of order, Mr Speaker, the question bore no resemblance whatever to what happens in Victoria. It simply asked how much money is set aside in the State budget. The Minister is debating the matter, and—

The SPEAKER: Order! I ask the member for Morphett to direct his remarks to the Chair.

Mr OSWALD: I take a point of order on the question of relevance, on the basis that the Minister is debating the subject and has steered right away from the text of the question.

Members interjecting:

The SPEAKER: Order! I would ask the Minister to draw her reply to a close and to ensure that her remarks are relevant to the question.

The Hon. S.M. LENEHAN: In Victoria they have torn up industrial agreements on conditions and staffing. The education sector in this State must be very wary about any commitments made by the Leader of the Opposition, because quite clearly he has every intention of tearing up those same agreements.

STATE BANK

Mr D.S. BAKER (Victoria): My question is directed to the Treasurer, and it is a relatively simple one for him. Is the Treasurer satisfied that it is appropriate for the core or so-called 'good' State Bank to have 63 per cent of its loan exposures interstate or overseas?

The Hon. FRANK BLEVINS: I will get a report from the State Bank on that—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I have called for order twice, and this is the third time. The Treasurer.

The Hon. FRANK BLEVINS: —first, to check the assertion made by the member for Victoria. I will then have an analysis done on the facts, rather than on the assertion, and I will contact the honourable member when we have established the facts.

TAFE—SCHOOLS LINK

Mr De LAINE (Price): My question is directed to the Minister of Education, Employment and Training. Are her departments working on measures to strengthen links between secondary schools and TAFE colleges to recognise the achievements of students as they progress through their study and training?

The Hon. S.M. LENEHAN: Yes; this is something that was started some time ago but, certainly, the links between schools and TAFE colleges have now assumed even greater importance, particularly with the release of the Carmichael report into the revamping of the vocational training system and the work of the Mayer committee on the development of general competencies for effective participation in work and other social settings. The engineering pathways program is one example currently being developed and delivered in a network of designated schools. This program provides students with both a pathway through the South Australian Certificate of Education and an opportunity to maximise recognition of their prior learning at any future TAFE, industry training or study course.

It is important to note that the grouping of education, employment and training within one portfolio will certainly help to ensure that the development of these programs in a continuum from secondary schools through to TAFE colleges and indeed on to the university sector can happen much more easily. I think it is important to recognise the link it then has to employment in South Australia.

SPEED CAMERAS

Mr BRINDAL (Hayward): Was the Minister of Emergency Services in his statement today asserting to the Opposition and the South Australian public that this Opposition has uncovered the only two cases of malfunction of the speed camera which has publicly been admitted to have had a fault? What assurances is he able to give that there was no fault in the camera before 16 September, and does the Commissioner's report contain any recommendation against the refund of expiation fees? In his statement today the Minister says 669 infringement notices have been issued. He goes on to say that the film has been assessed and the result of that assessment is that notices have been issued only where there is sufficient evidence. He then goes on to say that combined with the basis of the appeal procedures the concerns have been investigated and the Commissioner has not recommended the refund of any expiation fees. However, in his publicly reported statements the Police Commissioner has consistently put to the press that the return of expiation fees was in fact a political decision.

The Hon. M.K. MAYES: The honourable member has in fact answered the question himself from the ministerial statement. Quite clearly—

Mr Brindal interjecting:

The SPEAKER: Order! The member for Hayward is out of order. He had time to ask the question and explain it. He is out of order.

The Hon. M.K. MAYES: He gets it wrong. I just remind the honourable member about inaccuracies with the State Administration Centre and the Housing Trust and about who gets its wrong. It is made quite clear in the statement that the Commissioner does not recommend the refund of any expiation fees. The Commissioner has recommended that to me; that is clearly in the statement and I have nothing further to add. He has made it quite clear, and it is there. I have offered copies of the report to members, and they will be available. The honourable member can peruse that report at his own leisure. It is quite an extensive report and I invite him to do so.

STAMP DUTIES

Mr QUIRKE (Playford): I direct my question to the Treasurer. Has the current stamp duty crackdown exposed

non-compliance within the residential housing arena? It has been put to me by a constituent that delays have occurred in settlements on residential real estate whilst not one instance of non-compliance to stamp duty has as yet been uncovered.

The Hon. FRANK BLEVINS: I want to repeat something I said in the House a couple of weeks ago. That is, 80 per cent of all business of this nature that comes before the Commissioner of Stamps is dealt with within 48 hours. Again, I want to restate to the House that the Commissioner has advised me that up to $50 000 a week has been avoided by people who have a liability for stamp duty and who have, for whatever reason—and as I am a charitable person I will give them the benefit of the doubt—not been paying their stamp duty.

The Commissioner has also advised me that a significant part of this avoidance has been found to be in the domestic mortgage area. As I have said already, I find that quite alarming. I expect to get a fuller report on this from the Commissioner of Stamps, because overwhelmingly people do not process their own documents when they are organising a mortgage or buying or selling a house—overwhelmingly those documents are processed by professionals.

I have asked the Commissioner of Stamps to flesh out his answer to me a bit more, without in any way breaching his statutory obligations as regards confidentiality. But I can assure the member for Playford that the crackdown, as it has been described, has been very effective financially. I think everyone in the House, irrespective of which side they are on, would not condone this type of avoidance for one moment from anyone, whether they be professionals, individuals or even organisations like the Liberal Club, which we all remember was involved in stamp duty evasion during the period of the last Liberal Government.

The Leader of the Opposition can frown at me, but he was in the Government at the time, as were the members for Coles, Kavel, Mount Gambier and Heysen. If we are talking about stamp duty avoidance, let us not forget the Liberal club, let us not forget the 27 transactions, and let us not forget the $7 000 that was stolen from the taxpayer. Let the members who sit opposite and complain about delays, because we are taking extra care in processing these matters, not forget that they, the Liberal club, were part of the problem.

STATE BANK

The Hon. JENNIFER CASHMORE (Coles): My question is directed to the Treasurer. What is the State Bank's exposure to the Raptis Group of companies, property developers in Queensland, and what is the likely loss to the State Bank in light of the scheme of arrangement agreed last week? Yesterday's *Financial Review* reported that the Raptis Group's bankers, Westpac and Beneficial Finance, had limited recourse to securities held over the Raptis Group.

The Hon. FRANK BLEVINS: I have not read the *Financial Review* today because I have been very busy, but I give an undertaking to read it. If there is anything in the question that ought to be declared publicly, I will give that information to the member for Coles. What I do not intend to do in this House (and I hope that the member for Coles is not asking me to do it) is to divulge the business of individual clients of the State Bank and their financial affairs.

The Hon. Jennifer Cashmore interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: From the reaction by the member for Coles, I assume she is not asking that, and I am pleased about it. Whatever information ought quite properly to be made public I will get and give to the member for Coles.

CROQUET CHALLENGE

Mrs HUTCHISON (Stuart): Can the Minister of Recreation and Sport provide the House with information on the Trans-Tasman Women's Croquet Challenge which I believe was recently staged in Adelaide?

The Hon. G.J. CRAFTER: I thank the honourable member for raising this question. South Australia is pleased to host national and international events of this type, particularly the international sport of croquet. This event was staged last week in Adelaide as part of an international series, and I am sure it will not be the last time that we host such an event in this State. The next international croquet tournament to be played in Australia will be the World Teams Championship, the MacRobertson Shield, which will be played at the Rich River Golf Club in Echuca. The teams taking part will represent Australia, New Zealand, the United States, Great Britain and Ireland. The MacRobertson Shield was presented by Sir MacPherson Robertson, of chocolate family fame, for international competition in the early 1920s, and there have been regular team competitions every three or four years since that time. It is the principal teams' croquet competition in the world and it will not return to Australia during the remainder of this century.

The first test, which was played in Hobart in 1988, was won by Australia. The second, which was contested in New Zealand, was won by the New Zealand team. The third test has resulted in victory to the Australian team. I understand that no other countries play women's croquet team events. The other major croquet nations are Great Britain, Ireland, and the United States which have an annual open test series but nothing specifically for women. So it is not presumptuous to presume that the two teams competing here in Adelaide contain the best women players of croquet in the world. May I take this opportunity to congratulate all those who comprise that team on their outstanding success.

STAMP DUTIES

Mr VENNING (Custance): My question is directed to the Minister representing the Minister of Transport Development. Will she consider waiving the exorbitant stamp duty on farm machinery which acts as yet another impediment to farm viability? Stamp duty must be paid on farm machinery before it is registered. For an average grain harvester, used only a few weeks in a year, the cost is approximately $3 000 plus registration fees, compared

with a once only fee in Victoria of $15 for registration, $22 for plates and an annual fee of $48 for insurance. The National Road Transport Commission has recommended registration without stamp duty.

The Hon. M.D. RANN: I am very happy to obtain a response from the Minister of Transport Development. I must say I was in some trepidation when the honourable member stood up, as he is the only member on that side of the House whom I fear. We know him as 'Scud' and I will get a report for him.

COMET SWIFT-TUTTLE

The Hon. D.J. HOPGOOD (Baudin): My question is directed to the Minister of Primary Industries. What steps has the Minister taken to assure primary producers and their great, great grandchildren that they have little or nothing to fear from their properties being damaged by a direct hit by Comet Swift-Tuttle in the year 2126?

The Hon. T.R. GROOM: If I am Minister of Primary Industries in the year 2126, I would have had a record of 134 years in the portfolio.

The Hon. D.J. Hopgood: I hope you are.

The Hon. T.R. GROOM: I am looking forward to being here in the year 2126 when this great event is to occur. When I first read this in the newspaper it caused me great concern. My immediate assessment was that it is rather difficult to change planets, and a direct hit of this nature would cause vast devastation not only in rural South Australia but all over the world as our planet was knocked out of alignment. There is another level on this. These sorts of stories do cause great concern. It gained widespread publicity and, needless to say, people get concerned about it. I can recall the former Premier standing on the Glenelg foreshore to hold back the earthquake waves that were to destroy Glenelg.

Members interjecting:

The Hon. T.R. GROOM: It caused great alarm and he did it.

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. GROOM: I hope that, if this risk persists to the year 2126, I will be able to do likewise. If not, I can assure the honourable member that rural assistance will continue to be available through the Rural Finance and Development Division, if that is not knocked out by the comet. I am also pleased to receive the *Advertiser*, and reading it this morning I noted that another article on the comet did not receive the same prominence as the original story: the probability of that occurring is so remote as not to be something that ought to concern South Australians.

LAW AND ORDER

Mr MATTHEW (Bright): My question is directed to the Minister of Emergency Services. Does the Minister agree with the Local Government Association that, as a result of community concerns about crime, increased law enforcement and surveillance is warranted; and has he met with the LGA to discuss a council suggestion to consider the appointment of special constables? The Local Government Association circular 14.03 entitled 'Assistance by Local Government to Police' was sent to all councils for comment on a proposal that they take a more active role, possibly through the appointment of special constables, to assist the police in the policing of minor traffic and larceny offences.

The Hon. M.K. MAYES: I have not yet had an opportunity to discuss with the Local Government Association any of its issues, whether on this or other matters relating to emergency services. I intend to do that. On the Saturday that I visited the flood areas at Two Wells, I met with the President elect and we each indicated that we would look forward to meeting. I think he will be elected as President of the LGA tomorrow. We are looking for a time convenient to both of us to get together. I look forward to discussing the issues that he has on his agenda and that I have on mine, because there are many issues to discuss. I will certainly include this as one of those agenda items.

COMMERCIAL ROAD

Mr De LAINE (Price): I direct my question to the Minister of Business and Regional Development, representing the Minister of Transport Development in another place. Can he inform the House of the condition and expected life of the Commercial Road railway bridge on the Adelaide to Outer Harbour line at Port Adelaide? At a recent public transport meeting at Port Adelaide, a question was raised about the condition and life of this old bridge.

