HOUSE OF ASSEMBLY

Monday 28 February 2005

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

CHIROPRACTIC AND OSTEOPATHY PRACTICE BILL

His Excellency the Governor's Deputy, by message, recommended to the house the appropriation of such amounts of money as may be required for the purposes mentioned in the bill.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor's Deputy, by message, informed the house that the bill was assented to.

HOSPITALS, NOARLUNGA

A petition signed by 172 residents of South Australia, requesting the house to urge the government to provide intensive care facilities at Noarlunga Hospital was presented by Mr Brokenshire.

Petition received.

QUESTION WITHOUT NOTICE

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

GAWLER HEALTH SERVICE HELIPAD

In reply to **Hon. M.R. BUCKBY** (23 November 2004).

The Hon. L. STEVENS: The consultation process pertaining to draft planning policies developed by Gawler Council which includes the requirement for height restriction in the Gawler Health Service helipad flight path, has not yet occurred.

This matter has taken time to complete as this is the first time that helipad protection policies have been formulated in South Australia

The Gawler Council has advised that draft policies have been submitted to the Minister for Urban Development and Planning. Transport SA have finalised their assessment of the policies relevant to the helipad. The Gawler Council submitted an amended form of the Plan Amendment Report incorporating agreed changes, to Planning SA on 24 December 2004, for consultation approval.

It should be noted that Light and Barossa councils also have land adjoining the Helipad site. They are proceeding in a similar manner to that of the Gawler Council, but are not as advanced.

INTEREST RATES

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: I rise to inform the house of my direct approach to the Reserve Bank of Australia Board by writing to its Governor, Ian Macfarlane AC, on Friday emphasising the need for caution when the board meets tomorrow to consider an interest rate rise. A copy of the letter has also been faxed to the Prime Minister.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Apparently the Liberals do not want to hear about interest rates now. They did last October.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The central message to the Australian people from John Howard's election campaign and multi million dollar advertising blitz less than six months ago was that interest rates could only be held down under a Liberal government. Now it is time for that promise to be put to the test. I want the board of the Reserve Bank to consider the plight of home owners, businesses large and small and job seekers beyond just Sydney and Melbourne. South Australians should not pay the price for the overheating property market on the eastern seaboard.

South Australia has been doing its bit to promote economic growth by delivering substantial cuts to payroll tax, a range of other business taxes, stamp duty for first home buyers and, most recently, a massive cut to land tax. These were designed to help struggling home owners and assist business with job creation.

Members interjecting:

The SPEAKER: Order! Just because I am a little hoarse is no reason for honourable members to horse around. I have been to the dentist (though by longstanding appointment of over two months and not in response to any remark there may have been in the media), and the reason for my dry throat is the anaesthetic I have just had. I will not tolerate the kind of disorderly remark that is being made by some honourable members during the course of the statement being provided by the Premier.

The Hon. M.D. RANN: Thank you, sir. Our tax cuts were designed to help struggling home owners and assist business with job creation. Recently, South Australia has made major gains in employment growth and private sector investment following a slow growth period during most of the 1990s. We do not want these efforts snuffed out by heavy-handed slugs with interest rates. A cautious approach should give priority to economic growth and job opportunities rather than a swift hike in interest rates that could choke the economy. I am urging the Reserve Bank of Australia to learn from past mistakes, when the economy was undermined by heavy-handed interest rate rises. Those over-corrections saw upsurges in unemployment that took years to fix.

On the inflation front, there does not seem to be any cause for an interest rate rise. We are well within the Reserve Bank's bounds for inflation. Higher interest rates will not solve our trade deficit. It will only make it worse by driving up the value of the Australian dollar, making our exports less competitive and by increasing the cost of imported machinery that we need to become more productive. I think it is really important for the board to get a feel for different regional challenges across our entire continent by visiting the states and territories as often as possible.

It is also important for the Reserve Bank to meet with home owners, small business and rural and farming communities, not just the top end of town. I would be more than happy—

The SPEAKER: Order! The member for MacKillop has a point of order.

Mr WILLIAMS: I rise on a point of order, Mr Speaker. The Premier has sought and obtained leave to make a ministerial statement. My understanding of standing orders is that he can make a ministerial statement to bring to the attention of the house matters of government policy, not to stand there and debate something that is right outside the realm of this state parliament altogether.

