HOUSE OF ASSEMBLY

Wednesday 19 August 1998

The SPEAKER (Hon. J.K.G. Oswald) took the Chair at 2 p.m. and read prayers.

THIRD PARTY INSURANCE

A petition signed by 369 residents of South Australia requesting that the House urge the Government to exclude the postcode area of 5173 from the metropolitan area for the purpose of determining motor vehicle compulsory third party insurance premiums was presented by Mr Hill.

Petition received.

QUESTION

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

YATALA LABOUR PRISON

In reply to **Ms BEDFORD (Florey)** 7 July.

The Hon. I.F. EVANS: I have been advised by the Department for Correctional Services as follows:

1. What are prisoner lockdown times at Yatala since staff shortages began?

A lockdown is 'the securing of prisoners in their cells outside of a normal regime'. During a period of lockdown, the staff continue to respond to emergency situations.

There have been eight 'lockdowns' in the last six months. There are divisional restricted regimes that can be instituted at times when the prison is experiencing staff shortages. This may have resulted in prisoners experiencing extended hours within their cells, however telephone calls, showers, visits, and in some instances programs, are still maintained. Prison management has endeavoured to balance this across all divisions to minimise the impact on officers and prisoners.

Daily prisoner regimes are managed in accordance with divisional requirements whilst still considering appropriate staffing levels to ensure service provision is maintained.

2. Will the Minister provide details of the ratios of staff to prisoners at all times since then and allow access to the Yatala diary of staff shift times and staff cover records?

The staffing establishment for Yatala Labour Prison comprises 197 custodial officers, to manage a maximum of 405 prisoners. On 1 June 1998, 14 new recruits commenced the seven-week Trainee Custodial Officer Induction Course. Each of the trainees successfully passed the course. On 20 July 1998, 13 of these trainees commenced work at Yatala Labour Prison for further on-the-job training. The remaining trainee opted not to continue with training and resigned.

Over recent months, while staff vacancies were approximately ten percent, prisoner numbers have fallen to 20 per cent below capacity. The ratio of custodial officers to prisoners over the last six months has been steady, with a low in April of one staff member to 2.09 prisoners, to a high in May of one staff member to 1.95 prisoners.

During this time all positions on afternoon and night shift have been filled. Day shift positions are assessed on a daily basis with primary consideration being given to the security requirements and service delivery.

The staffing records of Yatala Labour Prison can be made available to the honourable member. Could the honourable member advise me of the timeframe she is interested in and I will make arrangements for the general manager to facilitate her request.

3. Will the Minister give a commitment to meet with the Chief Executive Officer of Correctional Services and staff PSA representatives to resolve this matter?

I regularly meet with the Chief Executive of the Department for Correctional Services. The Chief Executive, John Paget attends the meetings of the Central Consultative Committee, at which both the Public Service Association and the Department for Correctional Services are represented.

This committee meets on a monthly basis and representatives are able to submit any issues for discussion. In recent meetings the staffing situation at Yatala Labour Prison has been discussed. I am satisfied that a co-operative climate exists, within which a range of workplace issues, including staffing issues, can be addressed and resolved.

LEGISLATIVE REVIEW COMMITTEE

Mr CONDOUS (Colton): I bring up the twentieth report of the committee and move:

That the report be received.

Motion carried.

Mr CONDOUS: In accordance with the preceding report, I advise the House that I no longer wish to proceed with Notices of Motion: Private Members Bills/Committees/Regulations Nos 4 and 8 standing in my name.

QUESTION TIME

HEALTH FUNDING

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Minister for Human Services. Given the promise made by the Minister's friend and colleague the Premier during the election campaign to put families first, and his undertaking before the budget to quarantine health from funding cuts, can the Minister explain the funding crisis in his department following Cabinet's decision to cut $108 million from Health, Family and Community Services and Housing? On 28 May 1998, the Minister said that the budget would 'improve service delivery' to people who are ill, have a disability, are frail or aged or have a disadvantage. A document presented to senior executives of the Department of Human Services on 5 August this year, and leaked to the Opposition, now details a financial crisis in the department as a result of budget cuts of $108.5 million over three years. The document states that health funding is in for 'a hard landing', that Family and Community Services is running unsustainable deficits and that the major feature of the housing budget is a run down of cash reserves.

The Hon. DEAN BROWN: Let me assure the House that there is no financial crisis as portrayed by the Leader of the Opposition.

Mr Foley: It's your leaked document.

The Hon. DEAN BROWN: There is no financial crisis. Can I point out that that document, for instance, was apparently written—I do not know the document—on 5 August prior to the additional funding that came through from the Federal Government for health care. Let me deal with some of the specific issues. The Federal Government in the past 10 days has committed an extra $24.3 million to health care in South Australia for the present year and a building of $17.5 million into the base funding for the next five years. For nine months, I have been advocating, without any reservation, the need for additional funding for health care within our public hospital system. Everyone understands that. I have led the charge. I have encouraged other State Ministers to stand together to fight for additional funding. What I would throw back to the Labor Party across Australia is that we have had no commitment out of the Labor Party in Canberra as to what level of funding it would offer the States, in terms of its funding.

Members interjecting:

The Hon. DEAN BROWN: I know it does not have a policy. I recognise the fact that it has not announced the policy. There is no policy. I ask members: what is the policy of the potential Labor Government in Canberra in terms of private health insurance? There is none. I have not heard one statement in terms of whether it even supports private health insurance. Certainly, it has offered nothing. On the one hand, the Liberal Party is offering a 30 per cent rebate right across the board for private health insurance. We know that there is likely to be a further policy announcement out of the Liberal Party in Canberra about perhaps meeting the gap in terms of private health insurance. But I point out that Labor has a policy void when it comes to funding for the State Government. Therefore, in terms of health funding there are two crucial ingredients.

Members interjecting:

The SPEAKER: Order! The House will come to order.

The Hon. DEAN BROWN: Will the Labor Party federally put additional money into health care? Secondly, I throw out the challenge, because the other important matter is whether it will support private health insurance and take the pressure off the public hospital system? That is the important issue because that is where the increase in demand has come as a result of the crash in private health insurance.

I come to the second component in terms of my portfolio and the funding involved. A key ingredient is the Federal money that comes through for capital works in housing. I have already pointed out to this House that since 1989-90, the funds allocated to South Australia on a constant dollar basis for the capital works program in housing has been reduced by 40 per cent. That has been done, first, by the Labor Government in Canberra and then more recently by the Federal Liberal Government. Both Liberal and Labor Governments in Canberra have been significantly cutting back on capital funds for housing and that reflects in the budget that we have within the Department of Human Services. In fact, it is one of the biggest single items within that total budget.

Again, I put it back to the Labor Party in this State: what is the Federal Labor policy in terms of funding for house construction across Australia? Again, there has been no stated position from the Labor Party at all. If the Labor Party is going to criticise the money coming from Canberra, I do not mind it joining me in that criticism, but it needs to get its own Federal colleagues to be out there telling us what Labor would do in terms of that funding and, so far, it has not done a thing in relation to any announcement on Federal funding.

What I have secured for the department, and this is acknowledged, is additional money, about $55 million over a three year period, for capital works, so that we are able to carry out additional capital works such as the new facility for the Queen Elizabeth Hospital and the upgrade of the Lyell McEwin Hospital. Both of those are very important in terms of providing better health care within this State. They are facilities that are long overdue. It is a sad reflection on Labor that it governed from 1983 to 1993 but did absolutely nothing in terms of upgrading the capital facilities of the Queen Elizabeth Hospital or the Lyell McEwin Hospital. It has been this Liberal Government that has spent far more, about $30 million to $35 million more, in terms of capital works on public hospitals in this State.

The Labor Party used to spend about $70 million a year on capital works. Since we have been in office, this Liberal Government has allocated between $100 million and $110 million a year. Whilst I am the first to acknowledge that I want more money in my agency, the Department of Human Services (and it is the largest agency), and whilst I acknowledge that the demand in the community is very high indeed, I have been out there fighting successfully for additional funds to come in, and everyone understands that.

OVINE JOHNES DISEASE

Mr VENNING (Schubert): Could the Deputy Premier—

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart will come to order.

The Hon. M.D. Rann: You've got my support.

The SPEAKER: And the Leader.

Mr VENNING: Could the Deputy Premier explain the current status of the Ovine Johnes disease outbreak on Kangaroo Island and what effect this will have on the sheep industry in South Australia?

The Hon. R.G. KERIN: I thank the member for Schubert for the question and for his ongoing interest in the sheep industry. This is quite a serious question in that on Kangaroo Island eight cases of Ovine Johnes disease have been discovered, which for the Kangaroo Island economy is a quite savage blow. For those who do not understand what Ovine Johnes disease is, it is a wasting disease. Those properties on which the disease has been found will need to be de-stocked, which is very serious for the farmers concerned.

An honourable member interjecting:

The Hon. R.G. KERIN: I think it is a pretty serious topic. For Kangaroo Island that means that a lot of stock will be destroyed, and the sheep industry on Kangaroo Island is very much the backbone of its economy. We have a national program for treating Ovine Johnes disease where it was decided by all States that we would attack the program on a natural basis. This has brought about a lot of testing. That testing has allowed us to go ahead in the knowledge that we know what is going on, instead of being ignorant of the disease.

On Kangaroo Island we have found the disease in eight flocks. There are two other flocks where it is strongly suspected that the disease is present. That represents about 10 000 sheep which, if we go ahead with eradication, will need to be put down. We have tested only 40 farms. There are 60 more farms that are connected by trace forward or trace back to the flocks there at the moment. They need to be checked as well before we can make a final decision.

Eradication is still the preference of the industry committee put together to look after OJD from an industry perspective. That would mean that those 10 000 sheep would be slaughtered and compensation would be paid. For those farmers it would mean that for two years they would not able to have sheep on those farms and we would need to find an alternative use for that land. However, while we have eight positive test results at the moment, it is suspected that we may have 20 or even more, depending on what we find out over the next couple of weeks. In terms of the economy and the social consequences on Kangaroo Island, it could be quite devastating. As I said, in the next few weeks we will have more information to make an informed decision as to whether we continue down the track of eradication.

One of Kangaroo Island's advantages is that with all the water around it there is a natural quarantine barrier which offers us some other alternatives to try to manage the disease. At the same time, we must keep the sheep industry on the mainland safe. I have asked PIRSA to look at methods of

monitoring sheep movements so that we can be assured that those sheep which do not go to a slaughterhouse are not diseased. We need a balance of the issues. Certainly, the State-wide OJD committee set up by the industry is working very closely with the department. A Kangaroo Island OJD committee has been established on the island.

The local member, the member for Finniss, has talked to affected farmers. He is aware of the situation, because I have talked to him about the impact on those people. Those people with flocks in which the disease has been found are quite devastated because in many cases it has taken them years to put their flocks together and it is an important issue for them. We also need to put in place a means whereby these people get correct advice on what else they may be able to do with the land if we go ahead with destocking. I assure members that everything possible is being done. It is a very serious issue, but I go to great pains to point out that this is not a food safety issue: it is a stock health issue. It is purely a productivity issue and there is absolutely no problem with meat coming from the affected sheep.

HOSPITALS FUNDING

Ms STEVENS (Elizabeth): Given the Minister for Human Services' announcement on 28 May 1998 that hospital funding had been quarantined from any budget cuts, will the Minister explain the decision to cut hospital growth funding in the forward estimates by $10 million each year for the next three years? The leaked budget briefing document shows that the Department of Human Services was given a savings target of $30 million over three years by cutting growth funding to our hospitals. On 28 May the Minister released a media statement which said:

A feature of this year's budget is that hospital funding has been quarantined from any cuts.

The Hon. DEAN BROWN: That quote of mine is correct. If the member listened during the Estimates Committee, she would have heard me point out, as the Treasurer pointed out, that a 1 per cent efficiency gain is required across the whole of the budget, and the Department of Human Services was subjected to that, as were other agencies. However, we found our 1 per cent efficiency gain through taking the accumulated surplus largely out of Homestart. I do not think it all came out of Homestart, but most of it did.

I also pointed out during the Estimates Committee that we did not have to apply the 1 per cent efficiency dividend to the health area of the Department of Human Services. Therefore, I am able to say, as the Premier and I said back in May, that, in respect of this year's budget for public hospitals, we will be putting in the same base funding as last year and, on top of that, there will be additional money which is not yet reflected in the figures because it has not come through from Treasury. That additional money will cover the 3 per cent enterprise agreement for nurses this year, and all 3 per cent is being funded out of Treasury. On top of that there is now additional money out of the Federal Government—$24.4 million. Clearly, the member has not understood the figures, even though they were discussed in some detail during the Estimates Committee in June.

Ms Stevens interjecting:

The Hon. DEAN BROWN: I am highlighting exactly what the situation is. Therefore, we are able to say that additional money will be put into the hospital system this year with the base funding plus the top-up for enterprise agreements on top of that, plus additional capital funds that I have secured for the next three years for the biggest capital works program this State has ever seen in terms of hospitals. On top of that, we now have an additional $24.4 million out of the Federal Government.

LYELL MCEWIN HOSPITAL

Mr SCALZI (Hartley): My question is directed to the Minister for Human Services. How is the newly refurbished day surgery unit at Lyell McEwin Hospital improving the quality of health care services for people in the northern area?

The Hon. DEAN BROWN: Earlier today I was out at the Lyell McEwin Hospital, which is part of the North-Western Adelaide Health Services. I thought the shadow Minister might have come along but I understand that she might have had committee commitments. However, we did notify her office that I was going out there. It is good news for the Lyell McEwin Hospital because we opened the new day surgery facility, and I want to compliment the staff of the hospital on what they have achieved.

In the last year, 2 000 patients have had day surgery in that hospital, 20 per cent more than the previous year. So, there has been a substantial increase of 20 per cent in the last year in terms of day surgery in the hospital. About 50 per cent of all admissions for surgery at the Lyell McEwin Hospital now go through the day surgery centre. We have installed additional facilities to allow that capacity to be increased from 2 000 to 5 600 a year if those facilities are fully occupied. I do not expect them to be fully occupied, but we have provided for that capacity. With the extra $7 million from the Federal Government, we will be able to deal with some of those people who have been waiting for day surgery at the Lyell McEwin Hospital.

I also want to highlight the way in which the public hospital system has responded to the influenza epidemic which has hit South Australia. Recent figures show that the number of admissions to public hospitals in South Australia in the past couple of months due to the flu is six times higher than for last year. The number of influenza A admissions from 5 May to 28 July this year was about 400 compared with 57 for the same period last year. So, there has been a huge increase in demand. I will not go through all the different types of flu, but influenza A is the main one. So, members will understand the sort of pressure the public hospital system has been under not only because of the drop out in private health insurance but also because of the winter influx of people with influenza.

I pick up the other point about private health insurance. Pressure in public hospitals has been largely brought about by the slump in private health insurance. It is absolutely vital in terms of future health care in Australia that both the major political Parties in Canberra clearly put down their policy for private health insurance. The Australian health system will not be able to cope unless there is a reasonable blend of private insurance and public hospital patients. At present, with only 30 per cent of the population having private insurance, the balance is skewed far too much towards the public hospital system, which clearly cannot cope.

My challenge to the Federal Labor Party is for it to tell us now what is its policy in terms of encouraging people to take up private health insurance. I am interested to see the way in which Labor members opposite are squirming on this issue, because they know—

Members interjecting:

The Hon. DEAN BROWN: Well, where is your policy? I have put down a requirement that I believe Australia needs tax deductibility, it needs to do something with a rebate system for low income earners and, at the same time, it needs to do something as far as the gap is concerned when private patients go into hospital with private insurance. I am delighted to say that under the package brought down last week by the Federal Liberal Party—

Members interjecting:

The SPEAKER: Order! The House will come to order.

The Hon. DEAN BROWN: —there is a 30 per cent rebate for all people who take out private insurance. That means that for the majority of people it is equivalent to tax deductibility, and for those people on low incomes who do not get the benefit of tax deductibility it is a significant rebate indeed. I compliment the Federal Liberal Party on that, but I urge it to go further and to do something as far as the gap is concerned. If media reports are correct, the Federal Government is currently looking at this issue. I think it is absolutely essential that the gap be eliminated so that more people take up private insurance.

The challenge is there. The Liberal Government in Canberra has already partly responded. My challenge is to the Labor Party: I challenge our shadow Minister for Health to get on a plane, go across and talk to Michael Lee and, for goodness sake, convince him that it is about time he brought down a health care policy for Australia that does something for private insurance.

FAMILY AND COMMUNITY SERVICES FUNDING

Ms STEVENS (Elizabeth): What is the Minister for Human Services doing to address the funding crisis in Family and Community Services—

Members interjecting:

The SPEAKER: Order! The member for Elder will come to order.

Ms STEVENS: —as a result of unsustainable deficits? Senior executives of the Department of Human Services have been told that the FACS budget has unsustainable operating deficits and a current shortfall of $4.9 million. The document states that, in spite of this shortfall, Cabinet has given FACS a savings target of $5 million. The briefing paper states that neither position was disclosed in Treasury forward estimates.

The Hon. DEAN BROWN: I point out that the 1 per cent efficiency dividend is reflected in forward estimates. The 1 per cent efficiency targets are reflected in the budget documents that were brought in—

Ms Stevens interjecting:

The SPEAKER: Order! The member for Elizabeth has asked her question; she can remain silent.

The Hon. DEAN BROWN: As a result of that, as I have said, the savings we have achieved this year go beyond the 1 per cent so that we can reduce the demand in out years. We have done that through HomeStart in particular. The honourable member raised the issue in terms of FACS. The biggest single demand in the FACS area is in the HACC area, the home care area, and it is an area where demand has been increasing. One of the biggest areas of expenditure is domiciliary care. So, the Government is looking at the domiciliary care area—

Ms Stevens interjecting:

The Hon. DEAN BROWN: Yes. The HACC program comes under the old FACS area, which is all now part of the Department of Human Services. It always has been. I realise that the honourable member happens to be the shadow Minister, but it would appear that she does not even know where this massive HACC program sits in terms of the overall portfolio. I am amazed. Domiciliary care sits under the HACC program. The honourable member has highlighted the fact that, in relation to so many of the things she says, she does not know the basis of what she is talking about. We are reviewing the operation of domiciliary care to make sure that we get value for money for those services. The indications are that, by doing some reorganisation, and it may well be reorganising the way we deliver those services, we can achieve a much greater service delivery for the same amount of money. I acknowledge that in the HACC area in particular there is enormous demand, and we are struggling to keep up with that additional demand.

YEAR 2000 COMPLIANCE

The Hon. R.B. SUCH (Fisher): Will the Minister for Information Services advise what action has been taken to ensure that all Government systems are year 2000 compliant?

The Hon. W.A. MATTHEW: I thank the member for Fisher for his question and his genuine interest in this topic. Today marks—

Members interjecting:

The Hon. W.A. MATTHEW: I hope that the member for Spence is interested in this topic, because it is an important issue for Government. If he cares to sit back and listen, he might actually find out something for a change. Today is a significant day in that it marks the 500 day countdown to the new millennium—

Mr Foley interjecting:

The Hon. W.A. MATTHEW: Does the member for Hart want to hear this answer?

Mr Foley interjecting:

The Hon. W.A. MATTHEW: The member for Hart does? Regrettably, however, the Government does not have 500 days to rectify the potential effects of the 'millennium bug', as it is often called, or the year 2000 date problem. It is fair to say that the problem has presented the Government with significant challenges over the past year and a half or more and will continue to do so until the year 2000. If no action were taken, everything from traffic lights to Government desktop computers could be affected as from day one of the new millennium. For that reason the Government is focusing considerable effort and is spending considerable moneys to ensure that the problem is rectified and outfall from it minimised.

The problem has the potential to affect many of the world's computing systems because of the way in which dates are stored. For those members who are not aware of the cause of the problem, simply put, the problem comes about because of the way in which dates are stored in some computer systems and embedded chips. Essentially, in the 1970s dates were stored in six digit, rather than eight digit, format and in that format it was not possible to store a year in full. So, for example, 17 February 1970 would have been stored as '170270' rather than '17021970'. Clearly that means that, as the year 2000 clicks over, many computers will not be in a position to interpret the date correctly, and the date may be interpreted by some systems as 1900 rather than 2000. That has the potential to cause malfunction.

As a consequence, chief executives in Government agencies have been formally tasked with the responsibility of identifying, rectifying and testing year 2000 date difficulties.

A number of deadlines have been set. The first of those deadlines falls due as at the last day of this year. So, all software changes to essential systems should have been completed by 31 December 1998. By 30 June 1999, testing of all changes to essential systems must have been completed, and obviously there is an imposed time of 31 December 1999 by which any slippage that has occurred must have been rectified.

The Government currently intends to allocate and spend a minimum of $87.5 million on year 2000 date rectification, with an outer cost identified at this stage as potentially $118.4 million. As members would appreciate, the cost is a significant impost which is unavoidable and which is being found by governments not only around Australia but also around the world. For example, I am aware that our colleagues in Queensland have recently found that their costs could be of the order of $300 million. It is an impost of which Government has had to take account through not only its budgetary process but also in many cases agencies absorbing these additional costs within their existing budgetary framework. At this stage all the Government's computer technology systems have been assessed for year 2000 compliance by lead agencies, and corrective action has progressively been put in place where it is needed.

The Government has also established a dedicated year 2000 office, which has the role of ensuring that the date problem is corrected in all critical Government systems prior to the crucial dates that I outlined. The office is also dealing with the year 2000 date problem in the business sector, and that area involving advice to the private sector is being driven by my colleague the Minister for Government Enterprises. Work is also being done with the University of South Australia to establish its status and reporting needs, and contact will be expanded to include other tertiary institutions and private health sector and education bodies. The problem is not one that Government could ignore: it is one which will have significant cost to Government and of which we are aware. We prepared to meet it, and every endeavour is being made to ensure that as far as is humanly possible the effect of the year 2000 date problem is minimised so that it does not have a disastrous effect on 1 January 2000.

HEALTH COMMISSION CASH RESERVES

Ms STEVENS (Elizabeth): What action is the Minister for Human Services taking to address the sudden run down in cash reserves in the Health Commission that requires savings totalling $6.8 million this year to maintain the minimal cash balances?

Mr BROKENSHIRE: I rise on a point of order. Mr Speaker, I draw your attention to the Standing Order relating to repetition. This question is exactly the same as the previous five questions from the other side.

The SPEAKER: As happened yesterday, I ask the honourable member to bring up the question and I will examine it. I will call on the next question and come back to the honourable member if her question is in order.

FIRE SAFETY INFORMATION

Mr BROKENSHIRE (Mawson): Will the Minister for Emergency Services outline to the House moves by the South Australian Metropolitan Fire Service to make lifesaving information more accessible to the general public?

The Hon. I.F. EVANS: This morning I had the pleasure of launching the web site for the Metropolitan Fire Service, which is an important development in the provision of fire safety information by that organisation. It was pleasing that a local South Australian company, SE Network Access, won the design and installation of the system: it was another success story for that company.

Already there are some 300 pages of information on the site for people to use. The member for Peake would be interested to know that it is useful, and if he can use the Internet he should visit the site and learn something about fire safety. It has a number of categories, which include: organisation and equipment; country command; services; fire safety information and statistics. This is a significant development, because important fire safety information on the site is available not only to those people in a domestic situation who might want to find out something as simple as how and where to install things such as smoke alarms and fire extinguishers but also for commercial purposes to deal with matters such as industrial spills, or which fire extinguisher to use, for example, in a commercial or an industrial situation. It also has important fire prevention information for everyone to peruse, so that the number of fires and injuries that occur might be reduced.

Further, it has the capacity for instant update. For example, if it looked as though a fire such as the one that occurred at the oil refinery the other night could become worse or go on longer, there could be an hourly update of the incident on the Internet so that people in the local area who were worried about the fire could access that and obtain up-to-date information about the potential danger. I believe that that is an important service. It is good for builders, architects and planners to be able to access the site in order to keep up to date with new requirements under legislation and with information on what they need to do in relation to planning and designing new buildings. The site also gives details of courses and training provided by the Metropolitan Fire Service. It will obviously update legislation from time to time as it is needed. It is an important move and I welcome it. I encourage members to visit the site, because it is well worth a visit.

HOUSING TRUST RENTS

Mr CONLON (Elder): Given that budget cuts imposed by Cabinet and revealed in the leaked Human Services Department budget document included additional rent from the Housing Trust of $18 million over three years, will the Minister for Human Services tell the House when rents will increase and how much extra tenants will have to pay?

The Hon. DEAN BROWN: I am not quite sure what Opposition members are so excited about. I have the document here to which they are referring, and it is simply taking out the 1 per cent efficiency dividend that was discussed in great detail in the Estimates Committee.

An honourable member interjecting:

The Hon. DEAN BROWN: I will come to those in a moment. This so-called leaked document simply contains the figures that I talked about in the Estimates Committee, namely, how much the 1 per cent efficiency saving is for this year, next year and the year after, with a combined total of $108 million, which I believe is the figure that the Leader of the Opposition mentioned. The honourable member who professes to be the shadow Minister sat there all day long during the Estimates Committee and heard me talk about

these figures and now, two months later, the penny has dropped. And apparently, in relation to those figures that were talked about, the penny has also dropped for the shadow Minister for Housing. Those figures were openly revealed in the Estimates Committee.

Now that I have the document, let us look at what the member for Elizabeth did not say in her question. This is what she failed to point out: we are dealing with the health sector budget, and the revenue—

Members interjecting:

The SPEAKER: Order! The Minister has the call.

Members interjecting:

The SPEAKER: Order! The member for Bragg will come to order.

The Hon. DEAN BROWN: The estimated revenue for 1997-98, the past year, for the health sector was $1 738 million—

Mr FOLEY: I rise on a point of order. The question was from the member for Elder, Sir, not from the member for Elizabeth. You have just ruled that the member for Elizabeth—

The SPEAKER: Order! There is no point of order.

Mr FOLEY: —may have had a repetitious question. This is a repetitious answer.

The SPEAKER: Order! The honourable member will resume his seat. There is no point of order.

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson will come to order.