The Hon. M.D. RANN: I understand that the honourable member is referring to a bridge over Lipsom Street, a bridge over Commercial Road and viaducts. I understand that the Department of Road Transport has prepared a condition report on the bridges following an inspection. I further understand that the bridges have been found to be in a fair condition and that some repair work will be undertaken over the next six months to prevent further deterioration. Subsequent work will be carried out over the next two to three years which give the bridges a life expectancy of 20 years or so. However, I will be happy to obtain a more detailed report from the Minister of Transport Development.

MOUNT LOFTY RANGES

Mr OSWALD (Morphett): I direct my question to the Minister of Housing, Urban Development and Local Government Relations. Will the Government now admit that it made a mistake with its Mount Lofty Ranges SDP No. 1, which has been described by local councils, local landowners, conservationists and professional planners as being flawed and unworkable, and will the Government immediately withdraw it?

The Hon. G.J. CRAFTER: In the short time that I have had this ministry, I would have thought that the information that has come to me is quite contrary to that which might have been coming to the honourable member. This is the first stage of an ongoing planning process. It is a very complicated issue. It affects the health, well-being and personal safety of the whole of the

city of Adelaide. It is not a laughing matter. It is not something that can be treated as frivolous, and we certainly cannot return to where we were. We have to do something about this particular interest.

I understand that structures are in process whereby the law with respect to building and development in this part of Adelaide will be refined and developed as we go along, but we have had to put in place certain planning measures so that these very important issues could be preserved and protected for the wellbeing and viability of this city in which we live. The honourable member is simply reflecting the vested interests of a group of people in our community who want to carry on development in this area for personal profit. Some people might have had their expectations diminished in some way. That matter has been given consideration in the planning process, but simply to return to a situation where there would be wholesale and irrational development across the Adelaide Hills is something that cannot be contemplated by any responsible Government. It is a complex issue. The Government is attending to it. It has taken a very bold initiative in this area, and it intends to proceed with that.

GRAIN HARVEST

Mr LEWIS (Murray-Mallee): Will the Minister of Primary Industries take urgent action to overcome a situation which is threatening the delivery of the grain harvest in my electorate and other places in rural South Australia? A constituent of mine has been told that the examiner for truck licences will not be available at Lameroo until next January, yet those people who need a truck licence for the transport of their harvest have written to me or have telephoned my office stating they will have to wait until January or otherwise travel at considerable expense to Murray Bridge, in which case the reputation of the examining officer indicates that, invariably, they will be failed on the first attempt.

The Hon. T.R. GROOM: I thank the honourable member for his question, because matters such as this cause great concern at local and individual level. If the honourable member apprises me of the all the facts, I will have them investigated and do what I can to redress the situation.

GRIEVANCE DEBATE

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

Mr HAMILTON (Albert Park): An article in today's *Advertiser*, headed 'SA tops heart disease charts', gives a very sobering account of the number of deaths in South Australia resulting from heart disease. Sir, you would know as well as I, that people in the western suburbs of Adelaide have the highest rate of heart disease in this State. That is so for many reasons, many of which are related to lifestyle. The fact that heart disease kills more people in South Australia than in any other State must be cause for concern to all members of Parliament as regards not only their constituents but also themselves. I am not being unkind when I say that some of us do not exercise enough or worry about our lifestyle and our weight—and I am not looking at you, Sir, when I say that. However, the fact that many of us could reduce the risk of heart disease by exercising, quitting smoking and having regular medical check-ups is most important.

If a doctor were to come into the Parliament and voluntarily check the condition of every person—I am not suggesting mentally—I think that would be rather sobering. I do not say that with any levity but with a great deal of seriousness because I believe that members of Parliament would then appreciate how vulnerable they are through the lifestyle they lead. Mr Speaker, I ask you to consider inviting a heart specialist to come into this Parliament so that members can voluntarily subject themselves to a check. I believe that not only would it be enlightening for all members of Parliament but also it would heighten the awareness in South Australia of at least a quarter of those people who could die of heart disease.

Mr Venning interjecting:

Mr HAMILTON: I ask the member for Custance, who has walked with me and knows how serious I am about this matter, not to treat it lightly, because I do not believe it should be treated in that way. Sir, I ask you to look at this matter and, through your good office, to invite a heart specialist to come into the Parliament so that members can voluntarily submit themselves to a check. If the media were to cooperate, I think we would find that many more members would be down in the bowels of this building using the exercise equipment that has been provided to members of both Chambers by the Parliament and the taxpayers.

The impact upon families when people die from heart disease is very traumatic. It brings to mind a Labor Day function many years ago when a person, after running the old buffers' race, collapsed and died when he crossed the line. The trauma that that caused to his family has never been erased from my mind. So, I ask for your support, Mr Speaker, and that of the media in pursuing this matter with a view to members of Parliament voluntarily subjecting themselves to an examination in this place to check their fitness and heart condition.

Dr ARMITAGE (Adelaide): I do not intend to detain the House for long. However, I wish to correct a number of half truths and misleading statements that have been made in relation to the well-known issue of Barton Terrace. It is distressing to see that the member for Spence is not here. In a loosely termed update on the Barton Road closure, the member for Spence indicated—

The Hon. T.H. Hemmings interjecting:

Dr ARMITAGE: I understand that the member for Spence is in his sick bed. I extend my very best wishes to him. I am certain that he will be the first person to get a copy of *Hansard* and, as is his wont, he will undoubtedly make further comments on the issue. However, I think it is important that Parliament be given the facts. The member for Spence said in his update on the Barton Road closure:

> Liberal Party spokesman, Dr Michael Armitage, believes we [the residents of his electorate] ought to make do with access via Jeffcott Road, and he is on record in *Hansard* as saying this.

That is incorrect. When I was talking about a member of my constituency who campaigns for the member for Spence, I said that that man, who lives in Beviss Street, North Adelaide, has no exit to the west, not entrance.

The member for Spence asked me to name one, and I named an exit to the west from North Adelaide to the electorate of Spence, being Jeffcott Road. At no stage did I suggest that access should be made via Jeffcott Road. Secondly, the member for Spence has made a number of claims that I have a conflict of interest in this matter. When the Adelaide City Council made its decision upon which the vote was 12-1, a number of people had applied for an easement over Mildred Road. Part of the minutes of the meeting of the city council state:

> The applicants assert that they have been regular users of the public streets proposed to be closed, that this practice has been well established over the period during which they have lived at their current address and that therefore they are persons affected by the proposed closure.

The very first name on the applications for easement is Mr Michael Atkinson, of Henry Street, Croydon. I would ask the member for Spence: given that he has clearly had a well established use of this road and that he would be affected by the proposed closure, at what stage did he declare that to the Parliament? The answer is, 'Not at all.' The member for Spence further went on to ask that I disclose to the House whether I wrote a number of letters on parliamentary letterhead to the Adelaide City Council and whether I signed myself as a member of Parliament. I am delighted to report to the House that the first letter I wrote was on 13 August 1992, that it was addressed to post office box 520 North Adelaide, for which I pay, that there was no parliamentary letterhead and that it was signed 'Michael Armitage', not 'member for Adelaide'.

The second occasion on which I wrote to the Adelaide City Council was on 25 September 1992, and I gave as my address 70 Molesworth Street, North Adelaide, which is my home address. Therefore, I submit to the Parliament that I was quite clearly identifying where I lived, that once again it was not on parliamentary letterhead and, further, that it was signed 'Michael Armitage', not 'member for Adelaide'. I would like to quote very briefly from that letter (and I remind the House that it was a letter to the Adelaide City Council), as follows:

> One has only to think of the blockage of Gilbert Street, which is the continuation of Churchill Road, to see in practice Hindmarsh Council's view of the value of utilising road closures to enhance the amenity for local residents . . . The residents of North Adelaide ask nothing more of the Adelaide City Council . . . than the residents of Hindmarsh Council have received from their own local government organisation.

Lastly, the one person who voted in favour of Mildred Road opening was Councillor Jim Crawford. I wrote to him, and in the final sentence of his letter he stated:

> . . . I respect your right to support the closure on behalf of your constituents.

The sooner this matter is put to bed the better. As I indicated to the House previously, it is nothing more or less than a desperate re-election ploy by the member for Spence, and the sooner he stops perpetrating half truths and actually tells the House what is going on, the better.

Mr QUIRKE (Playford): I wish to respond to a few of those remarks before I get into the main substance of this afternoon's debate, and I think it is unfortunate that the member for Adelaide chose to make those remarks, and particularly the last remark. Had it not come from a man who I thought had a great deal of integrity, such as the member for Adelaide, there would have been a point of order on that. The allegation that the member for Spence tells half truths is offensive, and I am sure he will have some comments to make about the squire on top of the hill and his brood when he returns here some time in the future. I am disappointed that those comments were made, and particularly at a time when the member for Spence, who so ably defends himself in this place, was not present.

The other day I was making some comments on behalf of certain people who found themselves caught in a negative gearing investment problem in my electorate, even though they were and still are constituents of the Premier. I was quoting into the record at that time some points that were made in a handout of material to the person concerned when he attended a seminar on negative gearing organised by The Professionals. Amongst the information that was supplied to people there that night, some 18 months or so ago, was a document, entitled 'Most common questions', some of which questions I quote, as follows:

> Question 1. If it's so good why isn't everyone doing it?

That is about negative gearing. The answer was:

> Most people are taught from childhood to put their money in a bank and leave it there. Due to lack of training and education in economics and business management and decision making, most people are unable to break away from their stereotyped beliefs.
>
> Question 6. What can go wrong?

That is a key question, and the answer is:

> Very little—you would have to do something deliberate to make things go wrong.
>
> Question 7. What financial risk is there?
>
> Answer: If the bank thought it was risky they would not lend you money.

I would like to dwell on those last two questions, because indeed this person now does have a problem. His future income is not as secure as it once was. The mounting interest payments that he has to meet, even with his current level of income, belies the central problem with many negative gearing propositions: one has to lose $1 to get back 50c. That works out fine in a high or modestly high inflation market in real estate where indeed what one is losing on the one hand one is gaining through capital appreciation on the other. Indeed, in terms of real estate over the long term, that may still be the case, and it may well be that within the next five to seven years the real estate market to which we have become accustomed in this State and in this country since 1971 or 1972 will indeed re-emerge. However, in the past 18 months the proposition of negative gearing has seen little if any capital appreciation.

The problem is this: the people concerned have an insecure income base at this point; they have the likelihood of losing the investment property; they have the likelihood of losing their home; and they feel the information that was put out by the land agent who organised this seminar some 18 months ago was indeed seriously deficient. I simply want to make the comment to the House that I hope there are many people in the community who look very closely at these propositions in the future because, in reality, a lot of them turn out to be

a lot more sour than people are led to believe they will be.

The Hon. D.C. WOTTON (Heysen): I want to use this short period to refer to a matter that is being brought to my attention by a number of people, and particularly by the aged. It is an issue that is of particular concern to pensioners and part-pensioners, but is of even more concern to early retirees and superannuants. This comes about mainly because of the recent decrease in interest rates. I am referring to the fear that there is in the community on the part of the elderly in having to realise on their equity. This is of major concern to a number of people throughout South Australia.

This afternoon I will refer to a letter that I have received from a lady in a country town, who I think very clearly spells out her concerns, and I am sure she would be speaking on behalf of many others. She writes to me in my capacity as the shadow Minister for the Aged. This lady states that she will be 70 in January and that she has a real problem. She states:

I have been keeping myself on investments and have never had a benefit of any description from social services, etc. With the falling interest rates it is developing into a real problem.

The lady notes that extra benefits will come from the new seniors card, but she goes on to say that she already has that and has never used it. She says that she is in her local town because she has a heart condition—having had two massive heart attacks some two years ago. After that she was told that the only way she could get rid of extra money was to go on holidays but, because of the heart attacks, that is no longer possible. She points out that she is not really interested in doing that. Discounts do not even interest her. She states:

I've never used the card I have got; we've got no train service anyway.

She asks for some real help with chemist fees, council rates and so on. She states:

It seems I have been prudent but not wise in the handling of affairs. I was told that if I changed my 12-year-old car it would become an asset. This is a funny country. There is no incentive to save but millions are squandered and handed out as it is in this town and countless others.