Members interjecting:

The SPEAKER: Order! I uphold the point of order. The Premier's leave is simply to provide a statement of the government's policy and provide information which is factual and which supports that and not, as I have mentioned on earlier occasions, to engage in debate of the matter by giving reasons which imply—indeed, require—statement of opinion. It is not appropriate (as I pointed out to the member for MacKillop)—and in no small measure in his hands as much as every other member—to address the problem he feels exists by amending standing orders (at least by testing, perhaps, some sessional orders which would make it fairer for all members regardless of their political persuasion) to participate in discussions of matters of polity relevant to the day. Having upheld the point of order and read the remainder of the written statement of the Premier, my view of that is no different to my view of the last paragraph which the Premier stated to the house. I call the Attorney-General.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: The Lieutenant-Governor, Bruno Krumins, in Executive Council today approved the appointment of former prominent Western Australian prosecutor and now barrister Mr Stephen Pallaras QC as South Australia's new Director of Public Prosecutions. Mr Pallaras will become South Australia's second DPP under the 1991 DPP Act replacing Mr Paul Rofe QC who resigned last year after 15 years as the state's crown prosecutor and then the DPP. The search for the right person to take up this crucial position within our justice system has been long and exhaustive.

The competition for the job was intense between eminently qualified candidates. Mr Pallaras is a stand-out choice. I will be very pleased to welcome him to the role when he begins on 26 April this year. Mr Pallaras has been practising law for 30 years during which time he has prosecuted accused across Australia and around the world. He has been described as a formidable advocate who is a born prosecutor who has sound judgment and great maturity. He has a reputation as being both tough and intelligent in the courtroom.

He has prosecuted cases of international fraud and international drug trafficking, in one case doing the extradition for the then biggest single seizure of heroin in the world. In his eight years in the Director of Public Prosecutions office in Perth, Mr Pallaras prosecuted a string of the highest profile cases handled by that office, including cases of fraud, corruption and criminal defamation. His extensive work in Hong Kong included prosecuting seven murder trials in one year. Mr Pallaras has been awarded many commendations for excellence throughout his career, including from the US Justice Department and the US Drug Enforcement Administration. Of particular significance is Mr Pallaras's having practised the law as a prosecutor and defence counsel in a variety of jurisdictions.

This level of experience will bring to the DPP's office a good depth of knowledge and a fresh perspective. I offer my thanks to Wendy Abraham QC for acting in the DPP's role since Mr Rofe resigned, and especially for her patience as we have worked through this long and most thorough process. Ms Abraham has enhanced her credentials by her stewardship of the Office of the DPP in the past nine months and by her first-class handling of the 'bodies in the barrel' murder trials.

RADIOACTIVE WASTE DISPOSAL

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: In July last year I announced that the government had reached agreement with Western Mining Corporation to investigate disposal of radioactive waste at Olympic Dam. WMC—

Members interjecting:

The Hon. J.D. HILL: We have a plan. WMC had already contracted a consultant from ANSTO to review its own disposal of radioactive mining waste at the site and it was thought that this contract could be extended to include investigating this option. At around the same time, the EPA called for tenders to conduct the Interim Store Feasibility Study (a different but related exercise). ANSTO was among the tenderers for this contract. However, in September, URS Australia was selected by the EPA as the preferred consultant and the contract was signed in November 2004.

As the scope of the Interim Store Feasibility Study and the Low Level Radioactive Waste Study contain similar criteria, the EPA proposed to extend the contract with URS to include this study. Western Mining was advised of this proposal and consulted on the scope of the Low Level Radioactive Waste Study in late November last year. The scope of the study also includes an investigation of Radium Hill to obtain independent advice about the suitability of this site, although the EPA's Audit of Radioactive Materials in South Australia recommended against this option, based on the current engineering of the site.

In summary, the EPA has engaged URS to undertake an Interim Store Feasibility Study, which was signed in November, as well as the Low Level Radioactive Waste Study, which I can inform the house will be signed in March. The agreement reached with Western Mining to look at Olympic Dam as an option for storing South Australia's low level radioactive waste stands, and the investigation of this proposal is on track.

QUESTION TIME

PORT RIVER, BRIDGES

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Transport confirm that the cost difference between building opening and closing bridges over the Port River is greater than originally forecast and does the Minister for Transport now support the building of fixed bridges?