The Hon. DEAN BROWN: Now that I have the document and am able to quote to the House the figures that members opposite have conveniently forgotten to mention, I can highlight the hypocrisy of what they are talking about. The estimated revenue for last year was $1 738 902 million. The estimated revenue for 1998-99 is $1 779 million, an increase of something like $42 million. This is despite the 1 per cent dividend saving: this is an increase. So, why did members opposite not stand up right from the very beginning and say, 'We'd like to congratulate the Government: despite a tight financial situation, the estimated revenue for health care in South Australia will increase this year'?

Mr FOLEY: I rise on a point of order. The Minister is showing no respect for the Chair by turning his back on you, Sir. I would ask that—

Members interjecting:

The SPEAKER: Order! The honourable member will resume his seat. There is no point of order.

The Hon. DEAN BROWN: This $41 million increase in revenue for the health sector this year compared with last year is before—

Mr CONLON: I rise on a point of order. The Minister has now spoken for over a minute on health care funding. I asked a question about an $18 million increase in Housing Trust rents.

The SPEAKER: Order! The House has had a pretty fair go. The Chair is reasonably tolerant on the matter of interjections but when members take it to the stage of abusing that tolerance the Chair will have to do something about it. I ask members to bear in mind that there is a Standing Order on silence and that the Minister should be heard in silence. I also ask Ministers not to provoke interjections, anyway.

The Hon. DEAN BROWN: Thank you, Sir; I certainly will not try to provoke them. I point out that this document shows that there is $41 million more in the health sector this year compared with last year, and that is before the extra $24 million from the Federal Government. So, this shows that in fact this year, as compared with last year, there is something like $64 million extra revenue for the health sector. That, again, is before—

Members interjecting:

The SPEAKER: Order! I warn the member for Elder and the member for Hart.

The Hon. DEAN BROWN: This $64 million or $65 million is before the wage supplementation from Treasury. So, this gets bigger and bigger.

Members interjecting:

The SPEAKER: Order! I warn the member for Bragg and the member for Mawson—and I do not need help from the member for Spence.

The Hon. DEAN BROWN: I appreciate that, Mr Speaker. I highlight these most important figures in this document which the Labor Opposition has decided to ignore. Now I come to the question, which was about Housing Trust rents. If the shadow Minister were in touch with his portfolio, he would realise that letters have been written and an announcement has already been made that the Valuer-General has adjusted valuations in terms of market rents for the Housing Trust. Those letters are going out now advising that there is the normal annual adjustment to rents, and that is likely to raise some additional money. I forget the exact amount, but I will get it for the honourable member.

I also point out that, if the honourable member had read the Auditor-General's Report last year, he would have seen that the Auditor-General asked us to carry out an audit of the incomes of people in Housing Trust homes. That audit was started back in March and, after the first three months of that audit, the indications are that in a full year we will pick up an extra $6 million approximately in Housing Trust rent because people have underestimated their income. Because the rent payable by Housing Trust tenants is based on incomes up to a level of market rent, that is pertinent in terms of the level of rent collected. The audit has so far revealed that in a full year we will collect approximately $5 million to $6 million extra in rent on top of the other rent increases that might occur, simply because the audit is identifying people who have understated their income.

Rent increases in 1998-99 under this budget are expected to raise an extra $3 million in rent. The result of the audit will more than raise that amount of money, let alone the revaluation based on the annual normal valuation by the Valuer-General. That alone covers the $3 million referred to in the document.

ADELAIDE SCHOLARSHIPS

Mr CONDOUS (Colton): Will the Minister Assisting the Premier for Information Economy advise the House of the details of scholarships recently announced and what the scholarships hope to achieve for South Australia?

The Hon. M.H. ARMITAGE: I thank the honourable member for a very important question, and I am delighted to tell the House that it was my great pleasure on Friday last week to take part in the re-launch of the newly refocused and restructured Adelaide Scholarships (as they are termed) which have been developed by the University of Adelaide with great support from the Government. We believe that the

new and improved Adelaide Scholarships Scheme will be invaluable to South Australia's economic future. To that end, we as a Government have agreed to provide $900 000 over the next three years to support a number of enterprise scholarships at the University of Adelaide. This money represents a major strategic investment in the development of South Australia as a national and regional powerhouse in the information economy and in the high tech industry in which South Australia already performs so well.

It is the view of the Government that collaborative alliances between the education sector, industry and all levels of Government is a very fundamental aspect of developing a strong, sustainable and differentiated future for South Australia's economy. As I have told the House on a number of occasions, information technology is one of the State's fastest growing areas for employment and, as all members of the House would know, our policies have led to the attraction of a number of outstanding companies to Adelaide. Indeed, through the uptake of the Internet, the maturing of the multimedia sector and the emergence, just beginning, of electronic commerce as a major force for change, information economy is a major part of our future. I do commend Professor Mary O'Kane, Vice-Chancellor of the university, and the Council of the university for their courage and, indeed, their vision in completely realigning the scholarship program in all areas, but particularly in regard to information technology, intellectual property and responsiveness to industry demands.

Last year our IT&T industries had an average growth rate of 28 per cent, and these industries do provide jobs, which clearly is a major plus by itself, but, more importantly, they really are a potential source of new wealth and new opportunity for generations of South Australians to come. Our investment in the Adelaide Scholarships and the investment of the University of Adelaide, together with a range of industry contributors who are keen participants in this sort of exercise, will help to develop further the future for our high tech industries, or our smart industries, as a number of people have called them, including members in this chamber.

These scholarships will stop the flow of our brightest young students away from South Australia. They will attract talented students from around Australia and, indeed, internationally to South Australia, which obviously will be of great benefit. In the next few weeks, we will be announcing specific details of the Premier's Enterprise Scholarships which we view as a major commitment to the future of South Australia's economy. We are delighted as a Government to support this new initiative. I know I have 12 minutes left, but I do not intend to take 12 minutes more to expand on—

The Hon. D.C. Kotz interjecting:

The Hon. M.H. ARMITAGE: As the Minister says, this is particularly interesting information so I will take a short time to talk about Dr Andrew Thomas, a very well-known South Australian who is an astronaut and who was a focus of world attention when he spent a number of months on the Mir spaceship—and that is not something most people would want to do. He participated in the launch of the new scholarships via telelink from NASA. He made a number of points. One of the key points he made was that scholarships put him through his education process which enabled him to get a solid grounding in, I believe, mathematical physics (I may be wrong in that), and it set in train his move towards the greatness he has now assumed.

Dr Thomas made a particular point of saying that investments by governments in these types of scholarships are clearly investments for the future of the State and, indeed, of the country if the Federal Government made such a move. He was most forthcoming in his praise for these scholarships which are designed specifically to stop a brain drain, in the first instance, of our brighter students to other States but, more importantly, to attract the brightest of other States and other countries to South Australia.

GOODS AND SERVICES TAX

Ms WHITE (Taylor): Did the Minister for Education, Children's Services and Training give Parliament incorrect information yesterday when he said that the GST 'will not apply to books purchased by a school and distributed to students'? If so, will he now correct that information? The Howard tax policy entitled 'Tax reform—not a new tax: a new tax system' in its chapter on education clearly states:

> Activities that would normally be taxed will not become GST free simply because a school acts as purchasing agent. Goods (such as computers and books) and services sold or leased to students will be taxable.

The policy goes on to indicate that goods loaned to students at a fee will be taxed at a rate of 10 per cent.

Members interjecting:

The SPEAKER: Order! The member for Lee.

The Hon. M.R. BUCKBY: The information given to me was that a GST tax will not apply to books purchased by a school, I presume for use in a library or for use by students in classrooms. That was the advice given to me. If I am wrong about that, I stand to be corrected. I will seek further information for the member to identify whether or not that is the case, but that was the effect of the information given to me.

MOBILE SKILLS CENTRE

Mr LEWIS (Hammond): My question is directed to the Minister for Education, Children's Services and Training. What benefits or beneficial activities will there be for country school pupils arising from his proposal to set up a mobile skills centre? What progress has he been able to make with this initiative which formed part of the budget papers but which the ALP seems to have ignored?

The Hon. M.R. BUCKBY: This is another particularly good initiative of the Federal Government through Australian National Training Authority (ANTA) funding for our schools in South Australia. Two projects in South Australia have been funded by ANTA, and one of those, in the Riverland, is for a mobile classroom to deliver vocational education and training in food processing, transport and storage and agriculture and horticulture. The proposal was submitted by Loxton High School. I am very pleased to see that it received funding of $267 390 for this. It is an excellent initiative that has been put up by them and it is one from which students in that area will get great benefit.

One of the questions that arises in terms of a mobile classroom is: how will it operate? It will operate as a mobile work area and laboratory. It will provide laboratory controlled technology, computing and student work station facilities. It will move between schools and properties or as required by students studying programs, and this will be negotiated by participating schools. A local management committee comprising representatives of each participating school, local industry and the Department for Primary Industries, Natural Resources and Regional Development will

be responsible for the operations of the centre and will maintain close relations with relevant industry training bodies. There are a number of schools that will benefit from this, and I shall list those schools because it does cover a quite wide area.

Staff and students from the following schools will use the centre: Glossop High School, Loxton High School, Renmark High School, Waikerie High School, Browns Well District Area School, East Murray Area School, Lameroo Regional Community School, Swan Reach Area School and the Riverland Special School. Obviously, it will be a very mobile classroom that will move between those centres. The centre will operate throughout the year. It is expected that some 24 000 curriculum hours of training will be delivered directly by the centre, and a further 26 600 hours will be facilitated by training through the centre. So, it will get a great deal of use.

What are the benefits of this? Opportunities for students in vocational education and training will be enhanced significantly. Students will receive state-of-the-art training in areas of prime economic influence for the region of the Riverland. Local industry will benefit directly through undertaking training through the centre and through being able to employ students with industry relevant skills and knowledge. After all, that is exactly what we are trying to achieve with our focus on vocational education and training. As I said, the cost of the centre is some $267 300. Some $500 000 comes into South Australia each year from ANTA for centres of this type. ANTA will provide $243 390 of that $267 300.

In addition, local industry—and I commend them on their initiative and their efforts on this—will be a prime mover to shift the centre between sites on request, estimated to cost some $15 000. Participating schools will provide $9 000 in establishment costs, for example, staff training, signage and project support. As I mentioned earlier, this is one of two centres. The other one is at Xavier College, which is in my electorate at Gawler. It has received funding of a similar amount for a horticultural vocational and educational training program linked to the Virginia area and the horticultural area of the Gawler River. So, it is another success for South Australia. Of course, this builds on the two centres that have already been developed—one at Naracoorte High School and the other at Urrbrae High School. They are particularly good initiatives by the Federal Government in terms of increasing our training and preparing our students for the work force.

WATER PRICES

Ms HURLEY (Deputy Leader of the Opposition): My question is directed to the Minister for Government Enterprises. Will the Government implement the recommendation of the water pricing report tabled in this House on 5 June 1997 that future changes to water and sewerage charges be subject to scrutiny through a public process? Will the Minister tell the House why the Commissioner's recommendation was ignored when new charges were gazetted on 5 December 1997? In response to the national competition policy reform package, the Government appointed a Commissioner under the Business Enterprise Act 1996 to oversee prices charged by SA Water. The Commissioner recommended that, in future, proposals by SA Water to change the price of water and sewerage services should be subject to public scrutiny. Guidelines should be developed for the release of information by SA Water, and price changes need to be coordinated with environmental programs.

The Hon. M.H. ARMITAGE: The process of determining water prices is well known in the Parliament. We have been doing that for some time, and—

Ms Hurley: There are changes.

The Hon. M.H. ARMITAGE: Well, lots of changes are often recommended. What I think is most fascinating about this question is that the Deputy Leader of the Opposition failed to mention that, in fact, the prices gazetted were for this financial year and that the prices went down. I would have thought that that was cause for celebration in South Australia.

The Hon. R.G. Kerin: Not when you are in Opposition.

The Hon. M.H. ARMITAGE: Yes. When you are in Opposition you want things to be tough, you want prices to go up, you want the debt to remain high and you want all those sorts of things so that the Government does not look good and so that you have a sniff of Government at the next election. As a corollary, that means that the people of South Australia do it tough in the interim. We are not prepared to accept that. Everyone in this House knows that, as a consequence of the outsourcing of the management of South Australia's water, we as a Government have saved $10 million. Those sorts of savings—which were being absolutely wasted by the Opposition when it was in Government—as a result of decisions taken by the Government, have now been put towards providing better education facilities, more police, better hospitals, more operations and so on.

The Government could have taken the decision to apply that $10 million to provide a saving to consumers' hip pockets. But, because of the fact that we have been dealing with the State Bank debt since we were elected in late 1993, we decided not to do that. That would have been the nice, easy political thing to do to make sure that people got a big boost in their hip pockets so that they would have thought we were fabulous. In fact, we decided to apply that $10 million to providing more services—and that is exactly what we have done. However, as a corollary, that has meant that until that gazettal about which the Deputy Leader speaks the benefits have not flowed through into South Australians' hip pockets. Frankly, the Government is delighted that we are now able to ensure that that occurs.

The SPEAKER: Order! Before calling on the next item of business, I apologise to the member for Elizabeth. It took some time for the parliamentary record to be obtained to check whether or not her question was in order. The Chair will ensure that the honourable member gets a very early call tomorrow.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

Ms KEY (Hanson): I refer to the Adelaide Casino. As members would be aware, the Adelaide Casino opened in 1988 and at that time the Adelaide Casino Award was established. In 1996 a second enterprise agreement was negotiated between the parties—the Casino, the Liquor Trades Union, the Clerks Union, the Construction, Forestry, Mining and Energy Union, the Communications Union and

the Nurses Union. This agreement replaced the 1995 Adelaide Casino Enterprise Agreement. In 1996 the agreement was operative from 1 July 1996 to 31 December 1997 and had a renegotiation clause that required—

The SPEAKER: Order! There is too much audible conversation in the Chamber.

Ms KEY: —the parties to commence negotiations on 1 September 1997 for the subsequent agreement. In September 1997 members requested that the Liquor Trades Union notify the Casino management that they wished to start negotiations. This was relayed to Casino management. The Casino responded by indicating that, as the Casino was to be put up for sale by tender, it would not be re-negotiating a new enterprise agreement. The argument used by management was that, since the tender process had commenced, it could not alter the wages and conditions of employees, although I must say that is a questionable proposal. It was indicated that employees would remain under the current enterprise agreement at least until the sale process was finalised. The Government moved to withdraw the Casino from sale on 17 February 1998 and, in another place, the Treasurer, the Hon. Rob Lucas, made a ministerial statement, referring to ASER's assets being withdrawn from sale. In his ministerial statement he said:

> In conclusion, I believe it is important that on behalf of Funds SA, ASER and the Government I place on the record our appreciation of the outstanding contribution of ASER management and staff in achieving the substantial turnaround in the ASER group's performance. In what, no doubt, has been a difficult period for them, they have proved to be a valuable asset in themselves and their commitment and dedication should not go unmentioned.

Shortly after this, the Liquor Trades Union, on behalf of its members, sought to commence negotiations for the proposed next enterprise agreement. The first meeting of the industrial parties was held on 6 April this year. On 7 April, Paul Mason, General Manager, Administrative Support, issued a notice of intention to negotiate an enterprise agreement under the Industrial Employee Relations Act 1994.

The first meeting of the negotiating committee was held on 29 April this year. At that meeting the Casino management indicated it had a list of nearly 20 items it wished to put to employees and their representatives to consider. At least 12 of those items would result in a drop in pay and conditions for employees. These are the same employees, I add, whom the Minister had been praising in February. The saga goes on. On 14 May this year a newsletter was put on the union noticeboard with an explanation of what had been proposed. A further negotiating committee was planned for 15 May 1998. On that date the union put a draft document to management for discussion. The parties agreed to continue discussions, but management made no offer that would be of benefit to members. On 27 May the employee representatives indicated that members-employees would discuss productivity issues but would not agree to a cost cutting exercise designed to cut their basic wage and conditions.

On 27 May the Casino management notified employees that it was withdrawing from the enterprise agreement negotiations and, at the same time, it indicated it was processing a change of ownership for the Casino. Due to time constraints, I summarise by saying that Casino management has now changed its mind completely and offered 280 Casino employees an Australian Workplace Agreement. So, while employees and certainly the union at the Casino understood that they were continuing to negotiate on the enterprise agreement, there has now been a change that has not been notified to members or to the union in regard to Australian Workplace Agreements.

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

Mr BROKENSHIRE (Mawson): Sunday 9 August 1998 was a very tragic day for the community of Hackham West. A family lost a husband and father. The whole community lost a friend and a man totally devoted to making his suburb a better place to live. Mr Les Scanlon was tragically killed trying to help a neighbour in trouble. As one of the local members, I was privileged to know Les and I have never met anyone who was more of a true gentleman than Les Scanlon. He had been an active member of Neighbourhood Watch in Hackham West since its inception. He was the area coordinator for Area 321. He was a member of the Southern Division Neighbourhood Watch Committee and a member of the Neighbourhood Watch subcommittee that was looking at a working group involving young people. He also assisted the former member for Reynell with the Adopt a Street program and an anti-graffiti program, and recently he had been invited to join the City of Onkaparinga Crime Prevention program.

One of Les's greatest achievements was the southern division information trailer. The idea came from Les Scanlon. He put a team together to work on how to fund the project and, with the success of obtaining Government grants, he then embarked on a day and night project of building the trailer and making sure he had all the right equipment available on board for the community to view. This project was a great success for the southern division and I personally think Les was quite proud of his efforts, and rightly so. Les's involvement in the local community was not just about crime prevention. He was quite vocal in the clean water campaign, he supported the then Noarlunga council in its campaign for better drinking water in the southern suburbs, and he worked with the Hackham West Action Group and later the Residents We Are Group. He was also well known and linked with the Hackham West Community Centre and the Hackham West Primary School.

Les was a devoted family man who spent much of his time with his three children, involving them in the community. He had many friends and nothing was ever too much trouble for Les: he was always there to lend a hand. From my observations, Les was a quiet achiever. He saw the job that needed to be done and he got on and did it. He was not afraid to give his opinion on political issues and he was prepared to talk to me on a number of occasions about his concerns on crime prevention, graffiti and the future of our young people. Over a five year period when I had quite an amount to do with Les, he would come into my office and often discuss visionary plans about improving the lot not only for the general southern community but, in particular, for young people. I knew that he was committed and passionate about our region and the community as a whole.

Les's favourite hobby was fishing. He was a keen fisherman and there was not much that could deter him from the water when the fish were biting. His Neighbourhood Watch group quite often shared in the delights of the smoked fish he would provide as an after meeting snack. He was a keen photographer and many people enjoyed his fishing photos and those of the whales he would capture with his lens. Les was a man who enjoyed life, loved his family and really cared for his community. He touched a lot of people and was a prime example of goodness. If you talk to Hackham West people, they tell you that Les Scanlon was a

decent man, a leader in his community and a friend to many. All of us have learned much from him, and the great community spirit in Hackham West has a lot to do with his individual efforts.

We all share the pain his mother Teresa has expressed through the media on behalf of the family. I would also like to say a special thank you to Debbie, Les's wife, who gave Les her full support, and to their three children, Eran, Ben and Anita. I am sure that they will remember the many good things about their father and, as they get older, they will appreciate the value of what their father did to make the community a better place in which to live. Les was a special son, a brother, a husband, a father and a friend to many, many people throughout the whole community. His valuable input was tragically cut short at such a young age but his spirit, commitment and effort on behalf of the community in the south will live on.

Mr HANNA (Mitchell): I draw attention to the Active Club program, about which I make no criticism. It is a program which the State Government sponsors to assist sporting and recreational groups around the State. There are two funding rounds each year and each electorate is allocated a maximum of $10 000 per funding round. I was very distressed regarding the most recent funding round in my electorate because of what I believe is a serious discrepancy.

I am not the only one. I have consulted with my Labor colleagues and discovered that we have experienced various problems. One example is where cheques have been sent to the completely wrong electorate on the other side of town. Another example is where inquiries have been made about the nature of a club, its membership and how to contact officers of the club, and the Office of Recreation and Sport has not been able to provide those details promptly to enable members to pass on to clubs cheques which are distributed to members. This is either a matter of incompetence or it is something more sinister.

To give the House an idea of the problems members are having, I was upset when one of the most successful clubs in my electorate, the Marion Cricket Club, missed out on funding for, as far as I know, at least the second time. I was particularly upset on this occasion, because another club that is situated outside my electorate was given $5 000 out of this funding round where a maximum of $10 000 was allocated to my electorate. I have nothing against wrestling: the satisfaction of pinning down someone's shoulders for the count of three is not unknown to me, and I am not totally unfamiliar with the half Nelson or the full Nelson, but I must admit that my wrestling experience pales in comparison with the wrestling experience of the relevant club at Flinders University, which has received $5 000 of the active club allocation that should have come to my electorate so that it can purchase a new mat. That club will have a new mat that will cost well in excess of $5 000 whilst the Marion Cricket Club will miss out.

I know very well of the hard work of members of the Marion Cricket Club such as Ian Crilly and Roger Davies who, through their own voluntary efforts, which take up many hours each week, are holding the club together. This club urgently needs the funds for which it has applied under this program, but it has found that those funds have gone not only outside my electorate—even the contact person is not resident in the electorate of Mitchell—but to a club in the electorate of Davenport, the Minister's electorate. From the letter the Minister wrote to me, I note that it is not just a matter of the Office of Recreation and Sport making certain recommendations, because the Minister clearly states:

> I have subsequently approved these recommendations.

So, the Minister himself has a hand in this affair where money which should have gone to one of the successful clubs in my electorate has gone to a club in his electorate. I am sure that the clubs in the Minister's electorate got their full allocation of $10 000 on top of the funding that should have gone to my electorate of Mitchell. This is either a matter of gross incompetence or, as I have said, it is something more sinister than that.

The Hon. R.B. SUCH (Fisher): In contrast to the previous speaker, I want to praise the Minister for Emergency Services for announcing yesterday an inquiry into prostitution in this State. This matter has had a long and vexed history in terms of debate and reform in this place. My view is simple: I do not believe that Governments have any role whatsoever to play in the sexual activities of consenting adults. Only three aspects of this matter need to be addressed by Government: first, health; secondly, the protection of children; and, thirdly, residential amenity. Apart from those three aspects, in my view Governments have no role whatsoever in trying to regulate, interfere with or police the private sexual activities of consenting adults.

I trust that this time, with, I hope, the support of members on both sides, we can bring about genuine reform in this area and stop the nonsense which currently goes on whereby a lot of police resources are put into trying to monitor the activities of that industry. I am not trying to sound moralistic, but I have never used a prostitute and I have no desire to. I find their use rather strange in the sense that I do not believe that one should pay for sexual activity. I do not want members to take that the wrong way, but I believe that such matters should transcend financial transactions.

I welcome this inquiry. I trust that this time the Parliament will be mature enough to consider the recommendations of the review. Last time, I was disappointed that in respect of this issue and another moral issue the Parliament did not even progress to the Committee stage. In that case, I thought that Parliament did not do its job or what the people of South Australia would expect. I commend the Minister for his announcement yesterday, and I trust that we will make progress this time.

The next matter to which I refer is an issue that is close to my heart, that is, TAFE. I have been privileged to be invited to be a member of the council of the Douglas Mawson Institute of TAFE. I am pleased to accept that invitation. I will replace someone who is known to many of us, the former member for Peake, Heini Becker, who has served for 25 years since the inception of that TAFE institute at Marleston. The Douglas Mawson Institute, with Graham Eagles as Chairperson and Mike Mulvihill as Director, and some famous people on the council including Gavin Wanganeen and many others, is an excellent example of what TAFE offers—South Australia's best kept secret.

The institute has campuses at Panorama, Marleston, Croydon and Port Adelaide. It is an example of what is available in the vocational area in terms of post-secondary training. I commend the members of that council because, unlike the members of most other boards and councils in this State, members of TAFE, university and school councils are not paid. They are not even paid for their petrol. When I think that people such as Max Baldock, who is also a member of

the council, travels from Port Noarlunga to a meeting at, say, the Port Adelaide campus, I believe it is quite a sacrifice apart from the time and expertise that is involved—and he is just one example.

In the future, I think we should look at compensating people who give time to such groups as university, TAFE and school councils. I am not asking for compensation for myself, but I think those people should at least be recompensed in terms of travel at the Public Service rate. Members of Government boards are paid, and in many cases they receive travel expenses. Members of water catchment boards are paid and also receive significant compensation for expenses. I think it is about time we considered doing the same for people who are involved in the very important area of education. I am delighted to be part of the council of the Douglas Mawson Institute, and I look forward to contributing to and keeping my close association with the wonderful organisation that is TAFE in this State.

Ms RANKINE (Wright): During the last sitting week, on 5 August I addressed this House about my concerns regarding the Salisbury Aboriginal Women's Group and what I perceived as a lack of support from this Government. On the following day, the Minister came into the House and made a ministerial statement about the assistance her department gives to that group. She stated:

> The division of State Aboriginal Affairs has given exceptional assistance to this group—

and I emphasise 'exceptional'—

> and will continue to help, encourage, support and provide a positive resource, which the honourable member [that is me] fails to acknowledge.

I am happy to acknowledge the work that DOSAA has done in relation to these women, but whether or not I acknowledge it is of little consequence. What I believe is important is what these women think. This morning a letter was delivered to my office from the Salisbury Aboriginal Women's Group. I think it is important for the House to hear what is contained in that letter. The first paragraph is basically an introduction in which it is stated that they wish to refer to comments made by the Minister. The letter goes on to state:

> The group wishes to challenge Mrs Kotz's statement about the excellent TAFE system. This system did not allow the group to advance in skills development in the arts and craft area as a result of inadequate and inflexible curriculum. Although the group did plan in the long term to endeavour to establish a business enterprise, the TAFE course in which our group was involved was closed prematurely before enough confidence and skills were developed.
>
> We have been made victims of a flawed system and with no apology. In the ensuing seven months since the closure of the course in February 1998, we have been promised much from many quarters but the reality is the group has:
>
> · no appropriate accommodation;
> · no funding;
> · limited equipment and materials.
>
> The group is fed up with unfulfilled promises and token gestures of assistance. We have struggled in difficult conditions to stay together, and we are not sure how much longer we can survive in the face of bureaucratic slowness and/or indifference.