She says that she feels she is a second-class citizen and could quote instances that indicate many others feel the same way. She says:

My only act of not relishing what is happening to me is to register for voting and not lodge a valid vote. You would think that sounds childish, but I do feel as if I am not worth worrying about.

She goes on to say that her late husband would not like her to be talking that way, but it looks as if she has to go on until her assets have diminished. She states that she has a pensioner friend who has five blocks of land—an old house on one—and runs a ute and a car. She explains that it is no wonder her friends laugh at her because she is not in that position. She states:

My trouble is I'm too truthful and not conning.

She asks that, with the responsibility that I have in my shadow portfolio area, I do something constructive. Whilst she realises it is basically a Federal matter, it is one that requires urgent attention.

The Hon. J.P. TRAINER (Walsh): I would like to place on record a few further remarks regarding what I consider the distasteful and demeaning trade of women being employed as topless waitresses, by reading into the record a statement that I provided to the *Sunday Mail* last weekend, but which did not appear.

An honourable member interjecting:

The Hon. J.P. TRAINER: The honourable member opposite reminds me of the peace of the Lord: He passeth all understanding. The statement is as follows:

I was originally provoked into comment by the threat made against the Parliament by a topless restaurant proprietor. After considering that threat, I now strongly believe that inducing waitresses (or waiters) to partially undress in order to serve food or drink is distasteful and decadent, and is demeaning to most of the men and women working to professional standards in the hospitality industry.

The practice is probably also rather unhygienic. A McDonald's takeaway requires its chefs to wear hairnets near the hamburgers, so it must be a bit dubious for topless restaurants to have bare flesh and armpits so close to food and drink. I concede there is a civil liberties view that men and women who want to undress to serve customers should be allowed to do so. (I am not sure why they would want to, though I guess that is just one aspect of human nature. After all, some apparently sane people have been known to throw off their clothes to streak across a cricket pitch in front of thousands of spectators).

But surely that 'freedom of choice' approach only extends to nude entertainers, and not to waiters and waitresses, unless they are paid full entertainers' wage rates. Even then, it is still wrong if other women applying for the positions as waitresses are rejected because they are not prepared to lower their personal standards.

I also suspect the practice encourages the harassment of other women in the workplace, by reinforcing the view of women as sex objects.

I am sure the opinions I expressed would be supported by 90 per cent of all women. I was therefore quite surprised at the ill-informed attacks on me that were quoted in last week's *Sunday Mail.*

That final sentence refers to the *Sunday Mail* article of 18 October. The media statement that I just read to the House did not appear in last weekend's *Sunday Mail*, the next edition following the rather unfair report that had appeared on page 5 of the 18 October *Sunday Mail.* I never had any interest in this subject until I responded to what I believed to be a breach of Parliamentary privilege by an individual member of the public, and I spoke on that subject on 14 October in the course of the grievance debate.

However, following the attacks that appeared on me in the *Sunday Mail*, I then spoke in a grievance debate on Tuesday 20 October, in which I explained the context of my remarks and I read out some correspondence that I had sent to one of those who had been quoted in the *Sunday Mail.* I gave that individual an opportunity to rectify what she had been quoted as having said in that edition of the *Sunday Mail.* She has not taken up the opportunity that I extended to her (and I believe I was quite gracious about it) in what was a letter of a fairly conciliatory nature. Neither has the *Sunday Mail* seen fit to minimise the effect of its article which carried an attack on me as an individual and which implied that I had abused parliamentary privilege in making reference to what I believed to be a distasteful and demeaning practice.

The Hon. DEAN BROWN (Leader of the Opposition): I wish to bring to the attention of the House during this grievance debate the high cost of industrial disputation on the Remm-Myer site and how the taxpayers have had to pay for that enormous cost, and

particularly draw to the attention of the House that the Government knew about these costs and still acted to protect the unions involved. On 4 December 1990, the Government was given a document at a meeting that highlighted some of the losses that had occurred on the site due to industrial disputes. I will run through some of those losses. First, there was the approximate delay costs per day through industrial disputes as at that time—December 1990—of $466 000 a day.

Every day that those stoppages continued that sort of loss would be incurred. It was also highlighted to the Government that the anticipated project costs had already exceeded the original feasibility study at that point by at least $100 million. The document also highlighted the history of delays caused by industrial disputation and the costs, and I should like to document some of those. The Builders Labourers Federation ban on the erection of gantries caused the local subcontractor, G.F. McMahon, to go into liquidation. That caused a delay of seven months and cost $55 million. The gantry delays also necessitated the use of night shifts, which cost an extra $15 million. The BLF reneged on night shifts, causing ALCO Nusteel to default and be sacked as the subcontractor. That caused a further delay and cost $3 million and $60 million in costs. The BLF pushed Remm to section 45d through the Industrial Commission and that delayed the project by a further two months.

There was a series of union disputes as at December 1990. I will quickly document them. There was over-use of the Industrial Commission and the legal system. The legal costs alone to Remm for that were $2 million, and it accounted for about 50 per cent of senior management time. There was the abuse of health and safety regulations, in particular workers compensation claims, safety issues and inclement weather. I will come back to that. There was the promotion of a decline in productivity on the site (a 25 per cent decline as at December), and the BLF inspired a national campaign to coerce other unions to get at Remm.

The document outlined to the Government further potential delays and costs and talked about continuing poor productivity and the currency of the union ban on any work during inclement weather. That cost at least three hours per day and an estimated additional cost for the remainder of the project of $7.5 million. There was internal conflict within the ETU promoted by the State secretary specifically to disrupt work on the site. Then the Plumbers and Gasfitters Union members were demanding a more militant approach by their union officials to cause disruption on the site.

I come back to the workers compensation point. We now find that workers compensation claims have exceeded about $8 million on the Remm-Myer site. I gave figures yesterday that showed that 340 WorkCover claims had been lodged. I understand that a special Remm building fraud unit had to be established within WorkCover specifically to target the abuse of WorkCover that was occurring on the Remm-Myer site. Yet this week we have seen this Government stand up with the workers compensation legislation and protect those very same unions. For 10 years this Government has allowed the building and other unions to dictate its policy and the right for industrial anarchy in South Australia.

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

BOTANIC GARDENS (MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council without amendment.

SUPERANNUATION (BENEFIT SCHEME) BILL

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to provide superannuation benefits on a non-contributory basis for persons employed in the public sector; and for other purposes. Read a first time.

The Hon. G.J. CRAFTER: 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 is designed to establish a new superannuation scheme providing superannuation benefits for those employees of the Government, an agency or an instrumentality of the Crown, who are not accruing the minimum level of superannuation required to be provided in terms of the Commonwealth's superannuation guarantee charge legislation. The scheme will be known as the State Superannuation Benefits Scheme (SSBS). The scheme will also act as a 'safety-net' scheme in respect of those employees who elect to vary their contribution rate in the main State scheme and as a result start to accrue a benefit in the contributory scheme which has a level of employer support less than the minimum required under the Commonwealth's superannuation guarantee charge legislation (SGC). The SGC legislation which is effective from 1 July 1992 requires all employers to provide a superannuation scheme for employees with a cost of 4 per cent of salary rising in steps to 9 per cent of salary in the year 2002-3.

The new superannuation benefits scheme replaces the occupational superannuation scheme, named the public sector employees superannuation scheme, which was established under a deed of arrangement to provide the 3 per cent of salary productivity benefit from 1 January 1988. The occupational 3 per cent of salary superannuation benefit will continue to be paid through the SSBS scheme for certain groups of employees. This will generally be the situation where the 3 per cent benefit has not been used to provide benefit enhancements in the contributory schemes of which the employees are members. Members of closed hospital schemes are an example. Those employees who are contributing members of the main State pension or lump sum scheme will have their public sector employees superannuation scheme accruing benefit amalgamated with the main State scheme. In most cases, because of the level of employer support in the main State scheme, members of that scheme will not be members of the new scheme to be established by this Bill.

The Government proposes to also introduce another Bill dealing with State superannuation, and which is part of the overall package of restructuring resulting from the superannuation guarantee charge legislation. The other Bill seeks to amend the Superannuation Act which of course deals with the main State pension and contributory lump sum scheme. As was outlined in the 1992-93 budget speech to this Parliament in August, complying with the SGC requirement is expected to result in an additional cost of $22 million to this year's budget. A full year's cost, when the charge per cent is 5 per cent of

salary in 1993-94, is expected to be $32 million. As from July this year a substantial proportion of the employer liability accruing under the new State superannuation benefits scheme will be funded. This is consistent with the State Government's policy that the State should move on a phased basis to fully funding superannuation payments of this type.

The superannuation benefits scheme will be the largest superannuation scheme in this State, initially covering some 70 000 employees. This number of members is likely to grow as the number of members who have ceased employment with the Government but remain with compulsorily preserved benefits grows over time. In acknowledging the size of the scheme and the number of individual employers that will be associated with the scheme, the scheme's structure has been kept as simple as possible. The Government believes the simple benefit structure will also enable the administrators of the scheme to have annual member statements posted to members on a timely basis. This was not possible under the public sector employees superannuation scheme primarily because of the complex benefit structure of the scheme.

For those employees who will be members of the superannuation benefits scheme with effect from 1 July 1992, the Bill proposes that the accrued benefit in the public sector employees superannuation scheme be 'rolled over' and credited to the member's account in the scheme. At the union's request and in keeping with the Government's proposal that the scheme should provide the normal range of benefit cover provided by a superannuation scheme, the SSBS scheme will provide invalidity and death cover as well as an accumulated monetary balance for age retirement. The cost of the invalidity and death cover is being met out of the superannuation guarantee charge amount, as permitted under the Commonwealth legislation. An actuary appointed by the Government will regularly review the cost of providing this insurance.

The Bill also provides the South Australian Superannuation Board the power to levy penalties on employers who are late in submitting data and payments in respect of the scheme. This was a particular problem in respect of the public sector employees superannuation scheme. The proposed penalty provision should rectify this problem and markedly assist in establishing an efficient operation.

Clause 1: Short title and Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

Provides definitions of terms used in the Bill.

Clause 4: Membership

Provides for membership of the scheme. A member of the State scheme in relation to whom benefits are not accruing under that scheme will be a member of the scheme under this Bill (subclauses (3) and (4)). If the employer contributions under a scheme are not sufficient to reduce the charge percentage under the Commonwealth Act to zero the Governor may declare the members of the scheme to be members of the superannuation benefit scheme (subclause (5)). Members of some other scheme may be declared to be members of the benefit scheme solely as a mechanism to provide them with benefits to replace the PSESS benefits (subclause (6)).

Clause 5: Duration of membership

Provides that once a person is a member of the scheme he or she remains a member until benefits are paid to or in respect of the member. However, benefits will not accrue under the legislation during a period during which the member does not meet the requirements of membership under section 4.

Clause 6: Employer contributions

Provides for contributions to be made by employers.

Clause 7: Members' accounts

Provides for members' accounts and the amounts to be credited to those accounts.

Clause 8: Annual superannuation benefit

Provides for the amount of the annual superannuation benefit to be credited to each member's account.

Clause 9: PSESS benefit

Provides for the PSESS benefit to be credited to members' superannuation accounts.

Clause 10: Interest rate

Provides the rate of interest on accounts.

Clause 11: Administration charge

Enables administrative costs to be recovered.

Clauses 12 to 16:

Provide for benefits on termination of employment.

Clause 17: Payment of benefits

Provides for payment of benefits from the Consolidated Account.

Clause 18: Rollover of payment from other scheme or fund

This clause will enable a member to rollover a payment from another scheme or fund into his or her account under this Act.

Clause 19: Exclusion of benefits under awards, etc.

Excludes superannuation benefits under an award, industrial agreement, contract of employment or an order under the Industrial Relations Act (SA) 1972.

Clause 20: Power to obtain information

Gives the board power to obtain information.

Clause 21: Accounts and audit

Requires the board to keep proper accounts and requires the Auditor-General to audit the accounts.

Clause 22: Report

This is a reporting provision.

Clause 23: Delegation by board

Is a standard delegation power.

Clause 24: Division of benefit where deceased member is survived by lawful and putative spouses

Provides for the situation where a deceased member is survived by a lawful and putative spouse.