I will also refer briefly to the Minister's comment that the Salisbury Women's Group, however, decided on a new direction—the establishment of a commercially viable business. Quite clearly, the different direction it undertook was that it was dispossessed of its learning facility. It is currently located in temporary accommodation in a church hall in the back blocks of Salisbury North, without equipment, using volunteer trainers. That is its different direction. The women also addressed the items the Minister identified as assisting the group—and I will go through them one at a time: DOSAA contributed $92 towards the cost of registering the group's business name; the group met with an Aboriginal lawyer for approximately two hours to discuss some legal matters; an officer from DOSAA helped the group complete one application form for a funding grant from Salisbury council. The application attracted a grant of $500. This is the only assistance given by DOSAA in applying for financial assistance, as opposed to the Minister's comment that the group made application with DOSAA's substantial assistance, with a large degree of success.

The Minister also said that DOSAA helped them access the NEIS scheme. The women tell me that none of the group is eligible for assistance under NEIS. The Minister said that her department is helping them continue to search for accommodation and that an appointment had been made with the Salisbury council to discuss this issue—an appointment the women initiated, an appointment the women made with the Aboriginal liaison officer in the Salisbury council. Whether or not the Minister likes it, these women are seeing this assistance as inadequate. Half an hour ago I had a telephone call to my electorate office telling me that one of the women had been contacted and told that the group could not have the empty Government building in 9 John Street—the building which would be the most appropriate for them to set up their enterprise, which no other Government department wants and from which no income has been received for over two years. My challenge remains with this Minister. These women need real, substantial and concrete support from this Government. If they are relegated to the back blocks of suburbia, their enterprise will surely fail, and this Government will be setting them up to fail.

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

Mr MEIER (Goyder): This afternoon I wish to applaud the Federal Government's new tax reform package that it announced last week. What a magnificent package it is, and what a great reform for Australia. It is very much a radical reform—something that we have been wanting and needing for many years. At long last, the package has been announced, and so much work has been put into it. When Paul Keating was Prime Minister he promised Australia that he would provide tax cuts. He said, 'Not only have I promised them, they are L-A-W tax cuts; they are law. They've already been passed. They only have to be proclaimed. So don't fall for what the [then] Opposition [the Liberal Party] is advocating. I will promise. . . ' Of course, he did not fulfil that promise. The law then suddenly was undone.

We did not get our tax cuts, and the same old antiquated tax system has continued up until now. I just hope that the people of Australia will not be deceived by any Labor misinformation concerning any benefits they will receive from the new tax reform system. Soon after the release, I was staggered to see the headline, 'Rich would get richer: Beazley'. How wrong can he get? Who are the people who most of all can abuse the tax system today? It is the people who have a lot of money, who can create trusts, who can seek to have credits in other areas and who are able to minimise their income to such an extent that they do not have to pay tax. We see it happening all the time. It is the rich who are abusing this current system and, therefore, this new system will do away with so much of that, because everyone will have to pay the 10 per cent tax whether or not they like it, and

the rich will not be able to get out of paying that tax. I applaud the Prime Minister and the Coalition for at least seeking to tackle a problem that has existed for so many years.

How will people benefit or not benefit under this system? In the booklet *Tax reform: not a new tax, a new tax system*, which has been circulated, I refer to the dual income couple, with a 50:50 income split and no dependent children, involving some 1 278 000 income units, representing, on my reading of the booklet, the highest figure of any of those for the many groups that have been identified in the booklet. The booklet shows that, for people earning up to $5 000, their cuts in personal income tax and increases in family package entitlements will benefit them to the tune of 21.4 per cent. People earning up to $10 000 will receive a 17.6 per cent benefit; $15 000, 21.4 per cent; $20 000, 20.7 per cent; $25 000, 20.1 per cent; and $30 000, 19.5 per cent.

Let us now jump from that lower income group to the higher income group. People earning up to $45 000 will receive a 13.1 per cent benefit, compared to the lower income group, which would receive 21.4 per cent. That is a significant benefit to the lower income earners compared to those who are earning, in this case, $45 000. Those earning up to $50 000 would receive a 13.1 per cent benefit; up to $55 000, only a 12.8 per cent benefit; up to $60 000, 12.6 per cent; up to $65 000, 12.5 per cent; up to $70 000, 12.3 per cent; and up to $75 000, 12.2 per cent. I am referring to the column headed 'Cuts in personal income tax and increases in family package benefits'. I would like to put 'Paid' to the hypocrisy that the rich would get richer under this system. It is quite clear that the package is targeted at those who are earning less and for whom the benefits will be greater in the area I have just identified than the benefits for those earning more. I say 'Hear, hear!' The scare tactic about the price of food increasing will have to be dealt with on another occasion.

PUBLIC WORKS COMMITTEE: BOTANIC, WINE AND ROSE DEVELOPMENT

Mr LEWIS (Hammond): I move:

That the seventy-sixth report of the committee on the botanic, wine and rose development be noted.

I know that some members consider this proposition to be controversial, but the Public Works Committee did not find it so. Stage 1 of the botanic, wine and rose development incorporates the refurbishment of the Goodman Building and Tram Barn A to accommodate the Botanic Gardens administration and State Herbarium facilities respectively. This project also includes the preparation of the siteworks for the Adelaide International Rose Garden, and the total estimated cost of stage 1 is $10.5 million. On completion of these works, it is anticipated that stage 2 of the botanic, wine and rose development will proceed, involving the establishment of a National Wine Centre at the corner of Botanic and Hackney Roads. But that remains the topic of yet a further submission to the committee on a subsequent occasion.

I refer here to the scope of the stage 1 works. The Botanic Gardens administration and education facilities will be housed in the refurbished Goodman Building—and what a magnificent building that is. I urge all members who have not had the opportunity of seeing its interior and the manner in which it was constructed to take the opportunity of doing so. The State Herbarium will be relocated to the refurbished Tram Barn A building. The Herbarium's extensive collection will be housed on two levels and in improved storage conditions compared with the facilities provided at the current Herbarium. Tram Barn A is a magnificent piece of engineering with some beautiful iron work, if you are an engineer and are able to understand the skill that has been used in not only the design but also the manufacture of that steelwork, in the trusses, and so on.

The Adelaide International Rose Garden will be established to the north of Tram Barn A and in front of the Bicentennial Tropical Conservatory. The development will also incorporate the existing National Rose Trial Garden. General site works, car parking and landscaping will be associated with all those project elements. In addition to the scope of stage 2 works, the following will occur. On completion of stage 1, the buildings currently sited at the corner of Botanic and Hackney Roads and occupied by the Botanic Gardens and the State Herbarium will be demolished and the site cleared to accommodate the National Wine Centre. The National Wine Centre complex will accommodate a number of functional elements, including a core tourist attraction, wine education facilities, wine tasting and sales facility, function space, wine industry administration, food outlets and a wine tourism information centre.

It is truly a national wine centre complex that is proposed. There will be general site works, car parking and landscaping; a vineyard of approximately one hectare in size will be established for training and educational purposes; and there will be a visual amenity containing a range of different varieties of grapes. Extensive landscaping and planning of the rose garden will also be undertaken at this stage of the project. The committee has been provided with details of the extensive financial analysis that the proposing agency has undertaken for this project. We have been told that, once established, the National Wine Centre will function with a net operational surplus from commencement, and this surplus is expected to increase over the ensuing five years. That is the good news—and very good news it is indeed.

The benefits expected to accrue to the wine industry in South Australia as a result of this development are made up of four parts. First, South Australia will achieve a share of the production growth that will occur as a result of the National Wine Centre. It is expected that this will reach about $15 million by the year 2025, creating a total of 170 jobs; that is, initially, it will create about 10 jobs a year. Secondly, the presence of the National Wine Centre in Adelaide will prevent South Australia from losing market share based on current production. This is estimated to be worth approximately $25 million, based on an assumption that, if the National Wine Centre were to be located in another State, South Australia's share of production would fall by about 1.5 per cent, from 50 per cent of the national production total to 48.5 per cent, because the Wine Centre would be located elsewhere.

In addition, the presence of the National Wine Centre in Adelaide is expected to increase South Australia's market share by the same amount, again based on current consumption. So, that increase is expected to be worth about $25 million as well, again, based on the assumption that if the National Wine Centre locates in South Australia the State's share of production will increase from 50 per cent to about 51.5 per cent. Lastly, South Australia will experience an increase in market share based on the growth expected to

occur in the total market for wine as a consequence of having this centre somewhere in Australia—and it will be in South Australia. This is expected to be about $45 million by the year 2025. These benefits are quantified in a table entitled 'Wine Production Impacts on South Australia' which sets out the statistical information supporting the remarks I have made. I now seek the leave of the House to incorporate that statistical table in *Hansard*.

Leave granted.

Table 1
Wine Production Impact on South Australia

Source of Impact	Indicative impact on production levels	Estimated impact on economic activity*
Share of production growth	$15 million by 2025 (i.e., of production growth attributed to National Wine Centre)	$10 million stimulus to GSP by 2025, or $0.4 million per year—NPV of $45 million over 25 years Jobs by 2025—170, or the creation of almost 10 jobs each year
Prevention of loss of market share on current production	$25 million (i.e., assume that if National Wine Centre is located in another State, South Australia's share of production falls from 50 per cent to 48.5 per cent)	$15 million per year NPV $174 million over 25 years Jobs per year—250
Increase in market share on current production	$25 million (i.e., assume that if the National Wine Centre locates within South Australia, the State's share of production increases to 51.5 per cent from the current 50 per cent	$15 million per year NPV $174 million over 25 years Jobs per year—250
Increased market share on growth in market	$45 million by year 2025	$27 million by year 2025 NPV $120 million over 25 years Jobs by 2025—500 (or the creation of 20 additional jobs each year)

*Multipliers derived from analysis of the wine industry undertaken by the SA Centre for Economic Studies, using the Federal-SA CGE model

Mr LEWIS: The table points out that the impacts are the share of production growth, the prevention of loss of market share on current production, the increase in market share on current production that will result and the increased market share arising out of general growth in the market that will occur as a consequence of having a national wine centre somewhere in Australia. As the wine industry is a major focus for tourism development in South Australia, as is evident by the directions within Tourism SA's business plan (and I think the former Minister and Deputy Premier is to be commended for that), it is expected that significant benefits will also accrue to the tourism industry as a result of this project. I underline the debt which the industry owes to the former Minister and Deputy Premier for his determination to see that focus brought to the development of tourism and the wine industry in this coordinated manner. These benefits are detailed in tabular form, the key details of which are contained in a further table, entitled 'South Australian tourism impacts', which I seek leave to have inserted in *Hansard*.

The DEPUTY SPEAKER: Is the table purely statistical?

Mr LEWIS: It is, Sir.

Leave granted.

Table 2
South Australian Tourism Impacts

Source of Impact	Indicative impact on tourist expenditure	Estimated impact on economic activity*
Interstate tourism	$1.9 million p.a.	$1.5 million stimulus to GSP NPV of $17 million over 25 years Jobs per year—25
International tourism	$1.2 million p.a.	$0.8 million per year NPV $9 million over 25 years Jobs per year—15

*Derived from research undertaken for SA Tourism by the SACCS and Centre for Tourism Research, Griffith University

Mr LEWIS: The benefits to our gross State product from tourism expenditure arising from the National Wine Centre will come from both interstate and international visitors. The estimated increase in expenditure for these visitors is $1.9 million and $1.2 million per annum respectively. In addition, it is be expected that a total of 40 new jobs will be created. Of course, there will be some expansion of the gross State product arising from the activities of those people who choose to spend more money in South Australia as a direct consequence of the centre being located here, rather than choosing to go elsewhere to spend their leisure dollars and taking that money away with them. That amount is not quantified but is nevertheless a real benefit. Representatives from the National Wine Centre, the Botanic Gardens and the State Herbarium and the rose garden committee have identified the following key objectives for the development:

- to achieve an integrated development which represents the operational requirements of the National Wine Centre, the Botanic Gardens, the State Herbarium and the Adelaide rose garden;
- to develop a project of international significance which recognises the site's botanical setting and rich architectural heritage;
- to develop the National Wine Centre as a world class interpretive, educational and entertaining facility to showcase the social, economic and cultural role of the national wine industry in Australia;
- to upgrade the Goodman Building and Tram Barn A to provide modern facilities and to relocate and accommodate the administrative function of the Botanic Gardens,

the State Herbarium and the State Library and to investigate the accommodation of a botanical interpretive centre within the upgraded facilities; and

- to develop a rose garden of international standard incorporating the National Rose Trial Garden and to support the Adelaide International Rose Festival, which in itself will bring benefits to the State's economy.

On Wednesday 22 July 1998, the Public Works Committee conducted an inspection of the site and its environs. We were able to walk through the Goodman Building, Tram Barn A and around the site in general, gaining an appreciation of the heritage value of the buildings. The committee also walked through the existing Herbarium, and members were better able to understand the benefits that will result in the Herbarium being rehoused in the tram barn. This was particularly evident in relation to the additional storage capacity that will be provided and, overall, the committee considers that the site, once redeveloped, will serve the Botanic Gardens and the State Herbarium well and will provide much improved facilities on those which are presently available.

The committee considers the wine industry to be of major economic importance to Australia and to the State, and that the establishment of a world-class national centre will have major regional economic and social benefits. Members believe that the Wine Centre will contribute significantly to the development of the tourism and wine industries, thereby leading to the long-term creation of employment and income for the State. A development of this kind in the capital city precinct along North Terrace will provide an opportunity for South Australia to reassert its position as the leading wine State in Australia. The adjacent rose garden will afford similar opportunities for the State's rose industry and challenge them—indeed, help them—to create a major tourism focus right in the city, whilst also enhancing the existing adjacent attractions, particularly the Botanic Gardens and the Bicentennial Tropical Conservatory.

The committee acknowledges the public benefit that will be derived from the relocation of the State Herbarium—in fact, the State Herbarium will have additional space that it is presently short of. This relocation will not only increase the public awareness of and access to this valuable resource but will also provide these improved storage conditions for the 800 000 specimens in that extensive outstanding collection. Members noted that the refurbished premises will provide extra storage capacity for the State Herbarium's short to medium term expansion without having to construct additional facilities, which would result in further intrusion into the Botanic Gardens on the existing site.

Given all of the above, and pursuant to section 12C of the Parliamentary Committees Act, the Public Works Committee reports to the Parliament that it happily recommends the proposed public work, which will have positive economic benefits as well as desirable social and other employment outcomes for the whole State.

Ms THOMPSON (Reynell): I rise in support of the committee's report. I note the undoubted importance of the wine industry to this State and the desirability of having a venue whereby we can showcase that industry to international visitors in particular, and also to national visitors—because it is a National Wine Centre that will be representing the wine regions of Australia and not just those in this State. That is something that I find a little difficult to deal with at times, as I want to promote the southern region and other cherished regions in South Australia over and above what I regard as the inferior product coming out of New South Wales in particular. However, it has been difficult for us in this process to put aside these prejudices and recognise that, at this stage, it is really important that we have here a National Wine Centre which can be used as an entrance point, or a gateway, to tourists interested in exploring Australia's wine industry.

I understand that this will offer an opportunity for people locally and from around the world to find out more about an intriguing industry in a way that is not generally available in other countries. However, there are a couple of points that I need to make in relation to the process that has been followed. I go back to May and July 1997, when the then Parliament was debating this Bill and remind members of the tardiness of the process. At that time, the Opposition commented on the fact that the location of the centre and, indeed, the securing of a memorandum of understanding with the Australian Winemakers' Federation had already taken over six months and we were in danger of losing the centre to New South Wales or, even worse, Victoria—something which, of course, we could not in any way condone.

However, the tardiness of the process does not seem to have changed, and it has taken another year for us to get to stage 1. I am most concerned that, in that time, we have had the announcement of a private development, and we are not sure how that will fit in with our National Wine Centre and what impact, if any, it will have on that centre. I will explore that issue very carefully when the committee looks at stage 2 of the proposal, which is focused more directly on the National Wine Centre itself.

We need to ensure that all the expenditure by this State will have direct economic benefits and that we do not duplicate facilities. Already I have heard expressed on one radio station at least some considerable public concern that we may be duplicating facilities, and it will be important for the Public Works Committee to ensure that we do not waste any expenditure and that the assessment of the National Wine Centre Board is based in reality and not in hopes and wishes, of which we have seen too much in this State, where people just hope that a project will work, rather than researching it properly. The committee has been presented with researched evidence to this stage, and we want to be sure that it follows through to the next stage of the development of the National Wine Centre.

One point to note in relation to the work approved in stage 1 relates to Tram Barn A. The member for Hammond already has noted the interesting engineering aspects of Tram Barn A and, as someone who has always looked at this as a building of gross appearance, I have been one of the lobby that has wanted to remove the tram barns to enable us to have a good view of the conservatorium. Having seen the inside of the building, I indicate that I can see some value in it being maintained, but I wish that it had not been erected where it is, because it is really most unsightly. We can only hope that this development will improve the amenity of the area—although how the tram barn and the rose garden will go together is still something of a mystery to me. However, the committee noted in its report that the relocation of the Herbarium to Tram Barn A will mean that it will be very difficult for those lobbyists who wish to see it demolished to put their case in the future because, if they do, it will be at the expense of a very valuable botanic collection.

The Goodman Building is something that I have not had much of an opinion on. It has been somewhat hidden, and I find that I am too busy concentrating on the traffic on the rare

occasions when I am out that way to look at the building. So, it was very interesting on the site inspection to see that it is a building of some unique character. It reflects not only the architecture but also the work ethics of another age, and the hierarchical nature of work at that time. As such, I consider that it is worth preserving and it is worth using. It is worth us being able to see the way in which our history has been shaped, the way in which our work force has been shaped and for us to remind ourselves that we do not really want to go back to the times when the workers had to go up an outside flight of stairs to their refreshments room two floors up, while the director had a magnificent office with his own toilet facilities and balcony overlooking North Terrace and Hackney Road. So, we do have some social value in preserving the Goodman Building, as well as the architectural value that is involved.

I consider that the Wine Centre is important but that we need to proceed very carefully to ensure that we maximise the opportunities that are available from the Wine Centre and that it proceeds with widespread support in the community. In considering the issue, the Public Works Committee has already flagged a couple of areas that it wants to explore further when considering stage 2, particularly in terms of the attitude of the Adelaide City Council to the proposal. However, I consider stage 1 is ready to proceed, given the tardiness already associated with this project. I certainly did not want to see the Public Works Committee hold it up at all, and we look forward to receiving complete documentation and justification for stage 2 in the very near future.

Mr VENNING (Schubert): I support the seventy-sixth report of the Public Works Committee on the botanic, wine and rose development, and congratulate the members on it. The National Wine Centre has certainly been a long time coming, and I was very concerned at the delay some months ago when there was some politicking, but I am very relieved and happy that we are finally there.

Mr Lewis interjecting:

Mr VENNING: Not the current committee, but certainly a game was being played by the Opposition; and the Leader of the Opposition in the previous Parliament certainly made it very awkward. I must agree with the Presiding Member, the member for Hammond, that a refurbished Goodman Building will look magnificent. Given the adverse publicity at the time, I thought I should look at the building and I was privy to an inspection conducted by Ms Anne Ruston. I was most impressed with the building. It certainly has grandeur before its renovation and restoration. It is a very historic building for the State and, given that it has not been used for many years, I certainly look forward to its restoration.

I have a little trouble seeing the same vision as others in respect of Tram Barn A, but I live in hope that I will receive the vision. I never underestimate the ingenuity of today's architects and builders to turn a shed into a palace, and it should be a great spot for the new Herbarium. The benefits to the wine industry are obvious, as the member for Hammond said, to ensure its share of growth in South Australia. We have been the pivotal region in Australia in this industry and still grow most of the wine grapes in Australia, certainly most of the super premium reds.

The centre will also ensure that our production maintains its prominent position, worth approximately $25 million. The presence of the National Wine Centre in Adelaide will ensure that Australia maintains its world market share, and it has obvious advantages being sited here in Adelaide. It has positives all round, and it will be the focus of South Australia's most successful industry today. Certainly, the wine industry knows no bounds. Many of the critics said that it would reach its height two years ago, but the industry is absolutely soaring. The demand for red grapes has gone through the roof. It is almost frightening. What the wine industry will pay for premium reds is a little concerning, but the quality of our product improves every year. As the member representing the Barossa Valley, I am honoured to have an industry such as this in my electorate.

The Wine Centre will also add a lot of value to a historic precinct of South Australia which currently is unused. It is almost a derelict section of a prominent part of Adelaide. The centre will be very correctly placed at the end of the historic North Terrace precinct in Adelaide. It is only a short walk along North Terrace from the museum and other historic areas of Adelaide to the rose garden, the Herbarium and, of course, what will be Australia's and the world's finest National Wine Centre.

Originally, I had hoped that this centre would go to Tanunda in the magnificent Chateau Tanunda. Any member who has seen this authentic chateau, the only one in the southern hemisphere, would say, 'This has to be the site for the Wine Centre.' It is a magnificent building. Those members who have not seen it should do so. Over the years, I campaigned for the Wine Centre to be located at Chateau Tanunda, but I admit that I have a biased view in relation to this. What else would members expect given that I represent the Barossa Valley and the member who represents McLaren Vale sits behind me? At the moment, I am in front and that is where I intend to stay. I did see Chateau Tanunda as an obvious location, and it is certainly an area that I support.

I note what the committee reported about the siting of this building, as follows:

> The committee is advised that the pre-determined criteria for this site were:
> - the site could not be aligned with a bias towards any wine region or company;
> - it had to be easily accessible to the industry and the general public, including international and interstate visitors; and
> - it had to have sufficient space to incorporate a vineyard.

I agree with those points, so reluctantly I say that perhaps the Barossa can wait for another occasion. Certainly, it is an interesting building.

Since then, Chateau Tanunda has been sold to Mr John Geber of Cowra Wines. In the media last week, we saw the grand plans he has for the chateau, which includes five star accommodation, lower levels of accommodation for backpackers and a boutique winery. It will be a fantastic development, so Chateau Tanunda will rise again.

The rose garden will be a tourist mecca and will supplement the Wine Centre and the State Herbarium. The establishment of the centre is recognition of the industry's importance to South Australia. We have a magnificent wine industry and our product is world class, and we must formalise the focus and access to the industry to world identities including industry people, marketing people and tourists.

Mr Lewis interjecting:

Mr VENNING: As the member for Hammond interjects, it is superior. Of course it is: the taste test will soon tell you that. South Australian wine is a top drop, and our super premium reds have no peer at all. I will be honoured to be in Sacramento in two weeks to be a guest of the wine growers and wine machinery people in the Napa Valley. I look

forward to that because they are watching us with a lot of interest. My guest in this House yesterday was Mr Bubba Simnacher—an American, obviously. He was my guest for lunch, and he had a couple of big reds. To say he was impressed is an understatement. He said that our reputation is totally warranted and that the world is trying to catch up to us. I will make sure that it does not catch up too soon.

When the centre is built, visitors will be able to come to a central spot—our National Wine Centre—try the product and be briefed on the industry. From there, they will be able to visit our wine growing regions and experience them for themselves. I support the report. Hopefully, the centre will be built quickly and will open soon. Certainly, it will be a great asset for South Australia.

Mr HILL (Kaurna): I support the report. I will not speak at great length, because I spoke on this issue when the legislation came before Parliament. I want to state again that I do support the development. A number of people in the environment and conservation movement have expressed some concern about the proposal on the site because they believe that it will interfere with the Botanic Gardens. They also have expressed a certain amount of concern about the transfer of the Herbarium from the existing purpose built building to what they see as a shed.

I have looked at the report briefly and I listened to the words of the Chairman and the Acting Chairman at one stage, the member for Reynell. I have also looked at the site drawings for the proposal. I am convinced that this is a very good site for the development. It will enhance that corner. It will be a great tourism facility for South Australia—a great drawcard. It will bring people into the Botanic Gardens and into the parklands. Once they have seen the visitors' centre, I believe that many visitors will look at the other facilities and resources in that area, and that is a good thing. It will be good for the wine industry in general, because it will focus in South Australia a lot of activity around the wine industry, and that is a good thing. I do have some concerns about car parking on that site. There is a lack of car parking generally in that area, and I am concerned about that. However, that is really an issue in relation to stage 2.

The other issue relates to the Herbarium. I am pleased from this report and from your words, Mr Acting Speaker, that the new location for the Herbarium will be superior to the existing location. The 800 000 or so specimens will be transferred in good condition. They will be well looked after, and the Herbarium will be in place before the development occurs. During debate on the Bill, I was concerned that the material for the Herbarium would be put into storage, where it might stay for a considerable period of time and not be accessible but, as I understand from this report, that will not happen. So, that is a good thing.

The other area of concern, as the member for Reynell mentioned, is the fact that a private enterprise wine centre is being established on the old Adelaide Girls' High School site. I am particularly pleased that that site will finally be used, because it is now over 10 years since there was a fire at that site and it has been derelict. It is an important part of Adelaide's heritage, thus it is very good that it will be used for public purposes. I have had a little bit of a briefing from the entrepreneurs involved in that site. What they are planning to do is excellent: it will help the wine industry and will also be a great tourism facility for South Australia. As I understand it, it is planned that on the site of the old Adelaide Girls' High School about 30 or so boutique wineries will show and sell their wares. There will be a good restaurant, a bar and training facilities for persons from overseas, particularly those from Asian countries who want to know more about the wine industry. They will be able to come to South Australia, be accommodated on the site, go through some sort of training process, understand more about the wine industry and then go back to their own country and, hopefully, start purchasing and recommending our wine. So, that is a very good thing. It is a very good facility. It is being financed through the private sector and will not cost the Government one cent.

It seems deeply ironic that we have a free enterprise Government which wants to sell off everything but which is in the process of establishing a nice socialist entity on the Botanic Gardens site that will be subsidised by the people to train and to educate about wine while down the road private enterprise is doing exactly the same thing. I hope that the two enterprises can work together for the benefit of the wine industry and tourism. I hope that they do not get into competition and try to ruin each other. I also hope that we do not see Government funds being wasted by this development's not being able to satisfy the demands of the market. By that I mean that I hope the private enterprise initiative on the Adelaide Girls' High School site does not dominate the market and leave this facility as a white elephant. I sincerely hope that sufficient funds are put into it so that those who know about marketing, education and the industry can be involved and do the sorts of things that will make this work successfully. I sincerely hope it does.

The Hon. D.C. WOTTON (Heysen): I took the opportunity with other members to speak on the Bill when it was before the House earlier this year. I express my support for the Wine Centre and the rose garden. I do so, particularly as far as the Wine Centre is concerned, because I represent an up and coming section of the wine producing community in the Adelaide Hills and because I know from my association with the wine makers and grape growers throughout the Hills of their support for this development. I enjoy wines immensely, and I love roses. All in all, the centre will be an excellent asset for South Australia and for Australia—

Mr Conlon interjecting:

The Hon. D.C. WOTTON: No. I reiterate the concern that I expressed during the debate on the Bill, which would implement the proposals presented in this report: I am concerned about adequate funding, particularly for the Herbarium. I know that the member for Kaurna and others who have participated in the debate have raised this issue. I have received a lot of representations from people who have expressed concern about the siting of this facility. The Adelaide Botanic Gardens are very special gardens. They are a great asset to this State as far as tourism is concerned and, of course, for the way in which they present so many species of South Australian, Australian and overseas plants.

I know that there has been a feeling—and there still is a feeling—in the community that this is not the most appropriate site, but that decision has been made. While I expressed concern about that site earlier, I do believe it is appropriate that the facility should be close to the CBD and that it should be an extension of the North Terrace precinct. I do not have any problems with the association of the Wine Centre and rose garden with the Botanic Gardens. I think they will work in quite well. My concern is to ensure that adequate funding—and I know the report says that that will be the case—is made available to have in place an appropriate Herbarium for

the 800 000 or so species in the present facility. I will be watching very closely to ensure that is the case.

There has been some debate about the appropriateness of the Tram Barn for the Herbarium. If anyone is to take the blame for the Tram Barn still being there, that blame would have to rest on my shoulders. There was a considerable amount of pressure on the department and me as Minister over the past four years to have the Tram Barn removed. As I indicated to the House previously, there was a great deal of excitement when Tram Barn D came down because it was thought it was Tram Barn A and the matter seemed to be resolved for a short period of time. We need to recognise the importance of that Tram Barn, which was part of a series of storage areas for the trams and transport going right back to the early days of South Australia. I agree with the member for Schubert that, when the architects have had their say and building starts, it could be made into a very attractive building. I reiterate that the important aspect is to ensure that the funding is available regarding the species that are so important for the Herbarium.

I also have a problem with regard to car parking but, as the member for Kaurna has indicated, that will be dealt with in stage 2 and I am sure that matter can be resolved as well. I support the centre and the rose garden and I have expressed my concerns because I believe they need to be put on the record. I will be watching closely the development of this site but I certainly recognise the importance of the establishment of the Wine Centre and the rose garden, which will be national facilities, in this State and in Adelaide.

Ms WHITE (Taylor): Sir—

Mr Brokenshire interjecting:

Ms WHITE: My comments will be brief, because I cannot wait to hear the member for Mawson. The member for Mawson, through interjections, and the member for Schubert commented about opposition to the Wine Centre. Of course, they must have been referring to Liberal opposition to the Wine Centre, and I will talk about that in a moment. At the outset, I want to follow up the comments of the member for Kaurna regarding the second wine centre proposal—a private sector proposal—which I believe, as does the member for Kaurna, sounds exciting. It is a pity that it seems that, every time a facility is proposed, it is the taxpayer who makes things happen in this State rather than the private sector. I cannot remember when last a private sector developer said, 'We are going to build something magnificent here.' That is a pity.

Mr Brokenshire interjecting:

Ms WHITE: Of course, under previous Governments. The word around town now is that the private sector proponents went to the Government a while ago and said, 'We are going to build this for you and you will not have to put in one cent', but the Government said, 'Oh, no.' Why was that? It was because of the Liberal leadership tensions between the Premier and the former Premier, and the hoo-ha about sites, ownership and the whole mess. This whole process has been a monumental stuff-up by the Liberal Government.

Members interjecting:

The DEPUTY SPEAKER: Order!

Ms WHITE: While I have not had recent involvement with the Wine Centre, I did have quite intimate involvement through my role as shadow Tourism Minister—

Mr Hill interjecting:

Ms WHITE: —thank you, colleague—a couple of years back when the former Premier and a past Minister for Tourism announced that the Wine Centre would go ahead on the Hackney site. That was at the end of 1996 but then along came a premiership tussle, the then Premier was deposed and the new Premier decided that he was not happy with the former Premier's ownership of that project and sought to shift the project to another site. The Torrens Parade Ground was the site—

Mr Brokenshire interjecting:

Ms WHITE: That is quite accurate. It is the site the now Premier chose. In fact, in January 1997 when a former Minister took over as Tourism Minister, one of the first things the then member for Wright, Scott Ashenden, had to do was put out a press release reconfirming that the site would be the Hackney Road site. Indeed, I quote that press release of 22 January 1997:

> The announcement that the Wine Centre would be at Hackney Road puts an end to speculation that Mr Ashenden, as the new Minister for Tourism, was going to change the proposed location of the National Wine Centre.

We might not have known then what that was all about, but we found out later, because in a leak to the Opposition came a letter to the Defence Minister, the Hon. Ian McLachlan, of 17 March 1997 and signed by the Premier, no less, indicating:

> It is necessary for the project's commercial success and to consolidate industry support of it to move it to the Torrens Parade Ground.

Clearly, the new Premier did not like everything that had been done by the old Premier and he sought to change the site. In that letter he indicated that the move to the Torrens Parade Ground was to garner industry support. In April 1997 the wine industry was so distressed by the incompetence of the Liberal Government and the leadership tensions in the Liberal Party impacting on this important National Wine Centre for the State that representatives came to the Opposition and pleaded for the Opposition to help out because they could not get the Liberals to sort the matter out.

A meeting was set up and Ian Sutton and John Pendrigh from the Winemakers Federation went to see the Leader of the Opposition and me to see whether we could sort this out. In May I released a press release giving full support to the Hackney site and, until that point in April-May last year, the Opposition, while we thought the initial Taj Mahal concept of the former Premier was a silly idea, remained silent and waited to see what the Government came up with. Again, there were no plans. The Government came running to the Opposition saying, 'Okay, we do not know what we are going to put there. There are no plans, but please pass this legislation.' We were told that, if we did not put out a statement in the next couple of days, the Wine Centre would go to another State. In the interests of securing a National Wine Centre for South Australia, the Opposition said it would support the legislation even though there were no plans. At that time I sought to amend the legislation to introduce a proper consultation process that would have taken 30 days.

The Minister, who is no longer on the front bench, said at the time that his Government would not agree to that amendment because it would slow down the process by six months. Of course, that was not true. What has happened? That was in June 1997. It is now over a year later and we have only just reached the stage of talking about the plans for the centre. It is obvious that this Government has not been able to manage this process efficiently. A private developer is now doing something on the former site of the Adelaide Girls High School. It sounds pretty good, but the word around town is that this developer went to the Government ages ago

and said, 'We'll do it, and you won't have to pay a cent.' Now we have taxpayers forking out for it. I do not know what the final figure will be—neither I think does the Government—but perhaps $30 million or $40 million may have to be provided for that facility.

The question remains: what is the financial position in respect of this centre, given that this new private development looks like going ahead? On the former Adelaide Girls High School site, this development sounds very sensible, but I think the committee should ask this question: why do we always ask the taxpayers to fund development in this State when the Government does not seem to be able to get its act together to enable or give effect to the private development of facilities in which the private sector has clearly been interested? This question must be asked. One possible answer is that leadership tensions within the Liberal Party are leading to inefficiencies in Government and the sort of debacle that we have seen during the past two years in respect of the National Wine Centre.

Mr BROKENSHIRE (Mawson): I am delighted to speak in favour of the development of stage 1 of the National Wine Centre and rose garden. It is disappointing that I have had to listen to so much of Party politics by the Opposition instead of hearing its support for this project, which the Opposition was not able to achieve during its 11 years in office.

First, I want to put on the record a few of the facts of this matter. As usual, the Opposition had a bob each way when it came to whether or not it would support the National Wine Centre. The Hon. Ian Gilfillan in another place used this proposal to shore up support for himself as the endorsed candidate for third place on the ticket of the Democrats in the Upper House. The Leader of the Opposition and the then shadow spokesperson, the member for Taylor, got up to their old tricks when it came to trying to hold back this opportunity for South Australia. They were never prepared to endorse the site proposed by the then Premier, the Hon. Dean Brown, but everyone knows in hindsight that, outside of McLaren Vale, it is the best site for this centre.

As I have a magnificent premium wine region in my electorate, I would have liked to see this centre in McLaren Vale, in my electorate, but this is a National Wine Centre and a project that must involve bipartisan support, adopted by the whole industry and situated in a capital city. In an area such as the North Terrace precinct this becomes another integral cog in the brand new gear box that will help crank up economic development and opportunity not only for the wine industry and tourism in general but for other value added commodities to develop the hospitality and tourism industries in Adelaide and in our most important regional areas which encompass at least five significant wine districts in South Australia.

The Leader of the Opposition played games right up to the last minute. When we wanted bipartisan support, he would not give us a clear direction. When it came down to the last day, when we had to make an announcement on the Wine Centre and when we needed to know whether we had bipartisan support for it, we asked the Leader of the Opposition to let the Premier know what was going on. We were in the Party room on the Tuesday morning and the Leader was still playing tricks. He put out a press release that morning. That had never been done by any honourable Leader of the Labor Party, but the current Leader of the Opposition does not always abide by matters of honour.

I think that many previous Leaders of the Opposition and Labor Premiers would be extremely disappointed that the Leader of the Opposition had yet again broken with protocol by putting out a press release when we were sitting in the Party room waiting to see whether he would have the fortitude to support this most important initiative. The shadow spokesperson, the member for Taylor, did not want to see this proposal fast tracked under section 43 of the Development Act, because she, as the representative of the Leader of the Opposition, wanted to hold back this project and see this opportunity go to Canberra, Sydney or perhaps even Victoria.

The fact remains that this centre will be built and that it will be funded from the public purse. It is interesting to hear what members opposite have said today because they are disappointed that many developments in this State have to be financed by taxpayers' money. I want to hear members opposite talk about the $4 000 million of taxpayers' money and the 33 600 manufacturing jobs that they lost. I would like to hear members opposite talk about all the corporate headquarters that were lost during 11 years of incompetent government by the Labor Party.

This Government is about working in partnership with the private sector to encourage and restore growth, opportunities and confidence in this State. This is a plank in the rebuilding exercise; it is a plank in building up confidence. It is a partnership between the Government, the community of South Australia and the wine industry. The wine industry has assumed responsibility for the ongoing recurrent funding of this project, which will clean up the worst part of the Botanic Gardens precinct.

Anyone who has visited that area would be ashamed to see what has not happened since previous Governments did away with the old tram barn and the MTT bus depot. They built a beautiful conservatory next door, but they left this area which is an absolute disgrace. The conditions under which people have had to work in the Herbarium are very poor. This proposal will create an opportunity for that Herbarium to be relocated so that the people who work there and the community will have a much better facility for protecting and observing what is happening in terms of the history of botany in South Australia.

At the same time, through good architecture by Cox-Grieve, two buildings that are fairly ordinary at the moment will be turned into another part of the icon that is the rebuilding of the North Terrace precinct. Most importantly, this puts the final stamp on the fact that South Australia is and will always be in the future the wine capital of Australia. A lot of hard work had to be done—

The DEPUTY SPEAKER: Order! The time for consideration of Standing Committees' reports has expired.

Members interjecting:

The DEPUTY SPEAKER: Order!

POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS)(MISCELLANEOUS) AMENDMENT BILL

Returned from the Legislative Council with the following amendments:

No. 1. Page 1, line 21 (clause 4)—After 'amended' insert:

(a) by inserting after subsection (2) the following subsection:

(2a) The Commissioner or person representing the Commissioner in proceedings before the Tribunal must, at the commencement of the proceedings, indicate to the Tribunal which of the following

categories of punishment the Commissioner considers would be appropriate if the Tribunal finds the member guilty of the breach of discipline:

(a) category A—termination or suspension of the member's appointment or reduction of the member's remuneration;

(b) category B—transfer of the member, reduction in the member's seniority or imposition of a fine;

(c) category C—withdrawal of specified rights or privileges, a recorded or unrecorded reprimand, counselling, education or training or action of a kind prescribed by regulation.;

(b)

No. 2. Page 1—After line 22—Insert new clause as follows:

Amendment of s. 46—Appeal against decision of Tribunal or punishment for breach of discipline

4A. Section 46 of the principal Act is amended—

(a) by striking out from subsections (1), (2), (4), (5), (6) and (7) 'Supreme Court' (wherever occurring) and substituting, in each case, 'court';

(b) by inserting after subsection (7) the following subsections:

(8) No further appeal lies against a decision of the court made on an appeal under this section.

(9) In this section—

'court' means the Administrative and Disciplinary Division of the District Court.

Consideration in Committee.

Amendment No. 1:

The Hon. I.F. EVANS: I move:

That the Legislative Council's amendment No. 1 be disagreed to.

Mr LEWIS: What does amendment No. 1 do?

The Hon. I.F. EVANS: Amendment No. 1 was drafted as a result of amendments moved by the Hon. Ian Gilfillan in another place. Essentially, it asks the Police Commissioner to set out, prior to a hearing, what category of penalty may apply if the hearing finds a member guilty of the alleged offence or charge. We have some problems with that in relation to what happens if new evidence comes up during the hearing which may have changed the Commissioner's view about the category into which the offence may or may not fall. Also, is it binding on the Commissioner—particularly if new evidence comes out—or appealable down the track? Those sorts of issues need to be discussed and thought through. For that reason, we wish to oppose the amendment at this stage and possibly go to a conference to discuss it further.

Mr CONLON: I want to say a few words about the Upper House's amendment and why it should be supported in this Chamber. The member for Hammond raises a good question—what does it do? I am taken aback by the Government's unwillingness to accept this, because it is a mild compromise on the change that has been introduced. The Government, in its Bill, would reduce the onus of proof in police complaints from beyond reasonable doubt to a standard balance of probabilities. One of the arguments it put so strongly in defence of that move was that the case *Briginshaw and Briginshaw* in the High Court showed clearly that, where a matter was serious and likely to have serious consequences, it would be treated with the proper seriousness by the tribunal hearing the matter.

One of the difficulties with the Police Complaints Authority is that the tribunal hearing the matter does not impose the penalty. The tribunal hearing it makes a decision; the Commissioner imposes the penalty. So, quite rightly, the question was asked, 'If you are going to rely on *Briginshaw and Briginshaw*, how can they judge the seriousness of the matter if you do not know what the outcome will be?' The amendment moved accepts the reduction in the standard of proof from beyond reasonable doubt to the balance of probabilities. We did not agree with that. However, it does offer the protection of at least requiring the Commissioner to let the tribunal know how serious is the matter that the person concerned is facing. That is the least you could do in the circumstances. I repeat: you cannot come into this place and include in your second reading speech a reliance on the *Briginshaw and Briginshaw* case if you are going to leave a system wherein the tribunal does not know the seriousness of the penalty the person is facing.

If you do not establish this amendment, what will happen is that, as sure as night follows day, every smart alec layer will be in there before the tribunal saying that they have to treat this as though the person concerned faces dismissal because that is available to the Commissioner if the person is found guilty. It is a reasonable and soft amendment—much softer than the one we moved in another place. We will waste an enormous amount of the House's time going to a conference. I cannot see why anyone would back down on this. The Government will either, in my view, get this as its Bill or get no Bill. It is a question of how serious the Government is about this matter.

The Hon. I.F. EVANS: We need to understand that the onus of proof we are bringing in through amendments to this Act bring the onus of proof to the same level of onus of proof that applies in every other police jurisdiction in Australia. To my knowledge, no other legislative requirement in any other police jurisdiction in Australia requires the Police Commissioner to go in before the tribunal has even heard the evidence and say, 'If this person is found guilty, the penalty will be X, Y or Z.' It is my understanding that in every other police jurisdiction the proper course is that the evidence is given, a judgment is made on whether someone is guilty or innocent of the alleged offence or charge, and then the Commissioner, based on that evidence, makes a judgment as to the penalty.

That is how it works in every other police jurisdiction. *Briginshaw and Briginshaw* certainly applies, as does the lower onus of proof apply in every other police jurisdiction. It works in every other police jurisdiction in Australia but for some reason we have to legislate so that the Police Commissioner has to nominate the penalty before the evidence is even heard. To us, that is not acceptable at this point. That is why we oppose amendment No. 1 and wish to return it to the other place.

The Committee divided on the motion:

AYES (22)

Armitage, M. H.	Brindal, M. K.
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condous, S. G.
Evans, I. F. (teller)	Gunn, G. M.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Lewis, I. P.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.
Scalzi, G.	Such, R. B.
Venning, I. H.	Williams, M. R.

NOES (18)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Ciccarello, V.
Clarke, R. D.	Conlon, P. F. (teller)
Foley, K. O.	Geraghty, R. K.
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.

NOES (cont.)

Rankine, J. M.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
White, P. L.	Wright, M. J.

PAIR(S)

Hall, J. L.	De Laine, M. R.
Hamilton-Smith, M. L.	Hurley, A. K.
Olsen, J. W.	Rann, M. D.

Majority of 4 for the Ayes.

Motion thus carried.

Amendment No. 2:

The Hon. I.F. EVANS: I move:

That amendment No. 2 be agreed to.

Motion carried.

WHEAT MARKETING (GRAIN DEDUCTIONS) AMENDMENT BILL

The Legislative Council agreed to the Bill without any amendment.

STATUTES AMENDMENT (FINE ENFORCEMENT) BILL

Second reading.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): 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.

Fine and expiation enforcement is always difficult and always a matter of public controversy. Extensive and complex governmental systems are inevitably required when the desired result is to get the public to pay money to the State against the will of any one of those people, even when it is a punishment imposed as a result of the commission of a criminal offence. It is natural for some individuals to avoid payment and their legal obligations deliberately. In some cases, people will acknowledge their obligations, but ignore any action required to meet those obligations.

On the other hand, it is absolutely necessary to ensure that the punishment imposed by the law is not visited harshly or unjustly upon those who, for a variety of reasons, are in social or personal difficulties and who despite their best efforts, are simply unable to comply with their obligations to society. In short, it is not an easy matter to devise legal and administrative practices which effectively deal with those who avoid their obligations and yet dispense justice to those who wish to meet their obligations but are incapable of doing so for one reason or another.

The fine and/or expiation notice is a principal feature of our criminal justice system. It is by far the most common punishment for breaking the criminal law. Any weakness in its imposition and enforcement is a fundamental weakness in our system of criminal justice. It is lamentably uncommon for people and agencies to pay sufficient attention to the central nature of the fine and the correctional purpose that it is supposed to serve. The fine is imposed as an alternative to imprisonment or a non-custodial supervisory sentence. Custodial and supervisory sentences are both costly to the State and, more importantly, intrusive on the individual. They form a continuum of criminal punishment and imprisonment is the punishment of last resort. On the other hand, a fine may, in ideal circumstances, be readily adjusted to the circumstances of the individual and the gravity of the offence. But it is a very blunt instrument all the same.

Even if it can be adjusted, the sheer volume of criminal work passing through the Magistrates Courts makes sensitive adjustment of the fine a practical impossibility, and there can be no doubt that, while a fine may be seen as a measure imposing deterrence upon an offender, its imposition and execution may in some circumstances impose more hardship upon others, such as the offender's dependants, than on the offender himself or herself.

There are, in addition, inherent contradictions in the utility, effectiveness and justice of the imposition of the fine as a criminal sanction. The Mitchell Committee said:

> "…the basic difficulty with the fine as a correctional measure …[is] that its proper function within the scope of its inherent limitations has not been satisfactorily identified. In itself, it can hardly be regarded as reformative, although it may indirectly produce that result. If it does, it must be because it operates by way of deterrence consequent upon retribution. … [However] any thought of basing the fine on simple deterrence, whether special or general, suffers from the weakness that although deterrence by sentence is widely believed to be effective, …very little is actually known about it. The fine shares with imprisonment for which it is in general intended as a substitute the characteristic of being a sentence imposed in default of a better alternative.". (First Report, 1973, para 6.2)

Some of the basic concerns about the penal effectiveness of a fine relate to the assessment of the ability of the offender to pay. The Australian Law Reform Commission has said:

> "[T]he practical difficulties involved in the courts having to determine accurately an offender's ability to pay are too great. Not only would the time involved be excessive, especially in magistrates' courts but possibly the only method of obtaining the necessary data with complete accuracy would involve access to the offender's taxation records. This would raise privacy problems. The existence of artificial taxation schemes might lead to white collar offenders being able to conceal their financial position from the courts.". (ALRC 44, 1988 at para 114).

Yet all would think that assessment of means to pay is essential to the efficacy and justice of a fine and the *Criminal Law (Sentencing) Act* now contains a principle of sentencing which, rightly, says so. Section 13(1) of the Act says:

> "The court must not make an order requiring a defendant to pay a pecuniary sum if the court is satisfied that the means of the defendant, so far as they are known to the court, are such that:
> *(a)* the defendant would be unable to comply with the order; or
> *(b)* compliance with the order would unduly prejudice the welfare of dependants of the defendant,
> (and in such a case the court may, if it thinks fit, order the payment of a lesser amount).".

Equally, though, in statutory acknowledgment of the same difficulties pointed out by the Australian Law Reform Commission, section 13(2) says:

> "The court is not obliged to inform itself as to the defendant's means, but it should consider any evidence on the subject that the defendant or the prosecutor has placed before it.".

Problems With The Current System

The current system of fine enforcement can be described as a criminal enforcement model and has been fundamentally the same for very many years, although there have been numerous and frequent adjustment to components, sometimes major components, of the system. The fine as a sanction is very common, but the basis for its imposition is not widely understood. This ambivalence is a vital component of the effectiveness of its enforcement. That effectiveness is in this State not high. A fine is commonly perceived, not as a criminal punishment, but as a bill which it is optional to pay. In relation to some offences, it is seen as an imposition to be resisted and certainly not as the punishment for the commission of a criminal or statutory offence. The key point is that it may not be seen as a true criminal punishment, *which is meant to be a punishment*, and not just a way of paying for the service of escaping an inconvenient, perhaps very inconvenient, intrusion into normal life.

The results of this problem, or sequence of problems, are plain. We have, and have had for some time, a serious fine enforcement problem in this State. The problems may be defined as follows:

1. The fine payment rates achieved are poor by comparison with those in other jurisdictions. They are also poor when considered in relation to the idea that they are punishment for the commission of a criminal or statutory offence. In South Australia 72 per cent of people pay infringement notices and 51 per cent pay their court fines without the need for enforcement procedures to be taken. In Western Australia and in New Zealand rates in excess of 90 per cent are achieved.

2. Imprisonment is the primary sanction for default. This is an outdated and inappropriate sanction. For many defaulters it is not seen as a deterrent and they are prepared to erase the debt of unpaid fines by going to prison rather than paying. The consequences are that fines are not collected, people are imprisoned, not for serious crime, but for what is essentially a debt and the State is required to

maintain expensive custodial services. A relatively recent experiment with a separate prison for fine defaulters was not a success and has been discontinued.

3. Community service is available as an alternative to payment on the basis of a bureaucratic judgment about 'hardship'. There is a public perception that these methods are soft in allowing defaulters to too easily claim hardship and thereby frustrate the system by converting fines to community service and by rendering warrants void. Intervention at the warrant stage of the process seriously undermines Police and community confidence in the system and provides a loophole which is exploited by regular defaulters.

4. As with imprisonment, for many community service is not seen as a deterrent but as an attractive way of erasing the debt of unpaid fines. It is accessed by some defaulters who can pay but choose not to and is not meeting its intended objective by being restricted to providing relief for those who genuinely can not pay. Community service programs are expensive to administer.

5. The current system of enforcement is not as effective as it might be. This is not the fault of any one Governmental agency. It is a system fault, and it may be capable of correction. Three major current problems of this kind are:

- Courts currently perform the fine enforcement process inefficiently because the system is dependent on resources in agencies over which they have no control. In addition, they have no overall vision of what the fine sanction should mean and the justice system context in which an application for relief from enforcement should be viewed. The result is inconsistent and imprecise decision making;
- Police are responsible for executing enforcement warrants issued by the courts. This is not regarded as core business for police and is an inefficient use of trained expert resources. When police have tried to concentrate on enforcement of fine warrants, the process has cost far more than it gained.
- The Department of Transport was supposed to give effect to the will of Parliament and produce a system by which the registration of an offender's motor vehicle could be suspended on conviction and unpaid fine for a vehicle related offence. It apparently could not be done without major expenditure of resources. So it has not been done. The system would not allow for it in that form.

In summary, there is no coordinated approach to the overall management of the system and the participating agencies are not necessarily concerned with the outcomes sought by the judgment of the court. The three key agencies; Courts Administration Authority, SA Police and Department for Correctional Services, operate independently and consequently the system suffers because of a lack of ownership.

None of these problems are easily curable, nor is there any perfect cure, because the sanction is not well defined; it is the principal sanction of a stressed criminal justice system and it applies to offences which, to be frank, the public tend to regard as not really criminal offences at all, but rather some kind of infraction which will, if studiously ignored, go away. None of this is new, and none of this is attributable to either the present or past Governments. It is common across States and Territories, across Government and across nationalities. Other jurisdictions in Australia have recognised these problems and taken steps to address them. The question is whether we can learn from these measures and whether something can be done to improve the situation in this State.