Clause 25: Payment in case of death

Gives the board certain discretions as to payment of a benefit where the person entitled has died.

Clause 26: Payments in foreign currency

Provides for payment of benefits in foreign currency in certain cases.

Clause 27: Rounding off of benefits

This is a rounding off provision.

Clause 28: Preserved PSESS benefit

Enables the board to credit the amount of a PSESS benefit preserved under the PSESS Scheme to an account that will carry interest at the rate fixed in accordance with clause 10.

Clause 29: Resolution of doubts or difficulties

Provides for the resolution of doubts or difficulties by the board.

Clause 30: Regulations

Is a regulation-making provision.

The Hon. D.C. WOTTON secured the adjournment of the debate.

SUPERANNUATION (SCHEME REVISION) AMENDMENT BILL

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations) obtained leave and introduced a Bill for an Act to amend the Superannuation Act 1988. Read a first time.

The Hon. G.J. CRAFTER: 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

The primary purpose of this Bill is to enhance the levels of benefits in the State pension and lump sum superannuation schemes as a result of the amalgamation of the benefit accruing under the public sector employees superannuation scheme.

The public sector employees superannuation scheme, known as the PSESS scheme, provides the benefit made available to employees as a result of the 3 per cent of salary productivity benefit in 1988. This benefit has commonly been referred to as the occupational superannuation benefit. The Government plans to rationalise superannuation for those employees who are contributors to the main State scheme. This will be achieved by dispensing with the PSESS benefit as a benefit paid through a separate scheme, and using the benefit to meet the cost of enhancements made to the main State scheme.

The Bill also proposes to make a small number of technical modifications to existing provisions of the Act. The technical modifications will clarify certain provisions, overcome some technical deficiencies and, in other cases, provide some flexibility to more adequately administer the scheme.

The restructuring of State superannuation is planned to be effective from 1 July 1992 in order to coincide with the commencement of the Commonwealth's superannuation guarantee charge legislation, and the consequential commencement of the State Government's superannuation benefits scheme (SSBS). The new SSBS will act as a 'safety-net' scheme providing the statutory required minimum benefits to those employees who in general do not belong to some other employer supported scheme. The Bill also provides for the 'rolling over' into the State scheme of the benefits accrued in the PSESS scheme.

The technical modifications to be made to the scheme are as follows. The provision in the Act which deals with a reduction in salary is modified to overcome the difficulty which can arise where it is not possible to identify a current rate of salary payable to the previous classification or office held by the member. The provision which deals with persons employed on term contracts is also modified. Under the existing Act contributors to the scheme are allowed to have a period of three months gap between employment before they are deemed to have resigned. Experience with teachers has found that the existing period of three months is too short, and therefore the Bill proposes that the period be extended to 12 months. This will overcome a problem for contract employees where in some cases they are having to formally reapply to join the scheme and have new medical examinations just because they miss out on a contract for a school term. The Institute of Teachers believes the proposed modification will overcome the present difficulties.

An amendment is also proposed to the provision in the Act which deals with the arrangements that can be entered into between the superannuation board and an employer. The proposed amendment will enable some flexibility in the terms and conditions of the arrangement and also provide for the situation where an employer elects to vary an arrangement to the extent of terminating the employees' right to continue contributing to the State scheme. The amendment will ensure that in such circumstances the employees have a right to preserve their accrued benefits in the scheme.

Several amendments in the Bill will provide clarity to the administration of the scheme.

An amendment will clarify the situation that for administrative purposes the board may delegate some of its powers and functions, and also that the board shall keep accounts in relation to the payment of benefits under the scheme.

A technical modification is also to be made to the provision dealing with the terms and conditions under which a person may be accepted as a contributor. The Bill seeks to provide for the board applying a restriction on the payment of invalidity and death benefits in situations where the employee's engagement in prescribed risk taking activities is, in the opinion of the board, likely to place the individual at greater risk of premature invalidity or death. It is likely that smoking will be a prescribed activity in terms of the proposed provision. A further technical modification is made by restricting, in certain circumstances, the payment of temporary disability pensions within the first five years of membership. This provision will more appropriately control the potential liabilities faced by the scheme in respect of new contributors.

Some flexibility is also proposed for the board to deal with those cases where a member of the scheme becomes faced with financial hardship during the year. The proposed amendment to the contribution rate provision will enable a member in financial difficulty to elect to reduce his or her contributions before having to wait until the commencement of the next financial year in terms of the existing provisions.

As explained at the beginning of this speech, most of the amendments proposed in this Bill make changes to the benefit formulae in the Act. In all except one situation, the full cost of the increased level of benefits is being met from the value of the benefit which is being 'rolled over' from the PSESS scheme. For pension scheme members this is 2 per cent of salary paid on an accumulation basis, and for lump sum scheme members, 3 per cent of salary also paid on an accumulation basis. The accruing benefit being absorbed in the pension scheme is 1 per cent of salary less than for lump sum scheme members because this extra amount was used as a cost offset in providing the preservation of benefits option in the principal Act.

The restructuring of benefits in the pension scheme involves an immediate increase in the rate of pension payment for persons retiring on or after 1 July 1992 and after the age of 55 years. The PSESS benefit accrued to 30 June 1992 for pension scheme members is being used to provide the immediate additional 1 per cent of salary payable as a pension at age 60, and part of the increase in the early retirement pension benefits payable after age 55 years. The Bill provides for the revised maximum pension to be payable to a person who retired on 1 July 1992 at the age of 60 years, as 67.6 per cent of final salary. The maximum pension payable at age 55 years for a person who retired on 1 July 1992 will be 50 per cent of final salary. These levels of pension will slowly increase over the next 35 years. The ultimate maximum levels of pension will be 75 per cent of final salary at age 60 and 56 per cent of final salary at age 55 years.

The higher immediate increase in the retirement pensions payable before age 60 has resulted from an actuarial reassessment of the benefit reduction factors to apply as a result of the use of more appropriate actuarial equivalence figures. This means that whilst higher early retirement pensions will be payable, over the contributor's life expectancy period the costs to the Government will be the same as if the contributor had delayed his or her retirement to age 60, and taken the higher rate of pension.

As a result of the restructuring provided for in the Bill, the lump sum scheme will provide a benefit of around 8.2 times final salary after 35 years of standard membership.

The Bill provides that the revised levels of benefits will not be available to persons who have resigned and preserved a benefit before 1 July 1992, or where because of special circumstances there is no PSESS benefit being 'rolledover' to the pension scheme. This special exception situation will apply in particular to Australian National Railways Commission employees who are still contributors to the State scheme but have no productivity benefit being 'rolled over' into the State scheme.

A special provision is also provided in the Bill that will enable members of the pension scheme to make an election to preserve their accrued benefits in the pension scheme as at 30 June 1992 and become a member of the lump sum scheme in respect of contributory service from 1 July 1992. It is unknown at this stage how many contributors would make such an election to switch schemes. However, from the Government's position there are considerable savings to be made in respect of the accruing liability for each person who switches schemes. The saving is around 6 per cent of salary. The attraction to switch schemes may come from an individual's preference for his or her benefits to be in lump sum form rather than a pension.

Clause 1: Short title

Is formal.

Clause 2: Commencement

Provides for commencement of the Bill. The Bill will operate retrospectively except for clause 8 *(b)* and *(c)* which will come into operation on assent.

Clause 3: Amendment of section 4—Interpretation

Inserts definition of two new terms used in the Bill and makes other amendments already referred to.

Clause 4: Amendment of section 5—Superannuation arrangements

Amends section 5 of the principal Act in the manner already referred to.

Clause 5: Insertion of section 10a

Provides a power of delegation for the South Australian Superannuation Board.

Clause 6: Amendment of section 20a—Contributor's accounts

Makes a minor amendment to section 20a of the principal Act.

Clause 7: Insertion of section 20ab

Inserts new section 20ab which requires the board to keep accounts of receipts and payments relating to the payment of benefits and requires the Auditor-General to audit the accounts.

Clause 8: Amendment of section 22—Entry of contributors to the scheme

Makes amendments to section 22 of the principal Act already referred to. New clause (5a) removes the right of a contributor on limited benefits to a disability pension. It is not appropriate that this provision operate retrospectively and therefore clause 2 (2) provides that it will come into operation on assent. New

subsection (7) inserted by paragraph *(c)* will also come into operation on assent.

Clause 9: Amendment of section 23—Contribution rates

Makes an amendment that enables a contributor to reduce contributions immediately in case of hardship.

Clause 10: Amendment of section 27—Retirement

Replaces the formulas in section 27 (2).

Clause 11: Amendment of section 28—Resignation and preservation of benefits

Paragraph *(a)* of this clause provides the minimum benefit required under the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth for a contributor who resigns and elects to take the amount in his or her contribution account.

Clauses 12 and 13:

Amend sections 29 and 331 of the principal Act.

Clause 14: Amendment of section 32—Death of contributor

Increases the amount of the benefits provided by section 32 of the principal Act.

Clause 15: Insertion of section 32a

Inserts new section 32a into Part IV of the principal Act. This section preserves for the benefit of new scheme contributors the amount of the PSESS benefit accrued to them on 30 June 1992.

Clause 16: Substitution of section 34

Replaces section 34 of the principal Act.

Clauses 17, 18 and 19:

Increase the benefits in the case of retrenchment, invalidity and death under the old scheme.

Clause 20: Amendment of section 39—Resignation and preservation of benefits

Amends section 39 of the principal Act which is the resignation provision under the old scheme to ensure that a contributor who takes the amount in his or her contribution account will receive the minimum amount required by the Commonwealth Act. Other provisions of the clause enhance the benefits under section 39. New subsection (8c) ensures that where benefits have increased after a contributor resigns and preserves his or her benefits, the preserved benefits will be calculated as though the increase had not occurred.

Clause 21: Insertion of section 43b

Inserts new section 43b which is designed to ensure that a person who is entitled to benefits under this Act is not entitled to benefits under an award, industrial agreement, contract of employment or order under the Industrial Relations Act (SA) 1972 in respect of the same employment.

Clause 22: Insertion of section 58a

Inserts a rounding-off provision.

Clause 23: Amendment of schedule 1

Amends schedule 1 of the principal Act.

Clause 24: Repeal of schedule 3

Repeals schedule 3 of the principal Act. This schedule was used in calculating benefits under section 34 repealed by clause 16.

The Hon. D.C. WOTTON secured the adjournment of the debate.

EXPIATION OF OFFENCES (DIVISIONAL FEES) AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 1184.)

Clause 4—'Expiation notice may be issued.'

Mr MEIER: I notice that clause 4 provides that an expiation notice may relate to a number of alleged offences (not exceeding three) provided that all of the alleged offences arise out of the same incident. Can the Minister explain why there is this proviso for offences not to exceed three? I was always under the impression that, if expiation notices are to be issued, it would be one and one only and it would be a different offence if there were a second one. How could anyone get three expiation notices at once?

The Hon. G.J. CRAFTER: It is possible within a course of action for a series of offences to be committed. The Government's view is that, if more than three offences arise out of the one course of action, that is quite a serious breach of the law and the matter ought to be decided by the court.

Mr MEIER: I seek clarification, Mr Chairman. I believe I am allowed to speak on only three occasions on any one clause. Is that correct?

The CHAIRMAN: Yes, the Standing Orders allow an honourable member to speak only three times on each clause.

Mr MEIER: I believe that if we take the sitting before lunch as part of the questioning—

The CHAIRMAN: I will assume that the honourable member has just completed his first question.

Mr MEIER: Thank you, Mr Chairman. Could the Minister give me an example of an instance when three expiation notices could be issued?

The Hon. G.J. CRAFTER: This may assist the honourable member. The Expiation of Offences Act 1987, referring to the Commercial Motor Vehicles (Hours of Driving) Act 1973, refers to offences relating to exceeding the hours of driving and failing to observe other requirements; for example, keeping an authorised log book and so on. Arising out of the one course of action a series of offences could be committed. If a person has disregarded the law in a series of areas, three can be aggregated into the one expiation offence, but any more than that, because of the seriousness, complexity and aggregation of penalties, should be dealt with other than by the expiation fee process.