Expiation Notices

Expiation notices are not the same as fines. An expiation notice is not a notice that the recipient must pay the sum on the notice. It is not a criminal sanction. It is not an on the spot fine for it is not a fine at all. It is a notice that an official is going to make an allegation that the recipient has committed a criminal offence and that, in the interests of expediting justice, if the recipient wants to plead guilty to that allegation, he or she can do so by the payment of a very rough minor version of the fine that would otherwise have been applied. The recipient of an expiation notice has not been found guilty of any offence and can, if he or she so chooses, opt to go to court. The expiation notice is not a new invention—in fact, South Australia was the first to use the idea in 1938—and it is now very common all over Australia.

The effectiveness and justice of expiation notices is often questioned. This Government has not been quiescent in the face of that concern. If anything, the law about expiation notices was less satisfactory when this Government came to government than the law on fines. In 1996-1997, the expiation of offences system was thoroughly overhauled. This reform was contained in the expiation legislative package. The expiation of offences package came into operation on February 3, 1997. It consisted of the *Expiation of Offences Act*, 1996, the *Statutes Amendment and Repeal (Common Expiation Scheme) Act*, 1996, the *Summary Procedure (Time For Making Complaint) Amendment Act*, 1996, the *Expiation of Offences Regulations* 1996 and the *Regulations Variation (Common Expiation Scheme) Regulations*, 1996. The package provided a comprehensive and unified system for all expiable offences whether they be issued by State or local government authorities. It is not proposed to make more than minor amendments to this scheme, but some amendments will be necessary as the fines enforcement system and the expiation fee enforcement system are interlocking to some extent.

Review Of The System

The legislative part of the fine enforcement system is contained in the *Criminal Law (Sentencing) Act 1988*. This part of the Act has not been reviewed thoroughly since 1988 and has been the subject of piecemeal amendment from time to time in the intervening years. In general terms, it takes a traditional form which was the standard method of operating in 1988. The court is given the power to impose fines, with imprisonment the standard default, and the court is given the power to mitigate a fine in cases of hardship to be served by a term of community service instead at a standard cut out rate. Powers to suspend a driving licence and to suspend vehicular registration, both in the case of vehicular offences, were subsequently added. There is also a power to seize and sell land or goods in default of a fine, which power has been in the Act since its enactment and in its predecessor before that, but the power is not used in practice against individuals. It is sometimes used against companies. It must be recognised that, aside from legislation, the *administration* of any fine or expiation fee system is of critical importance.

In June 1997, the Attorney-General's Department and the Courts Administration Authority (CAA) agreed to a collaborative project designed to review the expiation and fines enforcement system. A senior officer from the CAA was seconded to the Attorney-General's Department to develop a modern fine enforcement system for report to the Justice Chief Executives Group. This Bill is the outcome of that work.

The fine enforcement system necessarily involves many agencies of government as well as local government. These agencies and local government have a considerable stake in what happens to the system. It was therefore necessary to establish an inter-agency project team with a brief to consider the fine and expiation enforcement system across government agencies. That team met on a large number of occasions and worked intensively on the reform proposals. It consisted of representatives of the Attorney-General's Department, the Courts Administration Authority, the Correctional Services Department, the Department of Treasury and Finance, the Police Department, the Department of State Aboriginal Affairs (plus a representative of the Aboriginal Legal Rights Movement), the Department of Family and Community Services, the Department of Transport and Urban Development and the Local Government Association.

The Proposed Reforms

The contemplated reforms consist of administrative changes and legislative changes. It is a scheme based on models currently in force in Western Australia and New Zealand and accepted for implementation in New South Wales and Queensland. In general terms, the essence of the scheme is to discard what has been described as the criminal enforcement method of fine enforcement and instead to align the fine enforcement process more closely—indeed very closely—with that used in the collection of civil debts. A very general description of the proposal follows.

Collection and enforcement of fines and expiation fees will become a major function of the Courts Administration Authority. This will be achieved by establishing a dedicated unit known as the Penalty Management Unit, with a Manager of statutory rank. The Unit will have a singular and specific focus on the collection of fines. It will manage the complete collection process and will be responsible for its outcomes. The functions of the PMU will include the facilitation of payment by people by various means, the reference of those who are unable to pay to the Magistrates Court (or Youth Court) for alternative sentence, the pursuit of offenders who fail to keep agreements to pay, and the tracing of offenders who have debts outstanding. The Unit will develop appropriate business rules and methods of operation designed to balance with sensitivity the obligation to pay the debt to society imposed by order of the court with the personal plight that such an obligation may cause in any individual case. Particular attention will be paid to the special needs of people who live and work outside the metropolitan area, particularly in relation to suspension of the licence to drive.

The proposed system is founded on a philosophy of securing payment early in the process with a number of techniques involving personal, written and telephonic communication with the debtor. The emphasis will be on payment—that is, the primary sanction, and the enforcement of the order of the court. But, in addition, there will be adequate options available for those who are genuinely unable to pay at once and on time. They will be identified through a process of examination and means assessment conducted by expert staff from the Penalty Management Unit. The usual options will be payment by instalments and extension of time to pay. These agreements will be formalised in a written arrangement with the Unit. People will be encouraged to meet their obligations early or to contact the collection unit who will facilitate access to a range of payment options or alternative sentence options for those who can not pay.

To that end, both fines and expiation notices will become payable 28 days after they have been incurred or imposed. Whether or not extended time to pay is granted will cease to be a function of the sentencing court and will instead reside with the Penalty Management Unit. Therefore, a person sentenced to a fine will automatically have 28 days to either pay or make an alternative arrangement with the Unit. This represents a substantial change to the current expiation and fine system. The reason for this measure is simple. People who can pay will delay until the last minute. This is avoidance. People who cannot pay within the time allocated can and should contact the Penalty Management Unit and say so. Then sensible and sensitive arrangements can be made for the satisfaction of their legal obligation. The idea of the new system is that those who can pay their legal obligation, by whatever means, should be given every opportunity to do so—but that those who will not or who do not want to take the step to acknowledge their responsibility should be given strong encouragement, or indeed inducement, to do so.

The new system being oriented to capacity to pay will be complemented by the provision of a variety of commercially proven payment methods. They will include:

- payment by credit card by post, by telephone and at Penalty Management Unit offices;
- EFTPOS facilities (no cash withdrawals);
- Voluntary periodic deductions from bank and credit union accounts; and
- Voluntary deductions from wages.

The Bill provides a menu of measures designed to obtain the attention of the reluctant, inattentive or recalcitrant debtor. These include the ultimate sanctions of driver disqualification by licence suspension (even for non-vehicular offences), cessation of the ability to do business with the Registrar of Motor Vehicles, registration of a charge on land owned by the debtor, (but without power of sale) and power to issue a summons for an investigation of the means of a debtor and power to arrest if the summons is not obeyed. It must be emphasised that the first two measures, being measures designed to attract the attention of the debtor, will cease once the debtor has reached a written agreement with the Unit as to payment and every effort will be made to avoid these consequences if the debtor genuinely co-operates.

The current standard imprisonment for default will be abolished entirely in favour of alternative enforcement orders, being driver disqualification by licence suspension (even for non-vehicular offences), cessation of the ability to do business with the Registrar of Motor Vehicles, warrants authorising the seizure and sale of property and garnishee orders. Only a Registrar may make a garnishee order, which, in effect, attaches money owing or due to the debtor from a third person or money held on behalf of the debtor by a third person, notably, for example, a bank account. It should be noted in this connection that Commonwealth law prevents a garnishee operating on social security or other Commonwealth benefits and so these are not placed at risk by this power.

These measures are all designed to extract payment from those who, for various reasons, could satisfy the debt—and their legal obligation—but choose to try not to do so or to make it as hard as possible for the system to function.

However, there will, of course, be some, perhaps not a few, who simply cannot pay, or cannot pay anything like a substantial amount of their obligation. In that case, logic and justice says that the fine was and remains the incorrect sanction for their wrong-doing. The objective of the fine as a sanction for a criminal offence cannot and will not be met. In such a case, logic and justice says that the person should go back to court and have the whole matter reconsidered. And that, in essence, is what the new system will provide. The Penalty Management Unit will have the power in such cases to refer the matter to the Magistrates Court (or Youth Court) for reconsideration of sentence, irrespective of whether the fine was imposed by a superior court. In essence, the Court can then confirm the pecuniary penalty, remit it in whole or in part, or revoke it and order community service, driving disqualification, or cancellation of drivers licence plus disqualification.

It follows that the ability to substitute a pecuniary penalty with community service will be restricted to those who cannot satisfy a warrant for the seizure and sale of land or goods or a garnishee order and who have been assessed upon investigation of means as being unable to pay—in short, to those for whom the monetary sanction is wholly inappropriate. In addition, special provision will be made for young offenders to "work off" their monetary obligations by community service, on the basis that young people are much more likely to have little or no income on which to draw to satisfy a fine. In that respect, however, the proposals make different provision between fines imposed upon young offenders which arise out of the use of a motor vehicle, in which case they will be treated in the same way as an adult driver, and other cases, in which the special provisions will apply.

A strict test applies in relation to the remission of any part of a pecuniary sum which consists in whole or in part of a levy imposed under the *Criminal Injuries Compensation Act*. The Government's commitment to the levy, and its imposition, can be seen clearly in the reordering of the priorities in which payments are to be applied. The reforms contained in the Bill make it clear that where a pecuniary sum is paid by an offender, the payments are to be applied first to the satisfaction of the criminal injuries compensation levy, then to any order of compensation or restitution to the victim, then to the payment of costs, then to the complainant and lastly to General Revenue.

Police will no longer have the responsibility for executing default warrants. A consequence of the changes noted above will be that the principal warrants will be warrants for enforcement by seizure and sale of land or goods handled by the Penalty Management Unit and its staff, with police support only if there are reasonable grounds to apprehend a threat to public order. This shows a major aspect of the explicit shift from criminal enforcement to civil enforcement.

Aboriginal Justice Officers will be appointed by the Courts Administration Authority in order to ensure that the fine and expiation fee collection system will be and will continue to be effectively communicated to the Aboriginal community, particularly those who live in remote areas, and that the system will be responsive to their needs.

There will be an extensive public education campaign on the changes and consequences of the new system which is particularly aimed at changing public attitudes to payment, and performance of civic obligations.

Conclusion

This is a major effort at reform of the fine and expiation notice enforcement system designed not only to bring South Australia into line with changes that have proven successful elsewhere, but also to try to bring some stability and order into a system which is fundamental to the criminal justice system and which has, for many years, shown signs of being in serious trouble. There are no quick fixes in this, however. The legislation is a radical reform but, even so, it is mainly facilitative. Much depends on the commitment of those who will be charged with making the structure work and much will also depend upon changes in the culture of our community. Many who call stridently to get tough on crime fail to see that getting tough on the majority of crime that occurs in our society is about the enforcement of fines and expiation notices which make up the bulk of law enforcement effort in this society, and in Australia generally, and have done so for very many years. For too long it has been the case that traffic offences and fishing offences and minor thefts are seen by many as just little things punished only by a fine or an expiation notice after all—just a nuisance really and not to be taken seriously. On the other hand, there are many who do take them seriously and meet their obligations. This Government also takes these matters seriously. The red light running driver who incurs a fine has committed a criminal offence and will be punished—and will pay his or her debt to society. This legislation is about trying to ensure that he or she cannot run away from a debt to society, but it is also about ensuring that where people genuinely cannot pay, there will be a system in place which properly deals with such inability.

I want to conclude with two strong commitments. The first relates to the fact that this legislation has not been the subject of wide public consultation although, as is clear from my remarks so far, it has been the subject of thorough and widespread consultation within Government. The Government therefore presents this Bill as the

result of careful and thorough review within Government. I will therefore welcome public comment on the scheme and the legislative proposals and encourage those individuals and organisations concerned with it to make comments and representations, preferably in writing, to my office. I should say, however, that this does not mean that my office will conduct an investigation or re-investigation, as the case may be, of individual or particular cases, however contentious they may seem to those concerned. Rather, the Government is interested in and encourages constructive comment on what is after all, a very hard balance between the obligation of a person who commits an offence to pay his or her debt to society and the hardship that this may cause some people. Any comment should be made quickly because the Government wishes to have this Bill passed through the Parliament by the end of this session.

The second commitment is that I undertake to review the operation of the whole scheme 12 months after it has come into full operation. I understand that there is a certain nervousness when Government makes what I admit to be radical changes to a legal process which has the capacity to profoundly affect people's finances and their legal liabilities. I can assure Honourable Members and the community generally not only that the new scheme proposed has undergone a thorough scrutiny but also that it is based upon legislative and administrative schemes that have been implemented elsewhere with reported success. But I appreciate that what might suit the needs of one community may not suit another—and so, as I say, I commit the Government to a thorough review of the system as implemented 12 months after it has been in operation. The results of that review will be made public.

I commend the Bill to the House.

Explanation of Clauses

PART 1 PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

PART 2 AMENDMENT OF CORRECTIONAL SERVICES ACT 1982

Clause 4: Amendment of s. 4—Interpretation

Clause 5: Amendment of s. 27—Leave of absence from prison

Clause 6: Amendment of s. 31—Prisoner allowances and other money

These amendments to the *Correctional Services Act 1982* provide for the collection of CIC levies from prisoners out of their earnings (whether by way of prison allowances or through employment outside the prison). The amount to be so collected will be determined in accordance with the Minister's directions. An exception is given for a prisoner who is currently in prison solely for the purpose of "serving off" an unpaid CIC levy—it would be a form of double jeopardy if money were also to be collected from such a prisoner in reduction of the same levy. This exception is of a transitional nature since under the new scheme warrants of commitment will not be issued for enforcement of pecuniary sums.

PART 3 AMENDMENT OF COURTS ADMINISTRATION ACT 1993

Clause 7: Amendment of s. 10—Responsibilities of the Council

This clause expands the responsibilities of the State Courts Administration Council to include provision of resources for administrative functions of courts and their staff. This will enable the Council to provide for a penalty enforcement unit.

Clause 8: Amendment of s. 21A—Non-judicial court staff

The Manager, Penalty Management is added to the list of non-judicial court staff of the Courts Administration Authority. The Manager is appointed under a new provision to be inserted in the *Magistrates Court Act 1991*. *(see Part 7)*

PART 4 AMENDMENT OF CRIMINAL INJURIES COMPENSATION ACT 1978

Clause 9: Amendment of s. 4—Interpretation

Clause 10: Amendment of s. 13—Imposition of levy

These clauses amend the *Criminal Injuries Compensation Act 1978*. References to "juvenile offender" are replaced with references to "youth" in line with other legislation.

Section 13(6) is altered in two respects. A requirement is inserted that the amount of a CIC levy is to be shown on a warrant of commitment issued for a sentence of imprisonment. The current prohibition against reducing the levy or exonerating a defendant from liability for a levy is restricted to a prohibition applying at the time of convicting or sentencing the defendant for an offence. (The new scheme set out in the *Criminal Law (Sentencing) Act* for enforcement of pecuniary sums provides for the remission of CIC levies by the Magistrates Court (or Youth Court of other officers) if they are satisfied that the offender does not have, and is not likely within a reasonable time to have, the means to satisfy the sum without the debtor or his or her dependants suffering hardship).

Section 13(7) is struck out as the obligation to collect CIC levies from prisoners is now to be placed in the *Correctional Services Act* (*see Part 2*).

PART 5 AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 11: Amendment of s. 3—Interpretation

The amendments to the interpretation provision are consequential to the proposed scheme:

- a definition of "the Administrator" is inserted as the State Courts Administrator is to appoint authorised officers for the purposes of penalty enforcement under the new scheme;
- a definition of "authorised officer" takes the place of the current definition of appropriate officer (the term is expanded to cover the Manager, Penalty Management and the persons appointed by the Administrator);
- a definition of "CIC levy" is inserted for consistency and ease of reference;
- the current definition of "goods" extending that term to include money is deleted (the reference is unnecessary under the new scheme);
- a definition of "the Manager" is inserted (the Manager, Penalty Management is to administer the new scheme);
- the amendment to the definition of "a pecuniary sum" is consequential to the insertion of the definition of CIC levy (the current definition is particularly relevant under the new scheme: it means a fine; compensation; costs; a sum payable pursuant to a bond or to a guarantee ancillary to a bond; or any other amount payable pursuant to an order or direction of a court; and includes a CIC levy);
- the definition of "prescribed unit" is deleted because imprisonment and community service are not available under the new scheme for working off an unpaid pecuniary sum (except that youths may undertake community service if they are unable to pay a pecuniary sum).

Clause 12: Amendment of s. 13—Order for payment of pecuniary sum not to be made in certain circumstances

Clause 13: Insertion of s. 14A—Court not to fix time for payment of pecuniary sums

Clause 14: Repeal of s. 33

Clause 15: Repeal of s. 35

Clause 18: Amendment of s. 53—Compensation

Clause 19: Repeal of s. 54

Clause 20: Repeal of Part 8

Clause 22: Amendment of s. 58—Orders that court may make on breach of bond

Clause 23: Repeal of s. 59

The effect of new section 14A is that the time and manner of payment of a pecuniary sum is to be determined under new Part 9 Division 3 (Enforcement of Pecuniary Sums) and not by individual courts at the time of making an order requiring a defendant to pay a pecuniary sum.

However, under current section 13 (which remains) a court must not make an order requiring the defendant to pay a pecuniary sum if the court is satisfied that the means of the defendant, so far as they are known to the court, are such that the defendant would be unable to comply with the order or compliance with the order would unduly prejudice the welfare of dependants of the defendant (and in such a case the court may, if it thinks fit, order the payment of a lesser amount).

This section is amended to provide that, in considering whether the defendant would be able to comply with the order, the court should have regard to the fact that (under the new scheme) defendants may enter into arrangements for an extension of time to pay pecuniary sums or for payment by instalments.

Current section 14 also remains. That section provides that a court must give preference to compensation if it considers that compensation and a fine or other pecuniary sum should be imposed but the defendant has insufficient means to pay both.

Other references in the Act to a court varying the time or manner of payment or to consideration of the defendant's means are consequently removed.

Clause 16: Amendment of s. 47—Special provisions relating to community service

This amendment reduces the minimum number of hours for which community service may be imposed on adults from 40 hours to 16 hours.

Clause 17: Amendment of s. 50A—Variation of community service order

Section 50A currently contemplates that a person sentenced to community service, the Minister for Correctional Services or an appropriate officer may apply to the court for variation of a community service order. The amendment removes the role of appropriate officers.

Clause 21: Insertion of s. 56A—Appointment of authorised officers

New section 56A provides for the State Courts Administrator to appoint staff of the State Courts Administration Council as authorised officers. The appointment may be conditional. (Authorised officers are given various powers under the new Part 9 Division 3).

Clause 24: Substitution of Division 3 of Part 9

Part 9 deals with enforcement of sentence and Division 3 with enforcement of pecuniary sums. The Division is substituted and sets out the details of the new scheme.

SUBDIVISION 1—PRELIMINARY

60. Interpretation

New section 60 contains definitions necessary for the Division. The definitions of the Court and the Registrar reflect the fact that the Division will apply in respect of both youths and adults who default in paying a pecuniary sum. Any proceedings under the new Division against youths will be dealt with in the Youth Court system.

The term "debtor" is used for the person liable to pay the pecuniary sum.

61. Pecuniary sum is payable within 28 days

New section 61 provides that all pecuniary sums imposed by order of a court are payable within 28 days. This will include enforcement orders flowing from failure to pay an expiation fee.

62. Payment of pecuniary sum to the Manager

New section 62 requires payment of all pecuniary sums (including compensation) to the Manager or an agent appointed by the Manager for the purpose.

The section sets out how any amount received by the Manager is to be applied. The order of application is as follows:

- CIC levies;
- court ordered compensation or restitution;
- costs to a party;
- other money payable by order of the court to the complainant;
- as directed by a special Act (if any);
- to Treasury.

The new section takes the place of Part 4 Division 5A of the *Summary Procedure Act 1921* and current section 59A of the *Criminal Law (Sentencing) Act 1988*.

63. Payment by credit card, etc.

Payment of pecuniary sums by credit card, charge card or debit card is contemplated.

64. Arrangements may be made as to manner and time of payment

New section 64 provides for extension of time to pay or payment by instalments, according to an arrangement entered into between a debtor and an authorised officer. An arrangement may also allow for direct debit or make other provisions about the manner and time of payment of a pecuniary sum.

Authorised officers are directed to prefer arrangements for instalments of reasonable amounts over an extension of time to pay if the debtor is able to pay without the debtor or his or her dependants suffering hardship.

An arrangement is terminated if the debtor fails to comply with it and the failure endures for 14 days. A penalty enforcement order could then be imposed, although it would also be possible for a further arrangement to be agreed.

65. Reminder notice

If no arrangement about payment is entered into, a reminder notice must be sent to the debtor allowing the debtor a further 14 days to pay. A reminder fee will be added to the pecuniary sum.

66. Investigation of debtor's financial position

New section 66 provides an authorised officer with power to issue a summons to the debtor (or to any other person who may be able to assist with an investigation of the debtor's ability to pay) to appear for examination before an authorised officer or to produce relevant documents.

An investigation of the defendant's ability to pay is required before a garnishee order can be made or before the matter can be remitted to court for further consideration. In other circumstances the holding of a formal investigation under this section is discretionary.

The new section provides an authorised officer with the ability to issue a warrant for the arrest of a person who fails to appear in response to a summons. On arrest by an authorised officer the investigation must proceed as soon as practicable and the authorised officer must, in the meantime, cause the person to be kept in safe custody if necessary.

67. Publication of names of debtors who cannot be found

New section 67 provides authorised officers with a tool for attempting to locate a debtor—a notice may be published in a newspaper circulating generally throughout the State and, if the authorised officer thinks fit, other newspapers, seeking information as to the debtor's whereabouts.

However, such a notice cannot relate to a debtor who was a youth at the time of the relevant offence or to a debtor in relation to whom a suppression order forbidding publication of the debtor's name is in force.

Such a notice is limited in contents to the debtor's actual name and any assumed name, last known and recent addresses and date of birth.

68. Charge on land

New section 68 provides authorised officers with a mechanism for securing payment of a pecuniary sum by registering a charge on land in appropriate cases. The charge does not give rise to a power of sale.

SUBDIVISION 2—PROCEDURAL MATTERS

69. Time at which enforcement action can be taken

Under new section 69 an authorised officer may make such penalty enforcement order or orders in relation to a debtor as appear likely to result in full or substantial satisfaction of the due amount if the amount remains outstanding after the reminder notice period and no arrangement for payment is in force.

The following are penalty enforcement orders that may be imposed:

- an order suspending a debtor's driver's licence for a period of 60 days;
- an order restricting a debtor from transacting any business with the Registrar of Motor Vehicles;
- an order for sale of the debtor's land or personal property to satisfy a pecuniary sum (such an order cannot be made against a youth unless the offence in question was an expiable offence arising out of the driving or parking of a motor vehicle by the youth when the youth was of or over 16 years of age);
- in the case of a youth who does not, in the opinion of the authorised officer, have, and is not likely within a reasonable time to have, the means to satisfy a pecuniary sum without the youth or his or her dependants suffering hardship—a community service order;
- a garnishee order (such an order can only be made by an authorised officer who is a Registrar). Garnishee orders cannot be made against youths except where the offence is an expiable vehicle related offence committed when 16 or more years old.

New section 69 includes statements about the priority that should be given to the different types of orders. In the first instance, priority is to be given to an order for suspension of a driver's licence or for a restriction on transacting business with the Registrar of Motor Vehicles. Priority is to be given to an order for sale of property over a garnishee order.

In addition, the section provides that an order for sale of property, a garnishee order or community service order cannot be made while a penalty enforcement order for suspension of the debtor's driver's licence is in force.

70. Aggregation of pecuniary sums for the purposes of enforcement

This section allows for aggregation of any number of pecuniary sums owed by a debtor for the purposes of enforcement.

70A. Penalty enforcement orders may be made in absence of debtor

This section allows a penalty enforcement order to be made in the absence of, and without prior notice, to the debtor.

70B. Authorised officer may be assisted by others in certain circumstances

This section contemplates an authorised person being assisted by others, including police officers, in the exercise of certain functions.

70C. Cost of penalty enforcement orders

This section provides that fees fixed by regulation in connection with a penalty enforcement order are to be added to and form part

of the amount in respect of which the order was made. Consequently, the fees are enforceable in the same manner as the original sum.

70D. Cancellation of penalty enforcement orders

This section requires a penalty enforcement order to be cancelled if—

- the debtor enters into an arrangement for payment;
- the pecuniary sum is paid in full; or
- the debtor's case is remitted to Court (see Subdivision 4).

It also contemplates cancellation in such other circumstances as an authorised officer considers just.

SUBDIVISION 3—PENALTY ENFORCEMENT ORDERS

70E. Suspension of driver's licence

This section authorises a penalty enforcement order suspending a debtor's driver's licence for a period of 60 days.

The order can only be made if the debtor is not currently disqualified from holding or obtaining a licence for a period that still has 60 days or more to run. If there is less than 60 days to run in a current disqualification, an order can be made topping up the period to 60 days.

A copy of the order must be served on the debtor personally or by post and is to take effect 14 days from the day of service.

The new section contains a special penalty regime for the offence of driving while a licence is suspended by a penalty enforcement order. Under the *Motor Vehicles Act 1959* the maximum penalty for driving while disqualified is 2 years imprisonment. Under the new scheme the penalty is a maximum fine of $2 500 or disqualification from holding or obtaining a driver's licence for a period not exceeding 6 months or cancellation of driver's licence and such a disqualification. As a result of consequential amendments to the *Motor Vehicles Act 1959*, cancellation as a penalty means that when the person obtains a driver's licence again it will be on probationary conditions.

The new section also provides an evidentiary aid in connection with prosecution of such an offence—an allegation in a complaint that the order was served personally or posted on a specified day is, in the absence of proof to the contrary, proof of the facts so alleged.

70F. Restriction on transacting business with the Registrar of Motor Vehicles

This section authorises a penalty enforcement order restricting a debtor from transacting any business with the Registrar of Motor Vehicles.

A copy of the order is to be served on the debtor personally or by post. The order takes effect on service and continues until cancelled.

If such an order is made, the only applications made by or on behalf of the debtor that the Registrar of Motor Vehicles will process are applications to transfer registration of a motor vehicle of which the debtor is a registered owner or to renew registration of a vehicle of which the debtor is a joint registered owner. Applications such as issue or renewal of a driver's licence or new registrations will not be processed.

70G. Seizure and sale of land or personal property

This section authorises a penalty enforcement order for sale of the debtor's land or personal property to satisfy a pecuniary sum. However, personal property that could not be taken in proceedings against the debtor under the laws of bankruptcy (as modified by regulations) and land that constitutes the debtor's principal place of residence cannot be sold. In addition, land can only be sold if the amount owed exceeds $10 000.

The order carries with it power to enter land, seize and retain property and sell property as set out in subsection (2). The sale cannot proceed until 14 days have elapsed (see subsection (10)) and must, in the first instance, be by public auction (see subsection (14)).

The section allows an authorised officer to exercise powers under an order for sale in the absence of, and without prior notice to, the debtor. If property is seized, a copy of the order for sale and a notice listing the property seized must be given to the debtor or to a person over 16 apparently in charge of the premises or left in a conspicuous place on the land or premises.

The section contemplates that property seized for sale may be left in the debtor's possession in appropriate cases and provides offences related to dealing or interfering with such property contrary to the order.

A debtor or any other person may give a written notice to the Manager alleging that seized property is not liable to seizure and sale under the section. In that event, the sale cannot proceed until the matter has been determined by the Court on application of an authorised officer.

70H. Garnishee order

This section authorises the Registrar to make a garnishee order against a debtor, *ie*, that money owing or accruing to a debtor from a third person, or money of the debtor in a bank account or otherwise in the hands of a third person, be attached to satisfy the pecuniary sum.

A garnishee order can only be made if there has been a formal investigation into the financial means of the debtor and the Registrar is satisfied that execution of the order will not cause the debtor or the debtor's dependants to suffer hardship.

A copy of the order is to be served personally or by post on the debtor and the garnishee.

The section makes it an offence for an employer to treat an employee adversely because of a garnishee order.

SUBDIVISION 4—RECONSIDERATION BY COURT WHERE DEBTOR HAS NO MEANS TO PAY

70I. Court may remit or reduce pecuniary sum or make substituted orders

The Magistrate's Court (or Youth Court in the case of a debtor who is a youth) may reconsider a matter under this Subdivision—

- if remitted to it by the Registrar after an investigation of the debtor's means has been carried out (or on other evidence) and the Registrar is satisfied that the debtor does not have, and is not likely within a reasonable time to have, the means to satisfy the pecuniary sum without the debtor or his or her dependants suffering hardship;
- if there are other proceedings under the Part in which the debtor appears before it (*e.g.* an appeal) and the Court is similarly satisfied that the debtor is without means.

On reconsideration, the Court may—

- remit or reduce the pecuniary sum; or
- revoke the order imposing the pecuniary sum and—
  - make an order for community service; or
  - disqualify the debtor from holding or obtaining a drive's licence for a period not exceeding 6 months; or
  - cancel the debtor's driver's licence and disqualify the debtor from obtaining such a licence for a period not exceeding 6 months (because of the amendments to the *Motor Vehicles Act* this will result in a probationary licence when the debtor next seeks a licence); or
- confirm the order that imposed the pecuniary sum.

In making an order for community service, the Court is directed to take into account the amount (if any) by which the original pecuniary sum has been reduced by the debtor.

SUBDIVISION 5—REMISSION OF LEVIES WHERE DEBTOR HAS NO MEANS TO PAY

70J. CIC levies to be remitted if unenforceable

If the Registrar, an authorised officer or the Court determines under the Division that the debtor does not have, and is not likely within a reasonable time to have, the means to satisfy a pecuniary sum that consists wholly or partly of CIC levies, the levies are to be remitted. (If other amounts are outstanding, the Court would then determine under Subdivision 4 whether those amounts should also be remitted or whether the debtor should perform community service (in the case of a youth) or be disqualified from holding or obtaining a driver's licence for a period.)

It should be remembered that any amount actually paid by the debtor is applied first to the payment of CIC levies.

SUBDIVISION 6—ENFORCEMENT AGAINST YOUTHS

70K. Enforcement against youths

New section 70K applies the Division to youths subject to two modifications:

- an additional penalty enforcement order is available against youths, namely, a community service order in accordance with new section 70L;
- an order for sale of property or a garnishee order cannot be made in respect of a youth unless the offence in question was an expiable offence arising out of the driving or parking of a motor vehicle by the youth when the youth was of or over 16 years of age.

70L. Community service orders

An authorised officer may make a community service order in respect of a youth under new section 70L if satisfied that the youth does not have, and is not likely within a reasonable time to have, the means to satisfy a pecuniary sum without the debtor or his or her dependants suffering hardship.

The rate at which a pecuniary sum is to be worked off is 8 hours for each $100 owed. The period over which community service is to be performed must not exceed 18 months.

An authorised officer is given power to cancel the remaining hours of community service under an order if satisfied that there has been substantial compliance with the order, that there is no apparent intention on the debtor's part to evade the obligations under the order and that sufficient reason exists for exercising the power to cancel.

SUBDIVISION 7—RIGHTS OF REVIEW AND APPEAL

70M. Review

Under new section 70M a debtor may ask the Registrar to review a decision to make a penalty enforcement order against the debtor by an authorised officer who is not a Registrar.

While a review takes place, the penalty enforcement order is suspended.

The Registrar may confirm the decision or quash the decision and make some other penalty enforcement order against the debtor or, if satisfied that the debtor does not have, and is not likely within a reasonable time to have, the means to satisfy the pecuniary sum without the debtor or the debtor's dependants suffering hardship, remit the matter to the Court for reconsideration.

70N. Appeal

New section 70N provides for an appeal against the decision of a Registrar on a review or the decision of a Registrar to make a garnishee order or to make any other penalty enforcement order while acting as an authorised officer. The appeal is to the Magistrates Court or the Youth Court, as the case may require.

While an appeal is heard, the decision appealed against is suspended.

The Court may confirm the decision or quash the decision and substitute any decision that could have been made in the first instance.

A decision of the Court is not subject to appeal.

Clause 25: Amendment of s. 71—Community service orders may be enforced by imprisonment

Section 71 provides for enforcement of an order of a court requiring community service by imprisonment. This clause contains consequential amendments—

- to extend the application of section 71 to cover community service orders against youths made by authorised officers under the new scheme; and
- to ensure that home detention is available in the case of youths.

Clause 26: Insertion of s. 71B—Registrar may exercise jurisdiction under this Division

The new section 71B replaces the current section 72 to the extent that is necessary under the new scheme. The clause continues the provision that, subject to rules of court or the regulations, the powers of a court in relation to enforcement of community service orders and other orders of a non-pecuniary nature are exercisable by a Registrar. The decision of the Registrar is subject to review by the court.

Clause 27: Substitution of s. 72

This clause inserts new provisions dealing with machinery matters related to authorised officers—identity cards, an offence of hindering an authorised officer or assistant and the immunity of authorised officers and assistants.

Clause 28: Amendment of s. 74—Evidentiary

Clause 29: Amendment of s. 75—Regulations

These clauses alter references to appropriate officer to authorised officer in consequence of the new scheme.

PART 6 AMENDMENT OF EXPIATION OF OFFENCES ACT 1996

Clause 30: Amendment of s. 4—Interpretation

A definition of the Manager, Penalty Management is inserted for the purposes of the new scheme.

Clause 31: Amendment of s. 6—Expiation notices

This amendment shortens the expiation period in all cases to 28 days. (Currently, the period is 30 days if the expiation fee is less than $50 and 60 days if the expiation fee is $50 or more.)

Clause 32: Amendment of s. 7—Payment by card

This amendment extends the reference to payment of expiation fees by credit or debit card to payment by charge card.

Clause 33: Amendment of s. 9—Options in case of hardship

These amendments alter the options available to a Registrar in a case of hardship. Currently a debtor may apply to pay an expiation fee in instalments or to work it off by community service. Under the new scheme the options available are instalments or an extension of time to pay (up to 6 months). Community service is not to be available at this stage. The new provisions indicate that payment by instalment is to be preferred to an extension of time to pay.

Clause 34: Amendment of s. 13—Enforcement procedures

Clause 35: Amendment of s. 14—Enforcement orders are not subject to appeal but may be reviewed

These amendments are consequential to the removal of community service as a hardship option.

Clause 36: Amendment of s. 16—Expiation notices may be withdrawn

Currently section 16(3) provides that an expiation notice cannot be withdrawn for the purposes of prosecuting the alleged offender for an offence after 90 days from the date of the notice. This period is reduced to 60 days in light of the shorter expiation period under the new scheme.

Clause 37: Insertion of s. 18A—Exercise of Registrar's powers

New section 18A allows the Manager, Penalty Management to direct that powers vested in a Registrar under the Act be exercisable by a person who is an authorised officer under the *Criminal Law (Sentencing) Act*.

PART 7 AMENDMENT OF THE MAGISTRATES COURT ACT 1991

Clause 38: Amendment of s. 12—Administrative and ancillary staff

The amendment adds the Manager, Penalty Management to the list of the Court's administrative and ancillary staff.

Clause 39: Insertion of s. 13A—Functions of Manager, Penalty Management

New section 13A provides that the Manager is responsible to the Principal Registrar for the administration of the new enforcement scheme and requires the Manager to submit an annual report that is to form part of the annual report furnished by the State Courts Administration Council to the Attorney-General.

PART 8 AMENDMENT OF THE MOTOR VEHICLES ACT 1959

Clause 40: Amendment of s. 81A—Provisional licences

The amendment adds cancellation of licence under the *Criminal Law (Sentencing) Act* as a circumstance that results in the former holder of the licence obtaining, on application for a new licence, a provisional licence only.

Clause 41: Amendment of s. 139D—Confidentiality

This clause allows the Registrar of Motor Vehicles to give information to authorised officers for the purposes of tracing debtors and making penalty enforcement orders under the new scheme.

Clause 42: Amendment of s. 139E—Protection from civil liability

The amendment extends the immunity of the Registrar of Motor Vehicles to responsibilities under other Acts as well as the *Motor Vehicles Act 1959*.

PART 9 AMENDMENT OF THE SUMMARY PROCEDURE ACT 1921

Clause 43: Amendment of s. 62B—Powers of court on written plea of guilty

This amendment is consequential to the insertion of new section 14A in the *Criminal Law (Sentencing) Act* which provides that the time and manner of payment of a pecuniary sum is to be determined under new Part 9 Division 3 of that Act and not by individual courts at the time of making an order requiring a defendant to pay a pecuniary sum.

Clause 44: Repeal of Part 4 Division 5A

This Division dealt with payment of fines and other pecuniary sums—a matter dealt with in the new scheme in Part 9 Division 3 of the *Criminal Law (Sentencing) Act*.

SCHEDULE TRANSITIONAL PROVISIONS

The Schedule contains transitional provisions in relation to the new scheme. With the following exceptions, all orders imposing pecuniary sums will be enforceable under the new scheme, no matter when the order was made.

Warrants of commitment for default in payment of a pecuniary sum are to be cancelled if the debtor has not started serving the period of imprisonment to which the warrant relates and payment of the amount outstanding is to be enforced under the new scheme.

Similarly orders for community service, detention or home detention against a youth for default in payment of a pecuniary sum are to be cancelled if the youth has not performed any hours of community service or started serving detention or home detention.

However, if an undertaking to do community service on the basis of hardship has been entered into or community service ordered on the basis of hardship under the old expiation scheme, the undertaking or order is to continue whether or not any hours of community service have actually been performed by the debtor.

An order suspending a driver's licence will continue in force if it has been in force for less than 60 days and will be taken to be an order for suspension under the new scheme. Any order that has endured for more than 60 days is automatically cancelled and the outstanding amount becomes enforceable under the new scheme.

An order suspending registration of a motor vehicle under the existing scheme will continue in operation as if it were a penalty enforcement order under the new scheme restricting the transaction of business with the Registrar of Motor Vehicles.

If a court or court officer made an order as to the time or manner of payment of a pecuniary sum, that order continues in force by virtue of new section 14A of the *Criminal Law (Sentencing) Act*. Clause 8 of the transitional provisions provides for the enforcement of those pecuniary sums under the new scheme in the event of default of payment.

Mr ATKINSON secured the adjournment of the debate.

BULK HANDLING OF GRAIN ACT REPEAL BILL

Adjourned debate on second reading.

(Continued from 22 July. Page 1517.)

Ms HURLEY (Deputy Leader of the Opposition): The objective of the Bulk Handling of Grain Act which was introduced in 1955 was to deal with the handling of grain in a system of bulk storage, and in doing so it set up the South Australian Cooperative Bulk Handling Limited Company. It is a public unlisted company at this time, and the Government has no financial involvement with SACBH. This Bill was the subject of a review in March this year which reported to the Minister for Primary Industries, Natural Resources and Regional Development. We are informed that there was wide consultation as part of this review and there was general support for the thrust of the review, which was to repeal the Act.

Support for the repeal of the Act was given by the Advisory Board of Agriculture, the South Australian Farmers Federation, the Australian Wheat Board and the Australian Barley Board. The Opposition's consultations with the industry confirmed that there is a wide ranging and firm commitment to this Bill, although there are lingering concerns about some aspects of the complete repeal of the Bulk Handling of Grain Act. The trend is that the industry operates on its own with maximum flexibility. This is the direction in which agricultural industries are being pushed by competition policy federally and statewide, and they feel that they might as well do it themselves rather than be pushed into it at a later stage by Federal Government action or competition policy action.

I believe that some members of the industry still have difficulty with doing this in one fell swoop, so to speak, and I believe there is some concern about the financial implications for the SACBH. Indeed, that is mentioned in the review of the Bulk Handling of Grain Act report in April this year. Under the heading 'Sales tax' the review states:

> Repeal of the Act will have some financial implications for SACBH. However, SACBH believe that the commercial advantages that will result from repeal of the Act will outweigh the disadvantages.

I would be interested if the Minister would elucidate for us what those financial implications are for SACBH and what commercial advantages will result from repealing the Bulk Handling of Grain Act. Having said that and having indicated that our discussions show fairly wide support for this Bill, I indicate that the Opposition will broadly support the Bill.

Mr VENNING (Schubert): In rising to speak on this Bill I declare my interest in this legislation as a grain grower and member of the company. My late father was a director and Chairman of this company. I wish to put on the public record that I have concerns with this legislation. I have much passion for this subject, as our family has had a long involvement with SACBH ever since its founding in 1955, as have so many other farming families here in South Australia. It has been a major factor in the success of South Australia's key and largest industry, that is, the grain industry.

We live in an ever changing world and, when we change things that have stood the test of time, it is natural to be cautious. My concerns lie basically with the perceived need to repeal the Act of 1955. I have studied this Act section by section *ad nauseam*, and I believe that some parts of it should be retained. Sure, some sections can be amended or removed, because they are outdated and have no relevance in today's world but, where the Act provides the duty of SACBH concerning its powers, construction and maintenance of facilities and the priority of works, I believe these should remain in place to give the deliverers of grain some guarantees of service and some surety in the future. Why can we not amend this Act and not repeal it totally? The Act and its regulations, with some amendments, have been in place since 1955 and could not have served the industry any better. Why fix something that is not broken? It has been amended 10 times since 1955: why do we not make it 11?

One Nation has shown that people are frightened of change. It is time for some restraint—and people in the industry have trouble reconciling all the changes. Also, it is not a good time to change, as the system will be tested to the limit this year—hopefully, we will have a huge crop coming in, but I have to say that prices could be rock bottom. I want to be optimistic, but I have to say that the feed barley prices today are in a very parlous situation. When we have a situation such as this the system will be taxed to the limit, because growers will be asking the company to warehouse grain, they will be asking for space because the system may not carry the volume, and they will be looking to store grain on farms. So, it is very difficult for the company to estimate where the demand will be.

I have read in detail the Minister's second reading explanation in relation to this Bill in which he states:

> The management of SACBH believe that the commercial advantages resulting from the repeal of the Act will outweigh any disadvantages.

I would like to know what these perceived advantages are, because in my canvassing of this whole matter I have not found anyone who could convincingly advise me what they are—and I am referring to the flexibility that the company already has. The company will have the flexibility to trade and the ability to compete in the deregulated marketplace. But it can do that now: it already has that capacity. SACBH can trade in grain if it so wishes. It has made the decision not to at this point, but that may well change in the future. It has said that it will not do that while the Australian Wheat Board and the Australian Barley Board have a single desk for the export market, but it can trade on the domestic market like anyone else. The legislation makes no difference in respect of that point. Section 10(1)(a) of the Act provides:

> . . . give to any persons desiring the services of the company preferential treatment as against other persons desiring such services;

Surely this can be amended to allow the company to differentiate in respect of its charges, to encourage grain down the path of least cost. This has been one of the most quoted sections prohibiting the flexibility of the company.

Another point I wish to raise is that I do not believe that the average grain grower knows and understands the ramifications that will be felt if this legislation is passed. Some

weeks ago, my concerns in relation to this matter were such that I wrote a letter to the editor of the *Stock Journal*, and it was published—and the Minister might smile at me for bringing this up. I am quite happy for anyone to read this letter. I stated my concerns and asked for growers to contact me with their views. This action was not well received by the executive of the SACBH, and a letter was sent to the Minister for Primary Industries venting its displeasure at my letter and damning my honourable intentions. I am happy to let anyone read that letter from the SACBH, because it is rude in the extreme and questions my ability to be in this place. The Minister laughs, but I make no apology for that for one second.

I received only six responses to my letter, so it was hardly a revolt. I contacted many stakeholders, but most shrugged their shoulders and said that it was inevitable and blamed the national competition policy and the ACCC. So, my little exercise got me some flak but not a lot of concern. I am quite happy to admit that my concern may be unfounded—but history will show one way or the other.

Less than two weeks ago, an article appeared in the *Stock Journal* concerning this same issue. Mr John Murray, the General Manager of SACBH, was interviewed by the *Stock Journal* and was quoted as saying that he believed that the whole process of changing the organisation should occur slowly. The article states:

> A critical factor is the board's bid to retain SACBH's tax exempt status, worth between $5 million to $10 million a year, which would almost certainly be lost in a shareholder corporate structure.
>
> That is why change will be slow. There is not a lot of pressure for change because everything has worked well. We have got a very good business now and we won't be changing for change's sake, Mr Murray said.

I believe that Mr Murray himself is hesitant to change, but only a few weeks ago senior management was critical of me for the public comments I made. Are the proposed changes board driven or are they grower driven? That is a good question. I believe that it is the former. Yesterday my colleagues and I had a briefing with Mr Murray, which was arranged by the Minister (and for which I am grateful) and he is still adamant that the company structure must change to prepare itself for the future.

The points Mr Murray raised in this article have a direct parallel with my points of concern—why repeal the legislation and is it going too far? As I said before, we should not abolish it altogether but amend it. Sure, we can take out the ministerial powers and control, but we should leave in place those requirements that allow for the company's status to remain the same. Certainly, section 10 should be modified. I understand that maybe one day we will have to embrace a philosophy of deregulation relating to this, but let us do it if and when we have to.

The national competition policy is used as the reason, but I believe that we should move gradually. Western Australia has not gone down this path at this time, and it is seen as the best bulk handling authority in Australia. I believe that some quarters are moving away from *carte blanche* deregulation, and I believe that natural monopolies do work and serve an industry very well, particularly when the lion's share of the industry are involved and are members of that company. This is certainly the case with SACBH.

I urge the Government to amend the Bill for the eleventh time. We should not repeal it because, if we go down that path, it will be impossible to recover this legislation. I congratulate the company. It was, and probably still is, South Australia's largest company, with $300 million in assets, and cash reserves of over $60 million. This is not small bickies, and I urge caution in changing the mode of operation of the company.

I reiterate that SACBH has been a great company and has been a huge beneficiary to South Australia's grain growing industry. It was set up for farmers by farmers, managed by farmers and paid for by farmers. Its role will continue into the future, and we all want it to continue to be a stabilising influence in these volatile times. It is an organisation that growers have and can rely on, and I will always support the company, whatever happens. I wish the new board and the company all the best for the future, but I am steadfast in my belief: do not trade in the car when a drop of oil will fix it. Amend the Act but do not destroy it. I oppose the Bill. I fervently hope that history will prove me wrong and show that my concerns are unwarranted.

Mr LEWIS (Hammond): I support the legislation. I am always sympathetic to my colleague the member for Schubert, and this is no exception. But the reasons for my sympathy are probably somewhat different on this occasion to other occasions. Why would the member for Schubert want to keep any part of the Act as it stands? In the Act we have the short title, the Bulk Handling of Grain Act. If we are going to keep other parts we will keep that part, but if we are not going to keep the other parts we will not need that one. So, let us look at the other parts.

Section 2 gives us a lot of definitions, and they are only relevant if we keep things other than Section 2. So, I will come back and look at that in a minute. Section 3, as it stands, is a definition of the terminal ports and provides:

> For the purpose of this Act the following ports shall be terminal ports. . .

And it names them. Of course, the honourable member would be interested, I am sure, to note that Port Hughes is not on that list. The list includes Ardrossan, Port Adelaide, Port Pirie, Port Lincoln, Thevenard and Wallaroo, and then section 3(a) continues:

> . . . any other port which is a terminal port within the meaning of any proclamation in force under this section.

One has to look elsewhere for that. I do not know why the marketing of grain requires the Government to decide what is going to be a port and what is not. The sooner the Government gets out of that and lets business get on with it, the better.

Mr Venning interjecting:

Mr LEWIS: Yes, it is old fashioned. I agree with the member for Schubert's interjection. Sections 4, 4A and 4B have gone already. That involves some of the amendments the honourable member was talking about. Section 4C is entitled 'Further guarantee by Treasurer'. That is what has got this State into trouble in the past. Of course, I know the wheat industry would not do that; neither would the barley industry or any other part of the grain industry, would they? I mean, trading on the futures market is not risky in the least, is it?

Mr Venning interjecting:

Mr LEWIS: Things change, as the member for Schubert said. They change all the time. One of the ways farmers these days can be guaranteed a price on their grain at the time they harvest it this year, next year and the year after is if they think the price on offer on the futures market is a good price, and if they think they can grow grain profitably at that price, then

they can work out how many hectares they expect to grow, the average yield with average rainfall all other factors being equal, *ceteris paribus*, and they can take that price and lock in a certain tonnage sufficient to cover the costs of growing it. Whenever the price goes above that figure, they can take an additional percentage of what they expect they will produce on the futures market and lock in on that. One does not need to have someone else in an apron—I think they used to call them nannies—looking after one.

Clearly, we have devised marketing strategies not just nationally but internationally that necessitate the law stating that greedy merchants cannot rape poor, simple farmers. I mean, these days no farmer is simple, leave alone poor—or am I mistaken in that respect? Every farmer has the right to go into the futures market and take contracts on the futures market to secure their income for whatever they wish to sell in advance of what they expect they will grow and thereby ensure the viability of their grain producing enterprise. I do not know that the State's Treasurer ought to be involved in providing a guarantee to any other industry, and on that basis perhaps it is not wise for him to provide it to the grain industry.

Mr Venning interjecting:

Mr LEWIS: No, I have never done it, but why have it in there? If you chop out that bit—

Mr Venning interjecting:

Mr LEWIS: The member for Schubert agrees that we should chop out that bit. Well, we do not need to keep it for that section. Section 9, 'Restrictions on trading by the Company, subsection (1), provides:

> . . . neither the company nor any director, officer or servant of the company shall carry on or have any share or interest in a business which consists of or includes buying or selling of grain or acting as agent for the buying or selling of grain.

That is, normally, the sort of contract one has with employees so that they do not skim your profits. If you employ someone to buy and sell grain for you, you do not want them trading on the side when they can get a better price for it. After all, you have paid the rental space for their desk, met the cost of their telephone, provided them with a car, stationery and so on, and treated all their clients or whatever it takes to keep their favourable interest. Surely, one does not need to say that in law. You sack him or her if you catch him or her out doing that sort of thing—no question about that. Subsection (2) provides:

> . . . it shall be lawful for the company to buy grain or make up losses or shortages in out-turn.

For God's sake, that is commercial, prudential decision making, the sort of fiduciary duty which directors have to appoint managers to act in the best interests of shareholders. It is not necessary to have a special Act for that to be provided to farmers. That kind of thing is in the statute that governs the conduct of a company anyway. So it goes on down the list under section 9.

Section 10 is entitled 'Prohibition of preferences and disclosures by company'. If the company wants to be honest with its clients, it can be honest with its clients. If it wants to be dishonest, it can be like Bill Clinton and say, 'No, I didn't do that.' I did not mean to put it in those terms exactly, but members know how it is. I am suggesting that in this instance there is no point in the company having a law that provides these things. It is important that the company knows what its duties are as a company. It is answerable to its shareholders, surely. A specific piece of law is not really important, so we do not need that section.

Section 11 refers to the application of moneys from excess of out-turn. That has to be distributed among the shareholders in any other company. If we repeal this Act, that is what will happen in SACBH, and I think that is a good idea. Again, you do not need to state in a special law what the company will do: that is what the company will do, otherwise the shareholders will sack the directors and appoint some who will be prudentially expeditious and who will discharge their fiduciary duties according to the broader law that governs the conduct of company directors.

Section 12 is entitled 'Right of company in respect of bulk handling of wheat and barley'. We are in a free-trading environment these days. Paragraph (a) provides:

> . . . prevent the Wheat Board or, as the case may be, the Barley Board from receiving, storing, and handling grain in bulk in the Wheat Board's or the Barley Board's bulk handling facilities. . .

That is to stop people from duplicating facilities. Well, the days when that happened are over, as the member for Schubert said. This year, it would be a good idea if they put up some extra facilities, because we anticipate there will be a much bigger harvest. That is a fact. There will not be room to store it all. The member for Schubert has pointed out for members' benefit that the company will not know whether or not the farmers will store it on farm. Well, I can tell the member for Schubert that, if the farmers do not store it on farm, they will not have anywhere else to put it because the silos will be full. So, I can tell the member for Schubert that quite a bit of it will be stored on the farm, so much of it as cannot be fitted into the silos, and I do not know that the company needs to be worried about a law which tells the company that is what will happen. The seasonal conditions will dictate that: the law does not dictate how much will be stored on farm or not on farm.