I thank the Minister for the answer. Clause 4 *(h) (b)* refers to a person who is authorised in writing by the responsible authority to issue expiation notices for the alleged offence. I assume that an officer or employee of a council will be given specific power to issue expiation notices, and that makes a lot of sense to me. In fact, I would like to know how expiation notices have been issued if such authority has not been given. I ask that question because I believe that this clause was left out of the original Bill when it came before another place in April, and I wonder why it is inserted now when I could not see any other way in which expiation notices could be issued unless that authority has been given to a person.

The Hon. G.J. CRAFTER: It is simply a matter of clarification of the law. The previous Bill and Act contained the first part of that subclause. There has been an additional part added, as the honourable member has said, simply to cover a situation where in some Acts—for example, in the Public and Environmental Health Act 1987—there is provision for authorised officers to be appointed by the commission or a local council. So it does give them that authority and indeed provides that complementarily between the provisions contained in Acts, such as the Public and Environmental Health Act, with respect to this Act to provide for the appropriate administration of this legislation.

Clause as amended passed.

Clause 5—'Expiation notice may be withdrawn.'

Mr MEIER: This clause provides authority for a person to withdraw an expiation notice. What guidelines will be put forward for such a person to operate?

Recently various expiation notices for speeding offences were withdrawn, two having been highlighted by the Opposition and the Minister acknowledging that those two had to be withdrawn because they were incorrect. I know that in one case, which concerned a constituent of mine, that person rang the appropriate number indicated on the form and was told, 'The only course of action is to go to court.' My constituent did not like that. She wrote to me, and through her daughter she continued to seek action through the Police Department. In the first instance she got nowhere, because the person at the desk said, 'You will have to go to court over this if you want to challenge it'. Thankfully, her daughter was persistent enough and finally got through to the senior sergeant who said, 'I will look at it further'.

It was at about the same time that I sought to bring the matter to the Minister's attention. Of course, eventually the Minister came into it himself and speed cameras were withdrawn. That was a long, drawnout process. I assume that in the current legislation as it applies to motor vehicles—which are not covered here—similar persons have been given responsibility to withdraw expiation notices. The procedure has not worked satisfactorily to date. What criteria will apply for the Acts to which this Bill applies?

The Hon. G.J. CRAFTER: There is provision in the substantive Act for a procedure whereby certain persons are authorised to withdraw expiation notices. Given that there is a wide variety of organisations and authorities administering these respective pieces of legislation, who is authorised and under what circumstances they are able to do this varies from organisation to organisation. In my experience, as the honourable member indicated to the House earlier today, it is very difficult to achieve a withdrawal of an expiation notice; there are quite tough guidelines within organisations in dealing with these matters.

It should also be pointed out, given the example that the honourable member has just cited, that a common complaint to members of Parliament and to others about the administration of expiation notices is the provision in the substantive Act. Section 6 (3) provides:

> An expiation notice cannot be withdrawn under subsection 1 *(b)* after the expiration of 60 days from the date of notice.

I think it is misunderstood generally within the community when it is that a person can make representations and actually have an expiation notice considered for withdrawal. Sixty days races by, and there is absolutely no discretion to have it withdrawn. It then must proceed onto a court hearing or be paid, there is not an opportunity for it to be withdrawn. That needs to be understood clearly in the community.

Clause passed.

Clause 6—'Late payment.'

Mr MEIER: Under this clause a responsible authority or an authorised person can accept or authorise late payment of an expiation fee. Would the late payment of that fee have an additional penalty attached to it, as I believe is the case with many expiation fees at present, or would that expiation fee remain as originally issued? If so, is this a change of attitude by the Government in that additional late fees do not apply?

The Hon. G.J. CRAFTER: Under this clause there is now provision for late payment, as the honourable member has said; there is provision for the person who simply cannot make the payment in the time prescribed. New section 6a (2) provides that, for the purposes of subsection (1), the late payment fee may consist of two components, one being a prescribed amount payable in every case—that is, an amount that has to be paid which is not discretionary in any way—and the other being an amount attributable to costs and expenses of a prescribed class, if any, incurred in relation to the matter. Obviously, there is a discretion there with respect to costs and expenses of a prescribed class which will be determined, and then that two tier approach can apply to provide relief for those people who are determined to be in need of that relief. This has come about as a result of representations that have been made with respect to the inflexibility of the law as it currently stands.

Mr MEIER: Do I have it right that, first, a person in financial difficulty can have an extension to pay the expiation fee and that, secondly, there could be occasions when an additional fee was applied to the late payment of an expiation fee?

The Hon. G.J. CRAFTER: I think we need to look at the particular circumstances of each of these matters, the fees and costs associated with it and how it is determined by the individual person to meet those fees and costs. New section 6a (1) provides:

> The responsible authority, or a person authorised in writing by the responsible authority for the purposes of this section, may accept or authorise late payment of an expiation fee—
>
> *(a)* if proceedings have been commenced in respect of the alleged offence—on payment of the fee and costs and expenses incurred in relation to the prosecution of those proceedings;
>
> *(b)* in any other case—on payment of the fee and the prescribed late payment fee.

So, this provides the more flexible framework depending upon the individual's circumstances and the progress of the matter—whether it has progressed to a stage where court proceedings have been initiated, for example.

Clause passed.

Clause 7—'Application of payments.'

Mr MEIER: I seek further clarification on clause 7 (3) which provides:

> If an expiation notice is issued by or on the authority of a council, or by an officer or employee of council, as a result of the reporting of an offence by a member of the Police Force or other officer of the Crown, half of the amount of any expiation fee paid pursuant to the notice must be paid into the Consolidated Account.

I know that this was referred to earlier by the member for Murray-Mallee and that the Minister commented on it. Will the Minister give an example where the Police Force could bring forward an expiation notice in respect of a council offence, and will the council therefore receive half the money and the State Government receive the other half?

The Hon. G.J. CRAFTER: I have had experience of this matter in my own electorate where, for example, there has been illegal parking around a licensed premises very late at night, the police have been called by residents and they report a series of vehicles for various offences; in that circumstance, they are reporting those vehicles for a local government offence but they are doing it on behalf of the local government authority. Another example is a motor vehicle that is left parked for a long period of time—obviously abandoned. That is a

local government offence for which the police are called. There might be an undesirable activity surrounding that motor vehicle, such as someone sleeping in it; the police attend and make the appropriate report. In those circumstances, it is regarded that part of the revenue obtained should be returned for the administration of the State authority and part should remain at the local government level.

Mr MEIER: I thank the Minister for that answer. I seek further clarification. Would the police be able to write an expiation notice on their own form, or would they have to use the prescribed forms of that particular council?

The Hon. G.J. CRAFTER: I understand that work is being done to establish a model expiation notice form which can be used by police officers in these circumstances or by other authorities that provide this dual function in the community.

Clause passed.

Clause 8—'Regulations.'

Mr MEIER: As the regulations referred to have not been formulated, I assume that those model expiation notices will be included in the regulations?

The Hon. G.J. CRAFTER: Yes.

Clause passed.

Remaining clauses (9 and 10) passed.

Schedule.

Mr MEIER: I note that the schedule provides for fines from Division 6 fines through to Division 12 fines. Why do Division 1 fines through to Division 5 fines not apply? I realise that they are very heavy fines, but the Division 6 fine is one not exceeding $4 000, and that is not exactly a pittance. Under a Division 6 fine, a fine of $4 000 could be imposed but the expiation fee would be $300. A Division 12 fine is one not exceeding $50 and the expiation fee is half that—$25. Why is the expiation fee substantially less than the maximum amount in the first case?

The Hon. G.J. CRAFTER: I thank the honourable member for raising this matter, because it is important. First, with respect to the more serious degrees of penalty provided in our legislation—and the classification of penalty by division is moving through all our legislation—the divisions to which the honourable member refers include life imprisonment and very substantial penalties. It seems entirely inappropriate that they be included in terms of expiation notices. We have not quite got to the situation of a Bronx here in little old Adelaide. We want to see those more serious matters going off to the courts in the normal process.

With respect to those offences covered in this schedule, I point out that, with respect to those to which the larger penalties apply, there is still a discretion, within the prosecution of those offences, for a requirement that they be dealt with by the courts rather than by the provision of an expiation notice. Obviously, that is a discretion for the more serious of those offences. The penalties referred to in the schedule are the maximum penalties and, from experience, the average penalty brought down for one of these offences is certainly much less than that. However, as I have said, if it is likely that serious breaches are moving towards the maximum penalty, a discretion exists to refer them to a court hearing.

Schedule passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (EXPIATION OF OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 7 October. Page 692.)

Mr MEIER (Goyder): This Bill is consequential upon the Expiation of Offences (Divisional Fees) Amendment Bill and makes consequential amendments to a number of Acts. We have spent some time debating the previous Bill, when the relevant matters were highlighted. I simply record the Opposition's support of this Bill and indicate that I will ask at least one question during the Committee stage.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank the Opposition for its support of this measure. In the debate on the previous Bill, the member for Murray-Mallee made a valuable suggestion to the House that in future we could treat Bills of a complementary nature, such as this measure and the previous one, as cognate Bills and deal with them together. Perhaps we have lapsed into dealing with Bills in this way over recent years, but I think these two Bills would have been much easier to deal with together. So, I suggest in future that we do that with Bills of this type to enable their expeditious passage and a better understanding of the relevant provisions. There was some confusion in the second reading debate because the speeches covered these two particular measures. Indeed, in some cases, they went much further than that, but this is consequential legislation and I seek the support of the House for the measure.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Schedule.

Mr MEIER: The second reading explanation refers to the fact that some offences are already expiable under the Act and others are newly inserted. Which are the new expiable offences in this schedule?

The Hon. G.J. CRAFTER: In another place, the Attorney-General read into the debate the list of new offences to be added to the expiation scheme, and they are as follows:

Business Franchise (Petroleum Products) Act—section 26 (1);
Commercial Motor Vehicles (Hours of Driving) Act—sections 5 (2), 5 (3), 5 (4) and 5 (5);
Food Act—offences included for first time by this Bill;
Industrial Relations Act—sections 159 (4) and 159 (5);
Liquor Licensing—offence included for first time by this Bill;
National Parks and Wildlife—offences included for first time by this Bill;
Noise Control Act—offences included for first time by this Bill;
Payroll Tax Act—sections 28 (4) and 29 (2);
Public and Environmental Health Act—sections 15 (3), 30 (1), 33 (5), 36 (3) and 41 (2);
Stamp Duties Act—section 90c (8);
Tobacco Products Control Act—sections 11 (1), 11 (2) and 11 (4);
Unclaimed Moneys Act—section 5.

It should also be pointed out that the proposals for change made by this Bill have led to a rationalisation and review of offences covered under the Expiation of Offences Act. As a result of this review, it has been decided that a number of offences are no longer appropriate for expiation due mainly to the nature or seriousness of the offence or, in some cases, as a result of legislative change. Offences against regulations are excluded because it is not possible to amend regulations by an Act of Parliament. The relevant regulations will be amended in due course. The offences omitted from this Bill are as follows:

Dangerous Substances Act—regulation 57;
Education Act—regulation 13 (8);
Enfield General Cemetery Act—regulation 36;
Explosives Act—regulations 6.1 to 6.12;
Financial Institutions Duty Act—section 46 (1);
Industrial Relations Act—section 161 (1);
Land Tax Act—section 73 (2);
Payroll Tax Act—sections 28 (1), 28 (3) and 29 (1);
Public and Environmental Health Act—section 41 (1);
South Australian Metropolitan Fire Services Act—section 70;
Stamp Duties Act—sections 31f (1) *(a)*, 41, 42aa (1), 76a (6), 90c (1), 90c (6) and 90a (1);
Tobacco Products Control Act—sections 8 (10) and 8 (2);
Unclaimed Moneys Act—sections 3 and 4; and
West Terrace Cemetery regulations 30, 31 *(b)* and 31 *(c)*.