This law need not dictate or attempt to dictate, either, whether the Wheat Board or the Barley Board can make arrangements for the transport of the grain. In my judgment, if you buy the grain, it is up to you to decide under the terms of the contract with a supplier where it will be delivered, by whom, at what expense and how that expense will be shared, if shared at all—if you are dopey enough to get involved in complicating your sale arrangements by putting in clauses about who will pay for what in the way of transport and who can choose which transport and where it must go before it is paid for. It is better to make a clear-cut decision and to say, 'I will deliver at this point and that is the price I will get for it. Beyond that point, it is up to you, and the price that I am demanding for my grain is so much. After all, I have covered it on the futures market anyway, so I am not in any great difficulty as a farmer.' And so on, through all the subsections of section 12.

Mr Conlon: What about wool?

Mr LEWIS: This is grain. We are not subsidising the Chinese with grain. Wool is a fibre which keeps you warm on the outside. You use grain to make whisky and/or feed animals, including yourself, to keep you warm on the inside.

An honourable member interjecting:

Mr LEWIS: Yes, it is bread. I eat rolled oats for breakfast—

The SPEAKER: Order!

Mr LEWIS: —and I put pearl barley in all my soups and casseroles, and I also very much enjoy eating wholegrain bread, which is mostly made from milled wheat.

The SPEAKER: Order! This is all very interesting, but perhaps we might get back to the Bill.

Mr LEWIS: Not only is it interesting but it is relevant to the Act we are considering repealing. So, there are general powers of the company. Well, they should be in the company's articles. Every other company with which I have ever had anything to do has its general powers provided for in its articles of incorporation. So, we do not really need that section. In relation to the duties of the company to erect bulk handling facilities, if it is a bulk handling company, of course it will erect bulk handling facilities. So, it does not need to be told to do that. It will do that when it considers it to be prudential to do so. I am sure it will, anyway.

Then there is the order of priority of works. I do not reckon the Minister, as this section requires, ought to be involved in that, or the next section, section 16, 'The duty to call tenders'. The less the Government has to do with the affairs of the company, the better off the company will be. It is free to compete in the market place, and what we are leaving is a legacy to the SACBH of a massive array of infrastructure and an outstanding reputation for doing an exceptionally good job, which it has improved in recent times. I pay particular respects to the recent board and to a member of the board who comes from my own electorate, Mr Kevin O'Driscoll.

Mr Venning: He wrote that awful letter.

Mr LEWIS: I think that chap has a lot of commonsense. I could go on; I could regale the House with the sorts of provisions in each of these sections all the way through to the very last one, which is section 35. It outlines how offences against this Act shall be heard and determined summarily and provides:

> The penalty for offences against this Act for which no other penalty is prescribed shall be a fine not exceeding $200.

Altogether then, I do not know why a company needs to have a law any longer which makes it an offence for somebody to do something that would affect that company and explicitly result in the action being considered an offence in law. The company's job is to get on with the business that it was established to do and, if it cannot do those things in its business, it ought not to have the law making the people that it accuses of being involved in preventing it from doing those things answer a charge in a criminal court. No other business has that kind of jurisdiction or sanction for interference in its commercial affairs. So, the day has come for the last amendment to be made.

It behoves me and all other members to do as the member for Schubert has also done, that is, pay tribute to the service that has been provided by the company established under the Bulk Handling and Grains Act, the South Australian Co-operative Bulk Handling Company, in terms of the way in which it has served the State to this point and to acknowledge that that service has enabled the industry to grow and enabled the other commercial services provided to the industry by risk takers and risk sharers outside the industry but as an integral part of it such as the futures market with the way to go in the future. As legislators, we do not need to be involved and we certainly do not need to impose any risk on the taxpayers for the way in which the industry conducts its business affairs in the future.

It is for all those reasons that I pay that special tribute and respect to the organisation, the firm, to this point and say to it, 'Good luck.' I hope it continues to manage, recognising and accepting that there is a general law that governs the conduct of directors and their responsibilities for fair trading and their responsibilities as defined in fiduciary duties to their shareholders. I wish the measure swift passage.

Mr MEIER (Goyder): I am pleased to have the opportunity to speak in this debate. As we are well aware, the purpose of the Bill is to repeal the Bulk Handling of Grain Act, which was introduced in 1955. I have not had a lot of comments from people in my electorate, but one particular comment was brought to my attention, as follows:

> I have highlighted most of the concerns, although I feel strongly that the Bulk Handling of Grain Act 1955 has served us so well that I am saddened by attempts to dismantle it.

It is important to remember why the Bulk Handling of Grain Act was introduced. As the Minister said in his second reading explanation, the core objective of the Bulk Handling of Grain Act 1955 was to convert the storage, handling and transport of grain in bags to a system of bulk storage. In so doing, the Act conferred certain rights, powers and duties on the South Australian Cooperative Bulk Handling Limited. The conversion to a system of bulk storage was successfully accomplished some time ago.

I am well aware that many of my growers have said to me over the years that the situation as it related to the trading of grain in the 1930s was somewhat disastrous, because grain traders would seek to play off growers against one another. The grain growers did not know what price they would get for their grain. They were always threatened that, if they did not sell at a certain price, the price would probably go down. They had no way of knowing whether they were doing the right thing by selling then or by waiting. On occasions, those who did not sell found that the price decreased. On other occasions, those who sold found that the price increased. So, there were many problems back then.

However, those issues were not addressed through the Bulk Handling of Grain Act, because the Act does not control orderly marketing: orderly marketing is controlled by the Wheat Board and the barley boards. In fact, the current policy of SACBH is that it does not trade in grain. Therefore, I do believe that concerns expressed to me over some time in terms of the fact that we do not want to go back to the 1930s are not applicable in relation to the repeal of this Act.

The question arises: why does the Government want to repeal the Act? From my research, it goes back to the 1980s, but in particular in 1997, as a response to representations from SACBH, the Act was reviewed to consider whether SACBH required statutory backup as provided in the Act, given that SACBH is also subject to the Corporations Law and the Trade Practices Act 1974. As a result of that approach from SACBH to the Government, a working party, consisting of representatives from growers, marketing boards and the State Government, was established.

It is noteworthy to see who served on the working party. The Chairman was Mr Jim McColl, a former Director of Agriculture. Under the Chairmanship of Mr McColl were Mr John Murray, General Manager of SACBH; Mr Kevin O'Driscoll, Chairman of SACBH; Mr David Thomas, Australian Wheat Board; Mr Michael Iwaniw, Australian Barley Board; Mr Michael Thomas, South Australian Farmers Federation; Mr Jeff Arney, Vice Chairman, Grains Council, South Australian Farmers Federation; Mr Greg Schulz, Advisory Board of Agriculture; and Mr Robert Rees, Executive Officer, Primary Industries and Resources, South Australia.

Certainly, this working party represented the interests of the industry to the maximum extent. I do not have time to go

through all the areas the working party review sought to highlight but it looked at SACBH and the Act and at removing legislative and other impediments to the commercial operations of SACBH. It looked also at the situation involving terminal ports, at guarantees by the Treasurer, at directors' arrangements, at restrictions on trading by the company, at prohibition of preferences and disclosures by the company, at application of moneys from excess out-turn, at the right of the company in respect of bulk handling of wheat and barley, as well as looking at the general powers of the company, the duty of the company to erect bulk handling facilities, the power of the Minister as to alteration or additions to facilities and many other areas. The net result was that they brought forward the following conclusions and recommendations:

Following wide consultations with the South Australian industry, the working party concludes that the Act:

1. Is inconsistent with a deregulated domestic milling and feed market and the probability of a soon to be deregulated domestic market for feed and malting barley;

2. Impedes the development of more commercial operating structures to reduce costs;

3. Is at variance with recommendations contained in the 1988 Royal Commission into Grain Storage, Handling and Transport relating to removal of sole handling rights; and

4. Is therefore no longer relevant to the current commercial economic climate.

The working party's recommendation was as follows:

The working party unanimously recommends to the Minister for Primary Industries, Natural Resources and Regional Development that the Bulk Handling of Grain Act 1955 be repealed.

I believe that the Government is acting in a responsible manner with regard to the review undertaken. The review consisted of industry representatives who were able to accommodate the various sectors of the industry and, as it was a unanimous recommendation, as a member representing an important barley and wheat growing area, I believe the Government is legislating in the right direction in seeking to repeal the Act.

It should also be pointed out that there will be positives resulting from this repeal. First, SACBH no longer has sole receival rights, but that has been the case since 1988, because SACBH has not had sole receival rights and nothing new has been created by abolishing the Act. We have Acts of Parliament that are not being adhered to and, if they are not doing the job, I believe we should get rid of them. The Government is also removing a statutory impediment to the commercial operations of SACBH. One of the key factors is that currently the Act prohibits competitive arrangements between SACBH silos. In other words, it is not possible for SACBH to offer farmers in one area a better price than that which is received by farmers in another area.

Whilst one can argue that is fair and reasonable, I point out that in the South-East of South Australia we are losing grain from South Australia to Vicgrain because it is offering a better price to South Australian farmers. So, our grain is going out of the State to Vicgrain and we seem to be somewhat helpless to combat this competition. Therefore, by repealing the Bulk Handling of Grain Act, SACBH will not be constrained any longer and will be able to offer a more competitive payment to farmers, for example, in the South-East, to ensure that they sell their grain in South Australia if that is in the best interests of grain growers. It would be silly to suggest that they should offer such a price that would disadvantage other growers but South Australia needs to ensure that it is doing everything possible to give our growers the maximum price that we can offer.

As to building other silos, it needs to be recognised that in Victoria already the Wheat Board and Grain Company are building a grain receival facility which will compete directly against Vicgrain, the equivalent of our SACBH. To those who say it is a worry that outside traders might come in, it would appear that it will be not the outside traders but the people who currently conduct the orderly marketing of grain in Victoria, namely, the Wheat Board, and it could well be that the Barley Board decides to undertake similar activities with respect to the storage of grain. It should also be pointed out that SACBH is a company limited by guarantee; it has no shareholders; and there is actually a guarantee of $1 per member at present. The repeal of the Act does not and will not change the structure of SACBH or the way the company is operating. In fact, nothing can change unless there is a motion before growers at an annual general meeting. If SACBH wants to go into the marketing of grain, that is for the growers to decide but the Government has had no control over that through this Act and that will continue to be the case.

It is up to growers if they want to change the situation; and, therefore, in light of the review of the working party and the arguments put to me by a variety of people, I believe that this is a step in the right direction. To some extent it is a situation that the Government must acknowledge with the ACCC, ensuring that there is appropriate competition throughout Australia and acknowledging that we cannot seek to maintain exclusive receival rights for SACBH. At the same time we need to ensure that our grain growers get the best possible price for their grain and that they have the maximum opportunity for gaining access to overseas and domestic markets.

I do not believe that the repeal of the Bulk Handling of Grain Act will prejudice growers in that situation. It has also been pointed out to me that if this Parliament's and my own assessment of the situation turns out to be incorrect in future years and if it is felt that the grain growers of South Australia are being unfairly dealt with and not receiving the benefits to which they are entitled, it is within the power of the Parliament once again to act to ensure that appropriate conditions are put in place. With those comments, I support the Bill.

The Hon. R.G. KERIN (Deputy Premier): I thank members for their contribution to the Bill. The Act that we are repealing has well and truly served its purpose over the years. It has facilitated the conversion of what was a tough industry using bags into a bulk handling industry. That process has been well and truly successfully completed, and the Act has served its purpose.

SACBH is an enormous company in South Australia. It has done a terrific job, and I congratulate the board members (both past and present), particularly the chairpersons, who have given leadership, and the management and staff of SACBH who have done a terrific job. They have always been well respected in country areas of South Australia, and I include in that my own father, who served for 25 years with them.

The repeal of the Act will remove statutory sole receival rights of SACBH and impediments to their commercial operations. A working party which looked at this industry, as the member for Gordon said, was chaired by Jim McColl and included representation from the Advisory Board of Agriculture, the Farmers Federation Grains Council and the Wheat

and Barley Boards. I made sure when we set up that working party that it had grower representation and that it did not consist just of executive members. The working party came back with a clear message about what it wanted to do, and the Government has carried that through.

Once again, I thank members for their contribution. I thank the Deputy Leader not only for her support but for the interest she has shown in this matter, on which she has been well briefed. I acknowledge the concerns of the member for Schubert, which he put clearly. Many of the concerns that he raised will always exist for the shareholders of any company, but the bulk of those issues do not involve legislation: they are issues involving membership and ownership that need to be dealt with internally by SACBH. In most cases, they are issues of which members need to be aware, but they are really issues for the board and members of SACBH. When you have such a large company that is controlled by industry, Government should get out of the way. The company has given us a clear message that it wants to look ahead and go into the future without Government being there to nurse it—it is a big boy now!

The member for Schubert also mentioned One Nation and the fact that people are scared of change. I should add to that: 'More so'. People are sick of the Government not listening. We have been given a clear message that the industry wants this Act repealed, and the Government has listened. Today's agricultural partnerships between Government and industry are vital to achieving the potential that lies ahead. We have been through a comprehensive consultation process with our partners in the industry on this matter, and it is clear that they want the Act repealed. I thank members for their support for the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

Ms HURLEY: The review of the Bulk Handling of Grain Act mentions sales tax and the financial implications for SACBH. Will the Minister elaborate on those financial implications?

The Hon. R.G. KERIN: I cannot remember the figure mentioned that would actually make a difference to SACBH if it paid sales tax. However, if the tax reform package goes through, this will no longer be of concern to SACBH, not only as an exporter but also as a business, because the company will be zero rated and the GST will be refundable. I cannot bring to mind the amount that the company would pay, but its concerns relate more to Federal taxes and their treatment at that level. It has received an exemption from sales tax in the past. That will fall away. That has been taken fully into account by SACBH, and it is not particularly concerned about it. The company has factored that into its thinking, and it still wishes to go ahead with the repeal of the Act.

Ms HURLEY: The member for Schubert mentioned a figure of over $5 million. I seek the Minister's assurance that the figure will not be in that range for growers.

The Hon. R.G. KERIN: The figure to which the member for Schubert referred related to a possible income tax impediment that SACBH may face on another level. That has nothing to do with this. That is a Federal tax ruling. The sales tax component is somewhere in the region of $400 000 or $500 000. SACBH has factored that into its thinking and decided that it is not of major concern.

Clause passed.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (MOTOR ACCIDENTS) BILL

In Committee.

Clauses 2 to 5 passed.

New clause 5A.

The Hon. M.R. BUCKBY: I move:

Page 2, after line 7—Insert new clause as follows:

Insertion of section 113A.

5A. The following section is inserted after section 113 of the principal Act:

Insurer not liable to aggravated damages or exemplary or punitive damages

113A. An insurer is not liable to pay the aggravated damages or exemplary or punitive damages awarded in an action against the insured person in respect of death or bodily injury caused by or arising out of the use of a motor vehicle insured under this part and the insured person is not entitled to be identified by the insurer in respect of such an award.

New clause inserted.

New clause 5B.

The Hon. M.R. BUCKBY: I move:

Insert new clause as follows:

Insertion of section 118B.

5B. The following section is inserted after section 118A of the principal Act.

Interpretation of certain provisions where claim made or action brought against nominal defendant

118B. (1) The provisions of this Act prescribed by subsection (2) will be taken to apply where a claim is made or an action is brought against the nominal defendant under this part as if, for the purposes of those provisions—

(a) the motor vehicle in relation to which the claim is made or the action is brought were a motor vehicle insured under a policy of insurance; and

(b) the nominal defendant were the insurer and any liability of the nominal defendant were a liability of the insurer under the policy of insurance.

(2) for the purposes of subsection (1), the provisions of the Act are prescribed:

(a) sections 110, 111 and 111A;

(b) section 124(6a);

(c) section 124AD;

(d) section 125B;

(e) sections 127 and 127A;

(f) a provision specified by the regulations for the purposes of subsection (1).

New clause inserted.

Clause 6.

The Hon. M.R. BUCKBY: I move:

Page 2—

Line 17—After 'vehicle' insert:

or part of the vehicle,

Lines 19 to 23—Leave out subsection (6a) and substitute:

(6a) Where a claim is made upon an insured person in respect of an accident of a kind referred to in subsection (1), a person must not give the insurer, or someone known by the person to be engaged by the insurer in connection with the claim, any information that the person knows is material to the claim and is false or misleading.

Maximum penalty: $1 250 or imprisonment for 3 months.

Amendments carried; clause as amended passed.

Clause 7 passed.

Clause 8.

The Hon. M.R. BUCKBY: I move:

Page 3, lines 14 to 18—Leave out section 124AC and substitute:

Amount recoverable by insurer set off against compensation

124AC. The insurer may set off the whole or part of an amount that the insurer is entitled to recover from a person under this Part against a liability in respect of the person's death or bodily

injury caused by or arising out of the use of a motor vehicle where the liability is owed by the insurer or an insured person.

Amendment carried; clause as amended passed.

New clause 8A.

The Hon. M.R. BUCKBY: I move:

Page 3, after line 23—Insert new clause as follows:

Insertion of section 125B

8A. The following section is inserted after section 125A of the principal Act:

Acquisition of vehicle by insurer

125B. (1) If—

(a) the insurer considers it necessary to acquire the motor vehicle for the purposes of the conduct of negotiations or proceedings connected with the death of, or bodily injury to, any person caused by or arising out of the use of the vehicle; and

(b) the owner of the vehicle is unwilling to sell the vehicle to the insurer at all or for a price the insurer considers reasonable,

the insurer may acquire the vehicle compulsorily in accordance with this section.

(2) The insurer may, for the purposes of compulsorily acquiring the motor vehicle, apply to the Magistrates Court for a valuation of the vehicle.

(3) If within one month after the date of a valuation by the court, the insurer pays into the court the amount of the valuation, the court—

(a) must make an order vesting title to the motor vehicle in the insurer; and

(b) may make any other incidental or ancillary orders that may be necessary or desirable in the circumstances of the case.

New clause inserted.

Clause 9.

The Hon. M.R. BUCKBY: I move:

Page 5—

After line 8—Insert new paragraphs as follows:

(aaaa) by striking out subparagraph (i) of paragraph (a) of subsection (1) and substituting the following subparagraph:

(i) the injured person's ability to lead a normal life was seriously and significantly impaired by the injury for a period of at least six months;;

(aaa) by striking out subparagraph (ii) of paragraph (c) of subsection (1) and substituting the following subparagraph:

(ii) a person who—

(A) is a parent, child or spouse, or was at the time of the accident a spouse, of a person who was killed, injured or endangered in the accident; and

(B) was at the scene of the accident when the accident occurred or shortly after the accident occurred;;

(aa) by inserting after paragraph (c) of subsection (1) the following paragraph:

(ca) in assessing possibilities for the purposes of assessing damages to be awarded for loss of earning capacity, a possibility is not to be taken into account in the injured person's favour unless the injured person satisfies the court that there is at least a 25 per cent likelihood of its occurrence; and;

After line 11—Insert new paragraph as follows:

(ab) by inserting after paragraph (h) of subsection (1) the following paragraph:

(ha) damages awarded for loss of consortium must not exceed four times State average weekly earnings; and;;

Line 28—After 'the prescribed percentage' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which the accident was attributable to the injured person's negligence

Line 32—After '25 per cent' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which the proper wearing of a seat belt would have reduced or lessened the severity of the injury

Page 6—

Line 5—After '25 per cent' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which the proper wearing of a safety helmet would have reduced or lessened the severity of the injury

Line 32—After '25 per cent' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which being within the compartment would have reduced or lessened the severity of the injury.

Amendments carried; clause as amended passed.

Clause 10.

The Hon. M.R. BUCKBY: I move:

Page 5—

After line 8—Insert new paragraphs as follows:

(aaaa) by striking out subparagraph (i) of paragraph (a) of subsection (1) and substituting the following subparagraph:

(i) the injured person's ability to lead a normal life was seriously and significantly impaired by the injury for a period of at least six months;;

(aaa) by striking out subparagraph (ii) of paragraph (c) of subsection (1) and substituting the following subparagraph:

(ii) a person who—

(A) is a parent, child or spouse, or was at the time of the accident a spouse, of a person who was killed, injured or endangered in the accident; and

(B) was at the scene of the accident when the accident occurred or shortly after the accident occurred;;

(aa) by inserting after paragraph (c) of subsection (1) the following paragraph:

(ca) in assessing possibilities for the purposes of assessing damages to be awarded for loss of earning capacity, a possibility is not to be taken into account in the injured person's favour unless the injured person satisfies the court that there is at least a 25 per cent likelihood of its occurrence; and;

After line 11—Insert new paragraph as follows:

(ab) by inserting after paragraph (h) of subsection (1) the following paragraph:

(ha) damages awarded for loss of consortium must not exceed four times State average weekly earnings; and;;

Line 28—After 'the prescribed percentage' insert:

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Page 6—

Line 5—After '25 per cent' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which the proper wearing of a safety helmet would have reduced or lessened the severity of the injury

Line 32—After '25 per cent' insert:

or such greater percentage as the court thinks just and reasonable having regard to the extent to which being within the compartment would have reduced or lessened the severity of the injury.

Amendments carried; clause as amended passed.

Clause 11 passed.

Title passed.

Bill read a third time and passed.

CRIMES AT SEA BILL

Adjourned debate on second reading.

(Continued from 28 May. Page 988.)

Ms HURLEY (Deputy Leader of the Opposition): I understand the Bill will bring South Australia into line with a number of jurisdictions concerning crimes that are committed at sea beyond the State jurisdiction and regularise the procedures for dealing with those crimes that are committed at sea. Crimes that are committed at sea are not of great frequency, but often when it occurs it is important—

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

A quorum having been formed:

Ms HURLEY: It is very important that, when we have these relatively rare occurrences, jurisdictions around Australia are unified in the way that they deal with them and the procedures that are adopted. I am happy to support the Bill.

Mr ATKINSON (Spence): The Bill before us repeals an Act of 1980 that dealt with crimes at sea. The 1980 Act applied South Australian criminal law to any offence committed at a place in the coastal sea, that is, territorial sea adjacent to the State. The 1980 Act also applied to any offence committed on an Australian ship beyond the territorial sea on a voyage between ports in South Australia. In some other States the criminal law was applied according to the next port of call after the offence had been committed. The Bill before us provides that the criminal law of South Australia will apply of its own force to a distance of 12 nautical miles from the mean low water mark. From 12 nautical miles to the continental shelf or 200 nautical miles, whichever is the greater, our criminal law will apply with the force of Commonwealth law, that is, owing to its incorporation by reference in a Commonwealth Act.

The Bill is part of a national cooperative scheme for prosecuting crimes at sea. My understanding of the Bill is that if an assault were committed on board a ship off Streaky Bay the criminal law of South Australia would apply whether the ship were within 12 nautical miles of the coast or within 200 nautical miles. If the ship were to proceed to Albany in Western Australia, Western Australian police would investigate according to Western Australian procedures but charge and try according to South Australian law. I am told by the Government that a schedule to the model Bill to be enacted by all States and territories will ensure uniform and clear answers to any situation that might arise. This will overcome the conflict of laws that might occur under the 1980 law. The Opposition supports the Bill.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the Opposition for its support for the Bill. I particularly thank the Deputy Leader of the Opposition for her scintillating comments in relation to the Bill and look forward to its speedy passage.

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

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 June. Page 1073.)

Mr ATKINSON (Spence): The Bill has two parts. One is to commit South Australia to the National Practising Certificate whereby local lawyers can practise interstate and interstate lawyers can practise here without seeking admission in a second State or territory. The second part of the Bill tightens the discipline imposed on lawyers. I shall speak first to the National Practising Certificate. Lawyers who obtain the certificate will be able to practise in each participating State or Territory. So far only New South Wales and Victoria are participating States. Clients of lawyers should be most concerned that the Attorney-General has not resolved the question of when a client can make a claim on the South Australian guarantee fund owing to the default of an interstate lawyer.

All we have is the assurance of the Attorney that victims of professional or fiduciary default by an interstate lawyer will not suffer. We hope this is right. The Bill provides that an interstate lawyer practising in South Australia must obey conditions imposed on him in his home jurisdiction or any participating jurisdiction. The Bill also ensures that a lawyer is not punished more than once for a breach of discipline, although restrictions on his ability to practise would apply in all participating jurisdictions.

The second part of the Bill tightens the discipline for lawyers by introducing a second or lower category of professional misconduct that may catch some lawyers against whom charges of unprofessional conduct cannot be sustained. This lower category is called 'unsatisfactory conduct', which is defined as follows:

> . . . conduct in the course of, or in connection with, practise by the legal practitioner that is less serious than unprofessional conduct but involves a failure to meet the standard of conduct observed by competent legal practitioners of good repute.

By contrast 'unprofessional conduct' is currently defined as 'an illegal act' or a dishonest or infamous offence punishable by imprisonment. I would have thought that that was very hard to prove. The Bill adds to that definition 'substantial and recurrent failure to meet the standard of conduct observed by competent legal practitioners of good repute.'

The Bill provides that if a lawyer's breach is minor the Legal Practitioners Conduct Board may, if the lawyer consents, reprimand him or impose a condition on his practising certificate or require him to make a payment to the client. If the board proceeds this way with the lawyer's agreement, the case is not referred to the Legal Practitioners' Disciplinary Tribunal. If the lawyer does not agree to the board's handling the matter, it is referred to the tribunal. Unsatisfactory conduct may be heard by a tribunal constituted of only one member instead of three members.

Laymen will be surprised that two provisions in the Bill are necessary. The first is to enable the board for the first time to warn a client that he has suffered monetary loss at the hands of a lawyer being investigated by the board of which the client is not yet aware. The second is to enable the board to discuss with an MP representing a client that client's case. These were previously barred by confidentiality provisions.