Mr MEIER: I thank the Minister for identifying the new expiable offences and those that have been removed. Of some concern to me is the fact that the Food Act and the National Parks and Wildlife Act are now included because, as I said during the second reading debate, this extends the breadth of expiation notices. Particularly as they relate to national parks and wildlife, I seek an assurance from the Minister that this change is not simply to generate additional revenue for the Government; rather, that it simply ensures that people do not have to go to unnecessary expense to pay fines. As regards the National Parks and Wildlife Act, will the Minister say how the Government has gone about getting revenue from people who have committed offences in the past?

The Hon. G.J. CRAFTER: Under the current legislation, prosecutions under the National Parks and Wildlife Act were dealt with in court. That is seen not only as an expensive and time consuming process but also as administratively unsatisfactory for a number of the more minor offences. I think we would all want to see our National Parks and Wildlife Service having the statutory ability that Parliament has given it, with officers having the ability to carry out those duties and responsibilities and to police our parks, particularly, and the other responsibilities vested in them. So, this is simply a matter of improving the administration of justice and building up public confidence in that important service in our public sector to carry out its duties effectively.

Schedule and title passed.

Bill read a third time and passed.

SUMMARY PROCEDURE (SUMMARY PROTECTION ORDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 October. Page 691.)

Mr S.J. BAKER (Mitcham): The Opposition supports this measure. In some ways, we are pushing the barriers backwards with this legislation, because some of the principles which we are now implanting in the law would have to be viewed in terms of the effect they may or may not have on people's civil liberties. However, before I talk about that issue, it is important to understand that there are three major items attached to this Bill. The first is applications for restraint orders to be made by telephone outside normal court hours, the second is the recognition and enforcement of restraint orders granted in other States and the third is the making of orders concerning the disposal of firearms and cancellation of or variation to firearms licences.

Everybody here would fully appreciate the fact that the law as it stands today provides little or no protection in those cases involving disputation, particularly of a domestic nature, and in other areas where people do harm to their friends, neighbours, work colleagues and a variety of other acquaintances. Under its current provisions it is very difficult for the law to provide the protection that is needed for the victims of this violence. The fact that we have restraint orders in this State means that those orders should be enforced. As Parliamentarians we would all understand or have experienced circumstances (and it is normally the male concerned) where there has been a breach of the peace, damage has been done to property, there has been injury to one party (normally a spouse or child of the family), or serious threats have been made against particular people; and it has been very difficult to ensure that the person concerned does not go back and do something again, or do something else, sometimes worse.

There has been this great difficulty in applying restraint orders after hours. The scheme that we have proposed allows for restraint orders to be made by telephone when it is not within working hours. I should inform the House of the procedures that currently apply and indicate what the new procedures will mean. A complaint is made, and that can be by way of a telephone call to the police, or the police may be passing premises and understand that there is a distressful situation and enter the premises on their own behalf, or it may be a complaint from a neighbour. The complaint is made and an order may be made in the absence of a defendant if the defendant was summonsed but failed to appear or if the defendant was not summonsed to appear. In the latter case the defendant is required to be summonsed to appear before the court to show cause why the order should not be confirmed, and the order is not effective after the conclusion of the hearing to which the defendant is summonsed unless the defendant does not appear at that hearing in obedience to the summons and the court confirms the order.

An order may be made restraining the defendant from entering premises or limiting access to premises. A person served personally with an order who contravenes or fails to comply with an order is guilty of an offence and is liable to be imprisoned for a term not exceeding six months. Where a police officer has reasonable cause to suspect that a person has committed an offence, the person concerned may be arrested and detained without warrant and must be brought before a court of summary jurisdiction no later than 24 hours after the time of the arrest.

The great problem is that when there has been a 'situation' as we can call it, currently there is insufficient power for the authorities to ensure that the person can no longer do damage. There is difficulty in getting a restraint order against that person, so what the Bill proposes is to interpose a step so that, if the police attend a domestic disturbance at night, for example, they will be able to apply to a court for a restraint order. The application may be made by telephone or by any other communications device which will enable applications to be made by emergency radio. Under the proposal, the magistrate who is on duty or on call must satisfy himself or herself as to the officer's identity and then satisfy himself or herself that it is an appropriate case for the granting of an order.

Under the circumstances, if the police are called to the scene of, say, a domestic dispute and they decide that there is a serious breach of peace and that life and property are at risk, they would then detain that person for three hours-previously it was four hours. During that three hours the police would be able to telephone or communicate with a magistrate in order to obtain a restraint order. There obviously has to be some record of those proceedings to ensure that the order is appropriate, that all the information that is known at the time is provided and that the due processes of law are followed. The magistrate can send out an order by facsimile or by radio, and the accused person is required to comply with that order. A further provision is that the order must be confirmed within seven days.

This is a change in procedures, and a change in the right direction. It is important that we provide protection for those people who are subject to, for example, domestic violence. We cannot tolerate a society where bashings and injuries are caused through the aggravation of particular individuals. There seems to have been an increase in that area of domestic violence in recent years, but it is very difficult to ascertain whether that is real or statistical due to the increased reporting. But no-one here would deny the right of innocent people to have the full force of the law to protect them. That is what this Bill attempts to do.

As members would understand, if during the day a person is caught misbehaving or offending in the fashion I have just spoken about, the police would simply grab that person by the arm, put them before a magistrate and get an order on the spot. That is not possible under the current provisions, which means such a person could escape, perhaps to the ultimate detriment of everyone. I understand that the person who recently committed six murders in New South Wales was under a restraint order. It is not certain at this stage whether it would have been possible to confiscate the firearm used in those offences or whether the offender managed to obtain it by other means. However, another part of the Bill deals with the right to confiscate firearms to reduce the probability of someone picking up a firearm consequent to the order for restraint and committing a far more serious crime than perhaps the one originally complained about.

In relation to how the system works, an audio recording of the conversation with the magistrate ought to be made and retained for subsequent production in formal court proceedings. A person against whom an order is being sought by telephone or telecommunications device should be detained for the minimum amount of time possible. We are now talking about civil liberty issues. There has to be a complementary hearing to ensure that justice is done.

We cannot have open-ended orders that stretch into infinity, as that can be quite detrimental in certain situations. In some cases anger does lead to unexpected violence, but it is not the normal behaviour of the participants. Sometimes those orders have to be for a very short time and in other cases greater protection has to be provided. So, we should have the confirmatory orders within the shortest time possible. That is now within seven days. The Opposition supports the proposal. As I said at the outset, it may involve some difficulties in the way that we have understood the law to operate in the past. It is a change of procedure. There is a question mark about what should be able to be confiscated when an offence of this nature has been committed. However, I will deal with that briefly in the Committee stage. With those few comments I commend the Bill to the House.

Mr HAMILTON (Albert Park): I want to speak briefly to the Bill. I think there would be very few members of Parliament who at one time or another have not received complaints in relation to this particular matter. It is unfortunate that we have in the community those people who are in need of protection against those who would want to inflict injury upon them. The domestic scene is very sad. I know of a case where a woman was literally drop-kicked by her husband in a paddock and was belted up and yet, despite every effort I made for her to seek protection against her husband, she would not lay a complaint. It took a long time for others to encourage her to take out a restraining order to protect herself. Her husband was a big brute who eventually found out where she lived, kicked the door down and assaulted her again. She was not prepared to take any further action, despite the fact that during the assault she was screaming for someone to help her.

There are very sad cases like the one I have referred to, where people in the community are under threat. In my 13 years in this job I have spoken to many of these women. I suspect that all members of Parliament have had cases such as the one I have illustrated brought to their attention. They have said that restraint orders are frankly not worth a cold pie. It is too late after the event. It is necessary for quick and appropriate action to be available, particularly to women and young children. I have found in my experience in this job that they are the ones who are assaulted. It little consolation to them when they are told that they can take out a restraint order or lay an assault charge against the offender. That is not the issue; the issue is for them to get ready access to protection to stop these assaults being perpetrated upon them.

I note in the amending Bill the actions that can be taken, and I believe the Government and the Attorney-General should be commended for the work they have done in this area. I also note the insertion of new sections 99a, 100, 100a and so on—I will not go through them all. Suffice to say that orders in relation to firearms—and that is a very contentious issue—and recent events interstate have illustrated that, in crimes of passion, if you like, or where marriages or partnerships break up, invariably it is the male who perpetrates some

injury or who, indeed, takes another person's life. The need for such protection to be readily available is of critical importance. I do not believe one member of Parliament would oppose this Bill.

I believe that these offences and the manner in which they have been able to be perpetrated in the past left a lot to be desired. I shall be circularising the outcome of the proceedings on this Bill. Once the Bill is passed, I believe it is important that it should go out to many of the community groups in my electorate. I wish the Bill a speedy passage. It was not my desire to delay the House, but, given the 13 years that I have been a member, I felt it was important to place on record my appreciation for this legislation.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank members who have contributed to the second reading debate. The member for Mitcham has covered the ground set out in the amendments to the Summary Procedure Act. As has been explained, the amendments relate to the maintenance of law and order in our community and the protection of people who are often in difficult emotional situations which can quickly result in very dangerous circumstances and affect not only the parties to a dispute but many other innocent people at times. The events that have occurred in other States, particularly on the north coast of New South Wales in recent days, are an indication of the tragic loss of life that can occur and which might possibly have been avoided by some form of intervention by the authorities. We can only hope that the advice that has been given to the Government by the appropriate authorities, the body of wisdom and experience that is building up in dealing with these matters, can be brought to bear through reasonably constant review of our legislation in this area.

The Government has received advice from its own Domestic Violence Council and from the National Committee on Violence, and that advice is contained in this measure. As I said, because of the difficulties with which we are dealing, we need to be constantly vigilant that not only is our legislation kept up to date and in an appropriate form but also that our law enforcement agencies are assisted in this matter and, where appropriate, that they join the other human service agencies, particularly those related to the Department for Family and Community Services and other key community groups that have knowledge of dealing with disturbed people and an understanding of the sensitivity towards the situations which arise and which may result in tragedy and, sadly, loss of life.

In the past few years we have seen horrific situations where four, five or even six people have been killed. Some recently in New Zealand have been quite staggering in their dimension. Hopefully this legislation will help to minimise their incidence in this State and we will never see crimes of that order occurring here. However, we must always be vigilant to that situation arising and take whatever steps we can to avoid it.

I give notice that in Committee I will be introducing an amendment to reduce the number of hours that a person can be detained by the police from three hours to two hours. That matter was debated at some length in another place, and, as a result of that debate and further consideration and discussions with the police, it has been decided that we should introduce this amendment.

As the member for Mitcham said, this Bill touches on the fundamental issue of civil liberties in our community. Whilst we are trying to address one complex and difficult situation, we must always be mindful of the rights of our community as a whole. I welcome the revision of one aspect of this as a result of further consideration by officers in the Attorney-General's Department and the Police Force. I commend the Bill to the House.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5—'Summary protection orders.'

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

Page 3, line 26—Leave out 'three' and substitute 'two'.

As I mentioned in my second reading speech, this clause empowers the police to detain a person against whom they have reason to believe an application for a summary protection order will be made. There was considerable discussion in another place about what constituted a reasonable amount of time for the police to be able to detain someone without laying a charge. As a result of those discussions, the Government has again consulted the police and they have indicated that in 99 per cent of cases two hours is sufficient time in which to obtain a summary protection order by use of the telephone. The Government is sensitive to the civil liberties argument raised in another place, and accordingly has concluded that a reduction in the time during which a person can be detained from three hours to two hours is justified.

Mr S.J. BAKER: The Opposition is delighted to accept that amendment, because it was the subject of considerable discussion in another place. We wanted that period of detention reduced to a minimum, but a practical minimum, and this amendment appears to achieve just that.

Amendment carried; clause as amended passed.

Clause 6—'Orders as to firearms.'

Mr S.J. BAKER: I move:

Page 3, line 36—Leave out 'must' and substitute 'may'.

There is considerable debate as to what can be confiscated and whether, in view of the other penalties imposed by this clause, it is appropriate in each and every case with regard to firearms. It is very harsh under the law to have a 'must' rather than a 'may' statement. If there is any risk of intervention by a firearm subsequent to the detention of a person or the issuing of a restraint order, it is appropriate for that firearm to be confiscated. That situation does not necessarily pertain in all cases.

It should be left because, as I said, there are some serious consequences about loss of licence, the right to sell a firearm and loss of property. Without becoming too dogmatic about the situation, it is simply better in law if the discretion is left. I am sure that, if a message is sent down the line to say, 'We should confiscate anything in sight that is lethal', that will be done. The magistrate would order that the firearm be confiscated. If a person went before the court and the police recommended that the firearm be confiscated, I have no doubt that the magistrate would follow suit and ensure that the firearm was confiscated. However, there should be some discretion; we should not have a 'must' statement which

applies to 100 per cent of the cases. That makes for bad law. If this amendment should fail, I will still question one aspect of this clause.

The Hon. G.J. CRAFTER: The Government opposes this amendment, and I believe there is overwhelming support in the community for the action the Government proposes to take in this area. That is patently clear with the circumstances of the New South Wales mass killings in recent days. The risk of misuse of firearms is simply too great to allow a weakening of this principle and that is the effect of the Opposition's amendment. Firearms should be removed from situations which, on reasonable belief, will develop into a threatening of life situation.

Those inherent dangers can be graphically seen in what has happened in New South Wales, in New Zealand and in other cases. These are now becoming all too prevalent in Australian society. I notice in a recent edition of the *Sydney Morning Herald*, maybe even today's edition, reports that police sources indicate that a restraint order was in place against the alleged offender in that particular case.

The National Committee Against Violence identified the dangers associated with misuse of firearms and recommended that firearms be removed from situations where resort to violence is a common occurrence. Situations which result in restraint orders being made are precisely those kinds of situations. The Government has come to the conclusion that there is no justification for firearms being available to those who are subject to restraint orders. The Bill relates to the Government's firm resolve to ensure that all conceivable steps are taken to remove instruments of violence from the scene of domestic and quasi-domestic disputes.

The Government is further resolved that the making of a firearm related order is to be mandatory. It is still open, of course, and the honourable member's concerns can be addressed by a defendant seeking an order to vary, or indeed to revoke, the decision of the court in the circumstances, particularly where that person can show that there has been no history of violence or intimidatory behaviour and, for example, that that person needs access to a firearm in connection with earning a living and so on. I would think there would be very few cases of that type but, nevertheless, that option is open. Therefore, it is the Government's view that the wording should remain as it is and not be amended in the form proposed by the Opposition.

Mr S.J. BAKER: I accept the Minister's explanation. As the Minister would appreciate, we have to test these aspects of the law. It is very rare in the law that we prescribe a solution which must pertain in all cases, as we have done here, and which reduces people's capacity in some shape or form.

Amendment negatived.

Mr S.J. BAKER: What does possession involve and how far does it extend? Are we talking about a person who actually holds a firearm or has ready access to that firearm at the point at which the breach is being committed? Does it extend to that person's car? Does it extend to that person's home? And how far does the definition 'firearm' extend? Do we include other instruments such as knives?

The Hon. G.J. CRAFTER: I guess it depends upon the circumstances, but it really revolves around the definition of 'possession' or 'control' of a weapon, or firearm of some sort. Obviously where a weapon is registered in the name of that person, that can be identified and sought. Where an unregistered weapon is available, another offence has been committed, presumably, and action can be taken accordingly.

With respect to other weapons and, indeed, other firearms that may be found as a result of a search of a person's motor vehicle, garage or around the grounds, or in the possession of other people who are associated with that person within, for example, the same house where a group of people may be living together, the circumstances would dictate whether that would come under the control of that person, and decisions would have to be taken. Clearly, there is a public interest to remove that firearm or weapon from that person in the circumstances, and that evidence needs to be brought before the magistrate in these circumstances. I might have misled the Committee: This clause refers to firearms and not to other weapons.

Mr S.J. BAKER: Are we talking about collectors' items which are capable of being fired? The clause refers to 'possession' and not 'control': the Minister gave me a very adequate description of how it is possible to have control or access to a firearm, but this provision talks about possession. I was unsure what this meant.

The Hon. G.J. CRAFTER: I am not sure whether I can add any more to what I have said in that description.

Clause passed.

Title passed.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (APPLICATION OF CRIMINAL LAW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 789.)

The Hon. B.C. EASTICK (Light): We move from guns to bodies. Who did it? But more particularly where did they do it?

The Hon. D.J. Hopgood: We expect you to quote from Agatha Christie.

The Hon. B.C. EASTICK: It is a serious matter, but it is also, one would have to acknowledge, a difficult matter. It will take the time of the House to express comments made in another place by the Attorney-General. I refer to a document that has been circulated to my colleague, and it will give members some indication of the problem. The Attorney-General, in introducing the Bill, said:

> At common law, all crime is local. One of the consequences of this is that each State (or area of criminal jurisdiction) may only take jurisdiction over (or try) criminal offences committed within the territory of the jurisdiction. In a prosecution in which that question is at issue, the general rule is that the prosecution must prove beyond reasonable doubt that the court has jurisdiction to try the case.

He then gives other information and finishes with the comment that the whole matter is a complex mine field. Further, he indicated that it is a matter which had been before the High Court and the Standing Committee of Attorneys-General, and that the issue had been abroad since 1980. In actual fact, the position is that eventually,

after all that period of time, the Attorneys-General generally had agreed that it required back to back legislation. My colleague the Hon. Trevor Griffin in another place was led to say:

This is a complex Bill which deals with aspects of the criminal law, and I hope honourable members will forgive me if I unsuccessfully deal with the complexities of it. It relates to the issues of jurisdiction. Also, although it is claimed in the second reading explanation that the Bill seeks to address a technical issue with respect to the criminal law, it does have significant consequences . . .

He then developed his argument further. In a letter to my colleague the shadow Attorney-General, a person well versed in the law and on the periphery of a number of the activities of the Attorney-General's Department was led to say, 'This is a very nasty and complex little area of the law'. I agree, having read the debate in both places, that it is complex and has caused some concern.

If one reads the judgments handed down in the High Court by their honours the justices, one finds that there were divergent points of view on a number of issues. Nonetheless, it has been accepted that action needs to be taken to give some semblance of guidance to the courts in the future and to allow prosecutions as may be necessary from time to time to proceed. I would hazard a guess that it may not be all that long before it is yet again argued in the High Court whether the interpretations of the interpretation are considered adequate, whether the requirements of this measure really do what everyone thinks they might do, or whether there is an area for further question.

The Bill contains only two clauses and, whilst the heading note is not part of the eventual passage, the title of new section 5b, 'Territorial application of the criminal law of the State', perhaps gives some direction to what is intended. It all happened because of murder and where the body was found. In fact, from the information made available to me, there are at least two cases, one being the death of the wife of an Indian based in Victoria. The wife's body has never been found, but the action seems to have been one side of the South Australia-Victoria border or the other—nobody can be quite sure—but, because the defence of the day did not rest on various aspects of the measures, that matter was not finally determined.

The one that has caused the appearance before the High Court is that which relates to a death in the vicinity of the Australian Capital Territory and, as the State of New South Wales surrounds the ACT, the genuine argument revolved around whether particular acts or particular findings were relative to ACT or New South Wales jurisdiction. I will read two or three extracts from the High Court judgment which put into perspective a number of the problems that existed. The case is *Thomson v The Queen* and, in dealing with the issue of jurisdiction, the judgment of Justice Mason and Justice Dawson stated:

It was common ground that the jurisdiction of the Supreme Court of the Australian Capital Territory to try the applicant depended upon the occurrence within the geographical limits of the Australian Capital Territory of either the deaths of the two girls or the act or acts causing their deaths . . . The trial judge directed the jury that, amongst other things, they could not convict the applicant unless they were satisfied beyond reasonable doubt that the deaths of the deceased took place in the Australian Capital Territory . . . The submission that the evidence could not satisfy the jury beyond reasonable doubt that the deaths occurred within the jurisdiction has rather more force. No bullets, cartridges or firearm were found at the scene of the collision between the car and the tree.

It sounds almost like an Agatha Christie 'Who dunnit?', with motor cars, trees, bullets, no guns, etc. The judgment continues:

Furthermore, a person who intended to kill the deceased might select a more secluded venue rather than run the risk of being observed by travellers on the Monaro Highway, which is the main road between Canberra and Cooma . . . On the other hand there is no evidence which connects the deaths of the deceased with New South Wales . . . In these circumstances [referring to other matters as well] we, for our part, have summed up that the evidence does establish beyond reasonable doubt that the deaths of the deceased occurred in the Australian Capital Territory . . . The issue of guilt is necessarily determined within a particular jurisdiction. But the issue cannot be determined unless the prosecution establishes the authority of the jurisdiction to enter judgment. This issue, namely, whether the offence was committed within the jurisdiction, is distinct from that of guilt, namely, whether the elements of the offence are made out. Proof of jurisdiction is a prerequisite of guilt but otherwise it is not an element in proof of the commission of an offence except in those cases in which the offence is so defined that commission of it in a place or locality is made an element of the offence charged. Proof of the commission of the offence must be demonstrated beyond reasonable doubt, but this does not mean that proof of the existence of jurisdiction must first be established beyond reasonable doubt.

I only draw attention to the fact that it is typical of so many of the very complex matters which are eventually referred to the High Court that the judgments are quite wordy. They draw attention to the nuances which exist in the use of words, the manner of the law and the importance of reasonable belief. In the same case, Justice Brennan propounded the following view:

The arbiter of jurisdiction is the judge, not the jury. There can be no hearing and determination of the charge by the jury, unless the court has jurisdiction to do so. Of course, the judge has jurisdiction to inquire into any facts that are necessary to determine the court's jurisdiction to hear and determine the charge, but in this country I do not think that jurisdiction to hear and determine a charge depends upon the fact as distinct from the allegation that the crime occurred within a particular territory.

My colleague in another place therefore raised the question whether the issue of jurisdiction is an issue of fact or rather an issue of law or, at worst, a question of mixed law and fact. A solicitor I am not; nor do I think I would ever be able to aspire to that profession—not at my age, anyhow. But I do raise the point that, as so often occurs in this place, there are a number of very difficult circumstances to determine to identify specifically where particular responsibility lies. Suffice to say that, over the 12 years since 1980 that this matter has been debated in the High Court by the Attorneys-General of the various States and their advisers, and given this proposed legislation, a hope is expressed that they have it right.

I go one step further and say that, under such circumstances and even with such diligence as has been shown in the preparation of this piece of legislation, on previous occasions we have sometimes found that the first time it is tested in the court a new interpretation or view is placed on the set of words by the legal eagle or the administrator of the court. We then find there is a need to fine tune and amend the law that has been passed.

I am at liberty to say on behalf of my colleagues that if, in due course, it is revealed that there is a difficulty in total interpretation or in fulfilling the view or the belief

that this piece of legislation brings forth, we would be more than happy to assist in the amendment of it. I appreciate that, because it is back-to-back legislation between the Commonwealth and all States, obviously it is a matter that would take some time to come back before the Parliament because it would again need the acceptance of all groups before it could be undertaken.

I could add a number of extracts from the documentation that has been made available to me, most of which were canvassed in another place. In fact, my colleague the shadow Attorney-General (the Hon. Trevor Griffin) proposed two or three amendments that were not supported. The Bill comes to us as it was originally introduced by the Attorney-General. Therefore, it is not a matter that, having been lost in another place, we would attempt to change it in this place. In his final remarks in relation to this measure, the Attorney-General said:

In the course of deliberations about this problem, the Solicitors-General took the view that the territorial rule of the common criminal law was too restrictive and should also be dealt with. An overall solution was devised to cover the general rule and the specific problem raised in *Thompson*. Consideration of a solution has been protracted because of the intractable nature of the problems which arise—

I again draw attention to the terminology in which this Bill has been presented to the House in the words of our own Attorney-General, who clearly described the complexities and the intangibles almost of a number of aspects of the measure—

dealing as they do with the nature and extent of State criminal power, the burden of proof in criminal proceedings and the interjurisdictional possibilities of all nature of crimes.