The Bill steers the law clear of any regulation of people practising foreign law in South Australia. It is rare for a Bill to abjure regulation of conduct, and I suppose that is usually considered unnecessary. If the House does not want to regulate it, we do not mention it. I shall go along with the Government on this clause, but I would have thought lawyer Michael Abbott's conduct of the Gilford case under foreign law—in particular, the proportion of Frank Gilford's compensation and the Adelaide Women's and Children's

Hospital money absorbed in legal fees—would have merited scrutiny by those concerned with upholding standards.

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

Mr ATKINSON: Finally, the Bill allows charges against a lawyer to proceed before the tribunal while criminal proceedings against the lawyer arising out of the same facts are pending. Many long-suffering, wronged clients will say 'Amen' to that. The Bill authorises the Supreme Court to suspend a lawyer on application of the board if the lawyer has been charged with a criminal offence or is subject to disciplinary proceedings before the tribunal. The President of the Law Society, Mr Harley, says that the Law Society has been reluctant in the past to back suspension of lawyers in this situation because it would 'decimate a practitioner's practice'. I would have thought that suspending a lawyer from practice would reduce the practice by more than one-tenth.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank all members for their contribution, particularly the member for Spence. His numeracy is, as ever, a treat to listen to.

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

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 3 June. Page 1075.)

Mr ATKINSON (Spence): The Opposition has studied the Bill carefully and questioned the Attorney-General on it. He has been most helpful with his replies, and the Opposition will support the Bill, with one exception. The Bill amends 11 Acts in minor ways. The first change is a retrospective amendment to the Acts Interpretation Act to regularise acts done by public officials pursuant to Acts not proclaimed. The clause reaches back 10 years to give the actions of public officials a different legal effect from what the law at the time said they had. This is retroactive legislation, namely, retrospective legislation in its most offensive form. Yet a fortnight ago, during debate on the City of Adelaide Bill, the Minister for Government Enterprises, who has introduced this retroactive clause to the House, opposed my transitional provision on Barton Road because it was—wait for it—retrospective. My transitional provision did not render the Barton Road closure invalid from its installation in 1987, nor did it refund to motorists the tens of thousands of dollars in expiation fees that have been levied by police in relation to Barton Road in those years. My transitional provision did not even render the Barton Road closure invalid for at least six months, if at all. The clause before the House is far more retroactive in its effect than a clause that the Minister opposed on the grounds of retrospectivity.

The second change is to the Criminal Law Consolidation Act and ensures that appeals against sentence and forfeiture orders arising from the same facts can be heard together. The same Act is also amended to allow a criminal appeal court hearing an appeal against sentence to increase a non-parole period while reducing a head sentence.

The next change is to the Environment, Resources and Development Act. It obviates the need for the court to pursue unpaid hearing fees in the small claims jurisdiction of the Magistrates Court. Other courts can make *ex parte* orders where their own fees are owing. This change allows the courts Registrar to issue a certificate for the amount owing and then lodge it with the District Court, where it will work as an order of that court.

The next clause abolishes the Rehousing Committee, whose job it has been to rehouse people whose dwellings have been compulsorily acquired. The Government says that it will continue to help such people but will abolish the committee, because it has been called on to help an average of fewer than one person a year over the past nine years.

Two changes have been made to the Oaths Act. The first is to make sure that Ministers who are members of Executive Council do not have to take the oaths of allegiance and fidelity more than once in a Parliament. The other change to the Oaths Act—and I am glad that the member for Stuart is here, because he may want to make a contribution in this regard—is to abolish the reference to 'proclaimed postmaster', because the Government no longer intends to appoint them. The Government says that there are plenty of people all over the State—including all over the member for Stuart's electorate—who can attest documents, and it is no longer necessary for people to go to a post office to get documents signed. So, I would be interested to hear, Sir, perhaps from you also, whether members representing rural districts agree with the Attorney-General about this matter.

The Partnership Act was amended a couple of years ago to allow limited liability partnership: it might even have been last year. The Parliamentary Labor Party had a lively debate about this, but we acquiesced in it because it was part of national uniform legislation. The change then provided that limited liability partnerships would come into force by the Governor declaring one of the laws in an interstate jurisdiction to be a corresponding law, provided our law was recognised in that State or Territory. Alas, the other States adopted a similar provision, with the result that no-one can go first. This clause allows South Australia to go first.

The next change is to the Police (Complaints and Disciplinary Proceedings) Act. Under this Act, a magistrate is appointed to be the Police Disciplinary Tribunal and another magistrate is appointed as his deputy. Sometimes both are absent, so this clause allows the appointment of a pool of magistrates to act as deputies for the Police Disciplinary Tribunal.

Clause 19 allows the Public Trustee to withdraw commissions, fees and expenses from common funds invested. The Parliamentary Labor Party had some worries about this, but the Attorney allayed them. He said that the Public Trustee probably already had authority to deduct these fees and the amendment was a clarification. The Attorney told me:

> It is appropriate that the Public Trustee should be able to charge for outgoings incurred in providing commercial investment services, in particular, where it competes with the private sector.

Clause 20 amends the Governor's authority to direct that court records be delivered to the custody of State Records. It provides that the Governor shall have regard to the opinion of the head of the court before making a direction. This seems to recognise the independence of the judiciary, and we support it.

Clause 21 corrects a drafting error in a revision of the Strata Titles Act that was done at roughly the same time as the Community Titles Act was introduced. So keen was the Government on its new system of community titles that, in one section of the Strata Titles Act, it said that an agent must lodge an audited statement with a community corporation

instead of a strata corporation. Just in passing, I believe that this Government has been altogether too hasty in trying to phase out the Strata Titles Act—at least, to phase out the ability to create new strata titles in preference to community titles.

The last clause amends the Wills Act. Having read the contribution of the Hon. R.D. Lawson in another place, I feel that I must agree with him. I do not believe that this clause is necessary, but it does no harm.

The Hon. G.M. GUNN (Stuart): I want to make only one brief comment. I share the concern of the member for Spence in relation to getting rid of 'proclaimed postmasters'—

Mr Atkinson: Let's knock it off.

The Hon. G.M. GUNN: I believe it is probably true to say that I am not the Attorney-General's most popular member, and—

The Hon. M.H. Armitage interjecting:

The Hon. G.M. GUNN: Perhaps it is true to say that—

Mr Atkinson interjecting:

The Hon. G.M. GUNN: I am aware that proclaimed post offices have provided a very valuable service in isolated parts of the State, and I do not believe that allowing the provision to remain would do any harm whatsoever.

Mr Atkinson interjecting:

The Hon. G.M. GUNN: Well, I am quite tempted to do it. However, I am sure that the Attorney-General will be made aware of our concerns and if it proves to be—

Mr Atkinson interjecting:

The Hon. G.M. GUNN: He has learnt a few lessons in his time. In conclusion, I think it is unfortunate and unnecessary and I would have much preferred the existing arrangement to remain as it is.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I note that the member for Spence, as lead speaker for the Opposition, identified that the Attorney-General was 'particularly helpful with his replies'. Of course, that is a capacity for which the Attorney-General is well recognised in this Chamber. He is always helpful, and I am not a bit surprised that the member for Spence has identified that in his response. The member for Spence did talk about Barton Road and Barton Terrace—

Mr Atkinson: No, I talked about retrospectivity.

The Hon. M.H. ARMITAGE: I have some facts and figures about journeys which may or may not go around Barton Road—

Mr ATKINSON: On a point of order, Sir—

The ACTING SPEAKER (Mr Venning): Order! The member for Spence.

The Hon. M.H. ARMITAGE: —and which I do not intend to read into the record.

Mr ATKINSON: I rise on point of order, Sir. The member for Adelaide appears to be about to read into the record a series of journey times regarding roads in inner western Adelaide and to make reference to a Bill which is currently before the House. I ask you to rule that it is not relevant and that he should return to the Bill in hand.

The ACTING SPEAKER: If the Minister does that, I will make a ruling. In the meantime, we will see whether he does.

The Hon. M.H. ARMITAGE: As the member for Spence probably heard me say in my final phrase before I realised that he had stood to take a point of order, I do not intend to read these into the record at the moment. I can assure the House that when I do—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: I started from Brompton Mission and went to Calvary Hospital.

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: I could have gone from Hindmarsh Stadium and it would be exactly the same. If I were to read these into the record, it would show that the member for Spence has on previous occasions—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: —been enthusiastic. There will be plenty of opportunity to read those into *Hansard* on a more appropriate occasion. In relation to the Attorney-General's portfolio Bill, which I have been addressing during this speech, I thank the Opposition for its support. As identified before, I know that the Attorney-General has attempted to address, in a most detailed fashion, a number of absolutely legitimate inquiries from the member for Spence.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2.

Mr ATKINSON: Subclause (2) provides that clause 4 will be taken to have come into operation on 10 March 1988, indicating that clause 4 has retrospective as well as prospective operation. Will the Minister please explain to the Committee why Government Bills can be retrospective but Opposition Bills, if they are retrospective, must be voted down?

The Hon. M.H. ARMITAGE: I am informed that this amendment, which would see clause 4 be taken to have come into operation on 10 March 1988, stretches back to when the provision under section 14C was enacted originally. I am also informed that the effect is to ensure that minor administrative acts undertaken by the person appointed under section 14C in fact would be valid. I am further informed that this provision, if it were to be passed, is unlikely to have any adverse effect on the public.

Mr ATKINSON: Well, that is a very nice assurance but we cannot tell. What is happening here is that the Government is putting itself above the rule of law. The enactment is not merely the most unpleasant form of retrospectivity, namely retroactive legislation, but it goes back more than 10 years. It is retroactive for 10 years. This Government seems to think that it does not have to comply with the normal rule of law, that it can make special provisions for itself. I am sure if someone else came in here asking for retroactive operation of laws or regulations, such as Opposition members, they would be voted down relentlessly on Party lines by the Government. There is one standard for the Government and there is one standard for the rest of us. I do not accept it. I give the Attorney-General this message through the Committee: after the Government's conduct on the City of Adelaide Bill last week, there is no retrospective legislation it brings before the House for the remainder of this Parliament that the Opposition will support.

The Hon. M.H. ARMITAGE: I acknowledge that it is retrospective to 1988.

Mr Atkinson: Ten years.

The Hon. M.H. ARMITAGE: Yes, 10 years ago, when your Government was in place. I am surprised that your Government did not see this and correct it at the beginning. I am surprised it left it for us to fix up—yet another thing. However, it is important to identify to the Committee that, if

members look at the clause, as I indicated before, they will see that, if passed, it will ensure that minor administrative acts undertaken by a person will become valid. At the moment, I am informed that the law is unclear and it will not be the effects of the acts, as I understand it, that have been undertaken that will be made valid but, rather, the acts themselves. The person who is at risk, as I understand it, is the person who has undertaken the minor administrative act who might, in fact, have undertaken an invalid act. I reiterate that this validates the minor administrative acts undertaken by an appointee under section 14C. I reiterate, further, that my information is that it is unlikely to have any effect on the public. It merely validates acts that administrators have taken.

Mr ATKINSON: We just do not know whether it will have any effect on the public. When one makes a Bill retroactive 10 years, one cannot tell what will be its effects. The Minister says that it validates only minor administrative acts. If you are on the receiving end of one of those administrative acts, you might have a different opinion about whether or not it is minor. My point tonight is that the member for Adelaide supports legislation which is retroactive 10 years. Let it be on the record that the member for Adelaide and every member of the Government supports retroactive legislation. When they come in here moaning about Opposition amendments or private members' Bills that might have a milder retrospective operation, or when Labor takes office in this State after the next general election and they complain about retroactive legislation by a Labor Government, I will remind them of this night in the House of Assembly when they passed a clause that was retroactive for 10 years.

The Hon. M.H. ARMITAGE: In fact, I reiterate that what we are fixing up is legislation enacted by the most recent Labor Government

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: Yes, but we are making it retroactive because there are people who potentially—because I am informed that the law is unclear—have undertaken minor administrative acts which, further, may in a large number of cases have been beneficial to the public but which may not have been valid.

Clause passed.

Remaining clauses (3 to 23) and title passed.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That this Bill be now read a third time.

Mr ATKINSON (Spence): During my second reading contribution I referred to the clause on the Wills Act as the last clause of the Bill. I had forgotten that the Attorney had contacted the Opposition to say that in another place a provision on the Young Offenders Act would be added to the Bill. So, in fact, the clause on the Wills Act was not the last clause.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (MENTAL INCAPACITY) AMENDMENT BILL

Received from the Legislative Council and read a first time.

JOINT COMMITTEE ON TRANSPORT SAFETY

Consideration of message No. 83 received from the Legislative Council.

The Hon. DEAN BROWN (Minister for Human Services): I move:

That this House concur in the resolution of the Legislative Council for the appointment of a joint committee on transport safety, that the House of Assembly be represented on the committee by three members, of whom two shall form the quorum necessary to be present at all times at the committee and that the members of the joint committee to represent the House of Assembly be the Hon. G. Gunn, Mr Koutsantonis and Mr Scalzi.

Motion carried.

ADJOURNMENT DEBATE

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That the House do now adjourn.

Mr ATKINSON (Spence): In 1996 I introduced a Bill to abolish the drunk's defence. I used as my model the Bill endorsed in 1990 by the House of Assembly Select Committee on Self-defence and drafted by Parliamentary Counsel's Mr Hackett-Jones. Among those who endorsed the Bill in 1990 was the member for Newland, now Minister for Environment and Heritage. The select committee had been called in response to a huge petition expressing concern that the law of self-defence did not adequately protect householders. The petition was promoted by the then shadow Attorney-General, now the Attorney-General, the Hon. K.T. Griffin. My 1996 Bill was defeated. Three Liberal MPs crossed the floor to support a second reading of my Bill. The others, including the member for Newland, voted to support the drunk's defence, by which I mean the use of self-induced intoxication with drink or drugs as an excuse for crime.

Under the drunk's defence the accused challenges the prosecution to prove beyond reasonable doubt that he intended to commit the crime when he was so under the influence of alcohol and drugs that he was not himself. The Attorney-General made it clear to Parliament's Estimates Committee that he supported the drunk's defence as explained by the majority in the 1979 High Court case of O'Connor. He said that there was no need to change the law in South Australia. Although Labor mentioned its policy of abolishing the drunk's defence during the election campaign, it was not prominent. The Liberal Party did not mention its position on the matter. Just after the election, rugby league star Mr Noa Nadruku was acquitted of assault in the ACT Magistrates Court by using the drunk's defence.

In the first private members' time after the election, I moved a Bill on the matter. I told the House that I was not wedded to any particular way of abolishing the drunk's defence. In fact, I now think the best model is contained in attachment B of Mr Matthew Goode's discussion paper 'Intoxication and criminal responsibility'. The member for MacKillop indicated that he supported my principle, and Liberal MPs told me privately that they would support my idea in their Party room. This is not surprising. I think that about 98 per cent of the public do not think self-induced intoxication should be an excuse for crime. I think it is this feeling of being in a misunderstood minority that makes the Attorney respond to me on this issue in an exaggerated way. So, when it became clear that my idea was going to prevail,

the Attorney issued a ministerial statement saying he would have a discussion paper drafted on the issue and legislate in the budget session. It is now obvious at this stage of the budget session that a Government Bill to abolish the drunk's defence will not be forthcoming.

About a month ago I had printed by a generous supporter of mine tens of thousands of leaflets about the Nadruku case, together with two photographs of Nadruku published in the Sydney *Telegraph*. They were distributed in my electorate by volunteers. To that point it did not cost the taxpayer a cracker. The leaflet contained a tear-off reply paid card that said, 'We won't cop the drunk's defence.' You, Sir, may have seen that leaflet, and it contained the following message to the Attorney-General:

> Dear Mr Griffin, For the safety and protection of all South Australians I urge you to amend the law so that intoxication cannot be used as an excuse for crime.

Spaces were left for my constituents to write their names and addresses. About 1 770 have responded so far, which is getting on for about 10 per cent of my electorate who have returned the cards, saying that they are concerned about the drunk's defence. The replies were addressed to me, care of my Port Road office, and read:

> Mr Michael Atkinson, Shadow Attorney-General, 574 Port Road, Allenby Gardens, 5009, reply paid permit 209.

So, there was no question about the person to whom those replies were being sent: they were being sent to me. The leaflet contained an account of the Nadruku case taken from the *Canberra Times*, a sober daily broadsheet. Everything in the leaflet is true and correct, except the rather kind statement that the Attorney-General wanted to water down the drunk's defence. In fact, the Attorney-General wants to keep the drunk's defence. He has been forced into issuing a discussion paper on the matter, because the great majority of members of the Parliamentary Liberal Party agree with me about the drunk's defence. The Acting Speaker nods, because he knows I am right.

Yesterday in another place the Attorney-General got very upset about my leaflet. My leaflet is truthful, accurate and it is good campaigning, and it gives people a say about criminal justice issues in South Australia. I am not sorry I issued it. I will be issuing leaflets like that again and again. It shows how effective that leaflet was politically that the Attorney-General is just going so mad about it in another place. The Attorney-General tells another place:

> I saw the pamphlet about two or three months ago when he—

the member for Spence—

> first started to circulate it around his electorate. . .

His memory is wrong: they were printed only about a month ago. He cannot have seen them two or three months ago, because even I did not see them. The Attorney-General says:

> [The member for Spence wrote] to me with a summary of what he has been doing. . .

I was gentlemanly enough, when these brochures were returned to me by reply paid card, to send the Attorney a summary of how many people had signed the cards. Indeed, I told him what those people were writing on the reply paid cards about this issue and other criminal justice issues. Liberal Party members have used this reply paid card technique. They have used the technique where the card is, in a sense, addressed to a Minister in the Government and they invite constituents to send a message to the Government. That is what I did with the Attorney, and I have been gentlemanly enough to tell him how many people replied and what they wrote on those cards.

I tell you what—those Liberal MPs who used the same technique did not write to Labor Ministers telling them what was on the card. The Attorney-General goes on to say that taxpayers' money has been used in this enterprise. The only taxpayers' money that has been used is payment from my global allowance of the postage costs of returning the reply paid card. I would say that my global allowance is my business, just as your global allowance, Sir, is your business. Reply paid cards are clearly within the definition—they are legit—and the Attorney-General has no complaint. Just because I issue a leaflet using my global allowance—and, as a matter of fact, I did not do it in this case because it was funded by a private backer of mine; but, if I did issue a leaflet using my global allowance—the Attorney-General has no right to get a copy of that leaflet. The Attorney-General goes on to say in another place:

> . . . there has not been a case of this kind—

he is referring to the drunk's defence in South Australia—

> where the accused, having sought to use the defence—

The ACTING SPEAKER: The honourable member is out of order quoting debates in another House. That is quite out of order, as the member for Spence should know.

Mr ATKINSON: The Attorney has claimed repeatedly, inside and outside Parliament, that there has been no drunk's defence case in South Australia. He has told the Parliament, the Liberal Party and he has told the public that, but he was wrong every time. In fact, the Attorney-General knew, when he told another place yesterday that there had been no drunk's defence case in South Australia, that there had been such a case because he acknowledged it to Parliament in his ministerial statement, which was tabled in this House and, therefore, I can quote it. The case is *R v Shad Alan Gigney*. Gigney was charged with escape from custody in a South Australian prison. He was charged with illegal use of a motor vehicle.

Shad Alan Gigney pleaded that he was so drunk on home brew at the time—home brew made in the South Australian prison from sugar and fruit in the prison kitchen—that he did not know what he was doing when he and his mates stole a prison officer's car and drove out of the front gates and escaped from prison. Judge Lunn said this in the District Court:

The Hon. M.H. ARMITAGE: Mr Acting Speaker, I rise on a point of order. Am I right in inferring that the member for Spence has said that the Attorney-General said something knowing it to be wrong, in other words, accusing the Attorney-General of misleading the Chamber? I would have thought that that required—

Mr Atkinson interjecting:

The ACTING SPEAKER: Order! I will seek advice.

The Hon. M.H. ARMITAGE: That is imputing improper motives at least, and I ask that it be withdrawn.

The ACTING SPEAKER: There is no Standing Order to apply, but the honourable member cannot refer to speeches in another place.

Mr ATKINSON: Thank you, Sir. Judge Lunn said:

> In the matter the prosecution has not been able to prove intent—

The ACTING SPEAKER: Order! The honourable member may not refer to debates in another place, and I will pull him up on that.

Mr ATKINSON: Judge Lunn continues:

On the whole of the evidence there is at least a reasonable possibility on each count that the accused's mind was so affected by alcohol at the time that he could not, and therefore did not, form the necessary intention to commit the offence.

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

Mr BROKENSHIRE: I rise on a point of order, Mr Acting Speaker. I have become increasingly concerned in recent weeks—

Mr Atkinson: What's the point of order?

Mr BROKENSHIRE: The point of order concerns Standing Orders with respect to what you can and cannot do in this Parliament. In recent weeks I have seen Port Power scarves, Christmas dolls, drink bottles and now fruit brought in by the Opposition. Opposition members are pulling the whole standard of this Parliament to pieces, and I think it is time they were called to order.

The ACTING SPEAKER: There are other appropriate means of dealing with this matter.

Mr MEIER (Goyder): Earlier today I referred to the Government's new tax reform package, highlighting many of the positives that would result from it for the general community. I highlighted—

The Hon. M.H. Armitage interjecting:

Mr MEIER: It is the Government's package, exactly: that is right—the Government's tax reform package, the package that I said was the biggest reform that this country has seen since the Second World War. It is a great tragedy that we were deceived time and again by the Labor Government when it was in power. I recall when the then Prime Minister Paul Keating said, in a debate with Dr Hewson during the election campaign, that his tax cuts were 'Law: L.A.W.' What did Prime Minister Keating do when he was re-elected? He simply said, 'It's too bad about the law. We'll no longer implement those tax cuts and you'll have to keep paying the same old tax rates that you've been paying.'

That was an absolute disgrace and an absolute deception on the people of Australia, and I hope that they will never forget what Labor has done to them and how it has deceived them time after time. That situation was an absolute disgrace. We now see Labor's deception campaign being cranked up again, and I ask the people of Australia, and particularly South Australia, to recognise the Labor Party for what it is: it is a Party of deceivers, and we must never forget that. Not only is it a Party of deceivers it is a Party that tends to bankrupt both the States and the Commonwealth.

Mr Conlon interjecting:

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

Mr MEIER: This afternoon, I highlighted some of the cuts that the average family would receive. I said that the group that has the most number of people (1 278 000) is the dual income couple with no dependent children and that the cuts in personal income tax and increases in family package benefits that people on an income of between $5 000 and $40 000 would receive would give them a benefit of between 17 and 21 per cent. I compared that with the benefits that people in the income bracket of $45 000 to $75 000 will receive, which is in the vicinity of only 12 to 17 per cent. In other words, people in the higher income bracket will be hit harder under this package.

Again, I emphasise that the headline that appeared in the *Advertiser* on the day after the package was released that the rich would get richer is a total fabrication. I think that the people of Australia will see through it because at present those people who have excess income can abuse the tax system in any way they want to. They can use negative gearing, trusts and whatever else to minimise their taxation. Under the GST they will not be able to do that. They will all have to pay the 10 per cent GST whether or not they like it. However, the majority of Australians will benefit enormously from this new tax reform package, which I applaud.

I must say—and this is where my time ran out on the last occasion—that it has been pointed out that in the area of food and many other consumer goods that we buy there may be some cost increases. However, according to estimates transport costs will decrease by about $3 billion. So, there will be a $3 billion cost saving to transport in Australia. What will happen to that $3 billion? Obviously, it will be passed on to the consumer in the form of cheaper goods. So, the consumers of Australia will benefit to the tune of $3 billion per annum in cheaper goods.

We must not forget that this new tax reform package will lead to greater efficiencies throughout the Australian community. It is long overdue. It is a tragedy that Labor Government after Labor Government for decades have hindered tax reform. I trust that the people of Australia will recognise what the Liberal Party and the Coalition are doing to bring into this country a fairer tax system, one which will make us more competitive on the international scene. For the sake of this country, I hope the people will support it solidly when the next Federal election is held.

One other furphy that the Opposition has tried to raise—in fact, not only the Opposition nationally but in this State—is that luxury car prices will fall and that that will make cars in the luxury category cheaper. I point out that luxury cars will have an extra 25 per cent tax put on them. So, the people who have money to buy luxury cars will not be better off. They will not like this system, and I agree with that fully. The person who can afford to buy an average basic car such as a Holden, Falcon, Toyota or Mitsubishi—

An honourable member interjecting:

The ACTING SPEAKER: Order! The honourable member is interjecting out of his seat.

Mr MEIER: Thank you for your protection, Mr Acting Speaker. The ordinary person who wants to buy a new car will be far better off under the GST. Of course, that will flow down to the second-hand car market as well. I hope that members opposite will not try to deceive the people of this State or this country. They have a habit of doing that and it is becoming very annoying. In addition, I note that the Federal Government will include a boost for private health insurance. I have heard members opposite knock private health insurance all the time, but what they do not understand is that for every person who leaves private health insurance the State Government has to pick up the tab if they go into hospital. That means that we have to put more money into health and raise more taxes to provide the funds that we put towards public health.

Members interjecting:

Mr MEIER: Members opposite do not like to hear this. They are happy to raise taxes to 99¢ in the dollar. They could not care less. They would like to break everyone. Members on this side of the House have a heart. We feel for people who have to pay excessive tax. We want to keep taxes as low as we can. If people stay in private health insurance, that will help the Government. The fact that the Federal Government will include a 30 per cent rebate for people who take out private health insurance will encourage more people to do so

and, as a result, that will take a burden off the State Government.

I would have thought that members opposite would applaud this package and be the first to rise in their seat and say, 'We compliment the Federal Government on this initiative.' We have not heard boo from them, not a word. As we know, the Opposition does not have a policy on tax reform, electricity reform or many other areas. In fact, it is a policy free zone. That is the one thing we know about the Opposition.

The Federal Government's tax reform package is magnificent. It is something for which we have waited for a long time. It will provide a boost to this country that we have never seen before. I hope that members opposite will not seek to criticise it once again even if their Federal colleagues say, 'Hey, you'd better criticise this because it's the in thing and because we know that—

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

Motion carried.

At 8.18 p.m. the House adjourned until Thursday 20 August at 10.30 a.m.