This Bill represents the considered best legislative solution to these problems and has been accepted both by the Solicitors-General and the Standing Committee of Attorneys-General. The draft has been considered and accepted by the Committee of Parliamentary Counsel.

That is another group that has been injected into the review of this matter. The Attorney concludes:

It has been recommended that it be enacted in each Australian criminal jurisdiction. I commend the Bill to the House.

My colleague the Hon. Trevor Griffin expressed the same view that it is a commendable piece of legislation in view of all the circumstances which were presented to the Attorneys-General and which arose as a result of the High Court case: hence, the Bill before us. On behalf of my colleagues, I accept the recommendations and support the Bill.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank the member for Light for his contribution to this debate and his adequate coverage of this measure. He is most certainly right in saying that this is a complex measure; nevertheless, it is an interesting and important aspect of our law. I think we would be less than responsible as a Parliament if we did not tackle these difficult and complex issues, although the chances of their coming before the courts are few and far between.

There is no doubt that this Bill has been a long time in the making. It has involved the Standing Committee of Attorneys-General, the Standing Committee of Solicitors-General and the Committee of Parliamentary Counsel. It has spent more than eight years going through those various advisory and coordinating structures across this nation. It could be thought that all this time and energy has been wasted on a measure that will have very little immediate impact, but the reason all these people have wrestled with this intricate problem with all its difficulties for so long is, I suggest, because it has two important objectives. The first objective is to correct a deficiency in our justice system that has been exposed by the High Court. A person accused of the most heinous of crimes might escape justice altogether simply because it could not be proven where the crime was committed. This Bill ensures that that will not happen.

The second important objective that the Bill addresses is to bring the criminal law firmly into the twentieth century. Until relatively recently, the criminal law in this country took the view based on the nineteenth century or indeed earlier that all crime, as the member for Light has stated, is local and jurisdiction can only be where the crime is committed. The courts have recently begun to reinterpret this notion, but clearly it is not appropriate in these days where crime respects no borders or boundaries and even takes advantage of them in such areas as fraud, theft, car theft (which is of constant concern to the Parliament), pollution and drug offences.

The Bill is technical and undoubtedly difficult for the layman to follow, but I believe it represents a significant advance in the progress of the criminal law in this State and in the confidence that the community has in it. I commend the measure to the House.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Territorial application of the criminal law of the State.'

The Hon. D.J. HOPGOOD: I seek information from the Minister in relation to clause 2, lines 28 and 32, which extend the definition of 'State' to include the territorial sea adjacent to the State and the sea on the landward side of the territorial sea that is not within the limits of the State. There is no definition of 'territorial sea' in the Bill or, as far as I can see, in the parent Act. No doubt it is a term that is well understood in jurisdiction, but members should be given some explanation. I doubt whether there would be any concerns about offences that occurred in the gulfs, but what about in Investigator Strait? If a murder was committed on a fishing vessel in Investigator Strait, would that offence be caught up by this definition?

The Hon. G.J. CRAFTER: Yes; very clearly, officers have turned their mind to this matter. We could not have Standing Committee of Attorneys-General, the Standing Committee of Solicitors-General and the Committee of Parliamentary Counsel meeting for a decade and not address these issues in great detail. In fact, my recollection is that there was a series of international conferences that related to the law of the sea, and that has assisted this country in the definition of territorial rights for a number of matters, mostly economic issues but also with respect to the application of other laws over the seas. I think that the appropriate Commonwealth legislation that guides us in this area (and there is complementary legislation with the States, as I understand it), is the Commonwealth Territorial Sea and Submerged Lands Act, and that is the linchpin of the legislative basis

upon which the Commonwealth and States determine their respective rights and functions over the seas.

The Hon. B.C. EASTICK: I draw the attention of the Committee to clause 2 (8) which provides: 'This section applies to offences committed before or after its commencement but does not apply to an offence if *(a)* the law under which the offence is created makes the place of commission (explicitly or by necessary implication) an element of the offence; *(b)* the law under which the offence is created is a law of extraterritorial operation and explicitly or by necessary implication excludes the requirement for a territorial nexus between the State and an element of the offence; or *(c)* a charge had been laid before the commencement of this section'.

In the beginning and the latter part of that subclause we have a certain degree of going back in time—the traditional problem of the Liberal Party with any retrospective requirement that is contained within legislation. Short of arguing unnecessarily, I point out that the Liberal Party considered this aspect of the legislation very deeply. My colleague in another place questioned it at some length and drew attention to the fact that usually we do not accept such legislation but that in all the circumstances it was deemed necessary on this occasion.

Our position has always been and remains that the law takes effect from the day it is passed; it does not go back in time. The former Deputy Premier and member for Baudin will recall an occasion when we went back over 100 years with one piece of legislation, so that we did not find ourselves in complete chaos and completely bankrupt by allowing anybody in the future to lay claim to an incorrect action which was never intended but which might have been construed by a court of law as having occurred. That was another occasion on which the Liberal Party was quite pleased to assist the Government in its acceptance of the changes being effected. I draw attention to this; I do not necessarily want to delay the Committee's time further, other than to say that we have accepted that there is a reasonableness in this clause at this time.

The Hon. G.J. CRAFTER: I thank the honourable member for his explanation of this element of retrospectivity in the Bill before us, and I note that it was the subject of a great deal of debate in another place. As we know, that place is more capable of dealing with complex areas of the law than are we, who deal more simply with these matters. Nevertheless, I think that this section tries to clarify the difficulties, and we are having enough difficulty with the concept of where an offence may have occurred, let alone when. Paragraph 2 (8) *(c)* provides the salient words here, so that a charge having 'been laid before the commencement of this section' provides for the continuity of those accrued rights with respect to jurisdiction in this matter and then the other elements of offence in this nexus can be considered. So, there is indeed a mechanism in place to deal with this matter, and I appreciate the Opposition's understanding of that.

Clause passed.

Clause 3 and title passed.

Bill read a third time and passed.

COMMERCIAL ARBITRATION (UNIFORM PROVISIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 853.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill. I am in a very supportive mood today; it is only occasionally that I say 'No'. This Bill is perhaps both simple and complex. We are talking about the arrangements that pertain to disputes where there are commercial contracts and where there is some form of arbitration that can be used to sort out the difficulties. The disputes can be either domestic or international and the Commercial Arbitration Act, which has been in place since 1986, provides a mechanism to somehow argue the case in a less destructive atmosphere than the courts. In a number of areas we have seen tribunals set up to allow what one could describe as natural justice to apply.

In most areas, it is no longer the weight of the legal purse that can determine the final outcome. We would not wish to deny people the right of representation, but we as a Parliament must be concerned that everyone has a fair right to achieve an outcome that is not predicated on the amount of money that is spent on legal fees. So, we are having systems put in place which do not necessarily cut across people's rights but which provide a better way of getting parties together to see if something can be sorted out and agreement can be reached without intervention from the courts.

This Bill amends the Commercial Arbitration Act of 1986, which is uniform legislation throughout Australia. We are seeing more and more legislation, as I said previously, in relation to the Friendly Societies Act, which demonstrates a desire on behalf of the States and the Commonwealth to act in concert, to head in the same direction and to have the same rules applying. The Commercial Arbitration Act has applied since 1986. This Bill makes a number of changes to the existing propositions, and they result from the working party—the Standing Committee of Attorneys-General, who have re-examined the operation of the Commercial Arbitration Act.

The new areas that are covered include reference to an arbitrator so that the definition can extend to more than one arbitrator more than one is involved. There are changes in the rules in relation to the amount of money below which parties to the agreement cannot call upon legal representation in arguing the finer points of their case. I note that we have a $5 000 limit for the small claims court. This Bill proposes somewhat higher limits. The limit was $2 500 and it is now proposed under this Bill that representation by those skilled in legal matters can occur only if the amount in dispute is over $20 000.

The Opposition recognises that there is a complete difference with respect to the small claims court, which is basically to sort out niggling and aggravating disputes involving reasonably small amounts without having to spend more than the amount in dispute in legal fees. It was certainly a great initiative, first, to have the small claims court and, secondly, more recently to increase it to $5 000. In relation to commercial arbitration, it has been argued that there should be some uniformity in respect of who can go before that court without representation. It

has been suggested that we should have only a $5 000 limit before the legal representation proposition is activated. That case has been strenuously argued in another place. I leave members to look at that debate and appreciate that there are some finer points that should be understood.

We are talking about much larger sums of money than prevail in the normal domestic/commercial circumstances that members of Parliament deal with every day. So, the provision of a higher order may well be out of concert with the small claims court, but there still seems to be a reasonable recognition by the working party that that was an appropriate trip mechanism beyond which amount there is an automatic right of legal representation.

The next provision makes it clear that legal practitioners who are not admitted to practise in South Australia may represent parties in respect of arbitration. We are dealing with an arbitration situation; we are not dealing with a court situation. The whole idea of arbitration is that we save very large sums of money by trying to resolve a problem through discussion and not through the adversarial system of the courts. Under those circumstances it is appropriate to recognise the skills of a person with a legal background, irrespective of the State from which that person emanates. We recognise that many of these disputes are between companies or individuals and they relate to the delivery of goods and services across interstate boundaries. Again, under these circumstances the provision is infinitely sensible.

When I was looking through the sort of changes that are being made, I reflected on the fact that, if a dispute emanates from arbitration, an appeal against that can be launched through the Supreme Court. However, the appeal is allowable only if the original decision is at variance with the law. I will highlight—because it is the one that interests me—section 31 of the Industrial Conciliation and Arbitration Act, which deals with unfair dismissals. We know, for example, that there have been some grave injustices under that section, because in the conciliation of those unfair dismissals the Commissioners are not allowed to take into account any criminal act on the part of the person concerned.

There has been a number of cases where the employee has been dismissed for just and due reasons and, when that matter has been taken before the Industrial Commission by the person aggrieved—in this case the dismissed employee—the Commissioner has ruled out any evidence which may reflect on the criminality of the person concerned. That is not good enough. We should have a greater check and balance in the system.

The employer on these occasions has to make a decision. Does that employer, at his or her own cost, wish to proceed and appeal the decision? Does the employer want it taken to the Industrial Court and perhaps even further? Of course, that can be very expensive. Many of the employers to whom I have spoken who are involved would say, 'That has happened to me and I have taken the easy way out,' or, 'If it did happen to me, more than likely I would take the easy way out, because it is just too expensive to be able to get a decision, which I am sure I could obtain in a properly constituted court, but I will get no value out of that decision because the costs of obtaining it will be far greater than the cost of paying out right now.'

There are some injustices and imbalances in the system. I note the amendments to clause 12, which really provide that, unless there is a breach of the law in the decision reached, it will not be an appealable decision. With those few chosen words the Opposition supports the measure before us. It is a further improvement on a piece of legislation that I believe is having a very constructive impact out in the business community. There are always ways to make it work better. This one happens to advance along that path and I commend the Bill to the House.

The Hon. G.J. CRAFTER (Minister of Housing, Urban Development and Local Government Relations): I thank the honourable member for his indication of support for this measure on behalf of the Opposition. I will not go over the ground that he has covered in relation to this Bill, except to say that there was an attempt in the early part of the 1980s to achieve a degree of uniformity across Australia in the law with respect to commercial arbitration. To some extent that was successful. It arose out of a decision of the Standing Committee of Attorneys-General who in 1984 adopted a code for a uniform commercial arbitration Bill.

That resulted in all the jurisdictions passing legislation. However, there were some differences in that legislation and they have grown over the years. This is a further attempt to achieve uniformity. I can advise the House that on this occasion I believe it will be more successful. Legislation that mirrors this legislation has already been enacted in New South Wales, Queensland, the Australian Capital Territory and the Northern Territory. With the passage of this Bill this afternoon, South Australia can be added to the list of States and territories that will have uniform legislation covering commercial arbitration, and the consequent benefits that will bring to our community, particularly those who seek a less expensive and speedier resolution of disputes of this type. I commend the measure to the House.

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

ADJOURNMENT

At 5.46 p.m. the House adjourned until Friday 6 November at 11 a.m.