Members interjecting:

The Hon. P.F. CONLON (Minister for Infrastructure): We hear a lot of shrieks from the other side, but if members opposite have not caught up on the news that I am the minister responsible for this and have been for about a year and a half, they are the only people in South Australia who have not caught up with the news. But it is not really surprising. The issue about the costs—

Mr Venning interjecting:

The Hon. P.F. CONLON: I know Ivan has a view that is different from his leader's, because I have read Ivan's view. Ivan said they should be closed: the leader said they should be open.

The SPEAKER: Order! If the Minister for Infrastructure refers to the member for Schubert, he should do so by the name of that electorate.

The Hon. P.F. CONLON: I apologise, and I should not have responded to the member for Schubert's interjection. First, we are not in a position to comment on the costs.

Members interjecting:

The Hon. P.F. CONLON: Okay. The reason we are not is because we undertake tendering processes differently from members opposite. We do them according to probity. We do not pick the winner beforehand. We let them run their course and run their course fairly. The tender process is not finished, and I am not going to talk about individual tenders until the tender process is finished. If members opposite believe they should do it differently, they may well do that. We do things differently in this government; we do not do things like their water contract, we do not tender that way. We tender fairly and properly, and according to probity.

This government is, and has been, committed to opening bridges and we suffer one delay at present and that is that the—

An honourable member interjecting:

The Hon. P.F. CONLON: He says it is cabinet! It is not, actually: it is his colleagues in Canberra. We seek the assistance of the opposition in this because we have been told in the last week or so in a letter from the Navy that, despite our commitment to opening bridges, the Navy is not likely to allow ship visits to the Inner Harbour. We have correspondence—

An honourable member: It is three year old news!

The Hon. P.F. CONLON: Three year old news, they say. The letter actually came last week. If it is three year old news why were they committing to the ship visits three years ago, why were they recommitting two years ago? To explain exactly what has occurred here—

An honourable member: Not much!

The Hon. P.F. CONLON: I can tell you that the first thing we did when we came to government was move the deep sea grain terminal from where it was to Outer Harbor so that we could take an intelligent approach to this. The second thing we did was abandon their dopey PPP—do not forget that this was going to be a PPP, it was going to be fully funded. It did not add up because their projects never added up. We scrapped their lousy project and committed state government funds to build these bridges. What we have found in the last week is a letter from the Navy saying that no matter what we do with bridges—

Members interjecting:

The Hon. P.F. CONLON: I know your throat is sore, sir, otherwise you would put these people in their place. The Premier has corresponded with minister Hill, the Minister for Defence, asking him to review this decision. We would also like members opposite to ask the Liberals to review the decision not to send naval ships to the inner harbour. Throughout this process we have tried to keep faith with the people of the Inner Harbour and deliver them a vibrant Inner Harbour, keeping its cultural heritage. I know that members opposite do not care about the heritage of the port—they only care about Burnside and the eastern suburbs—but we have tried to keep that faith. We would like their assistance as well.

The SPEAKER: Order! The honourable minister was not asked what was in the opposition's mind or what was its inclinations, but a simple and straightforward question, which I believe he has now answered.

The Hon. R.G. KERIN: I have a supplementary question. I ask the Minister for Infrastructure: if the tendering process has not finished, can the minister assure the house that no proposal has gone to cabinet for approval?

The Hon. P.F. CONLON: It is not concluded. There is no proposal to accept one or other of the tenders, otherwise it would be finished.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: If I understand the question: has a proposal to let a tender gone to cabinet? No, it has not. This letter is dated this weekend, which would help you, and it is the letter to minister Robert Hill from the Premier stressing that visits by the Navy provide great benefit to the local economy and are part of the area's character, and we have been advised that they will not do it. We care about the people of Port Adelaide, and we have asked Senator Hill to change the Navy's mind. If the opposition cared about the people of Port Adelaide it would also do that. This is a relevant consideration and we cannot bring a proposal to accept one bid or another until all relevant considerations are finalised. If the opposition does not think naval visits to the port are a relevant consideration, so be it, but the people of Port Adelaide do.

MATTER OF PRIVILEGE

Mr BRINDAL: I rise on a matter of privilege. In answer to the main question, I believe that the Manager of the House's Business said quite clearly to this house that until last week the government was not aware of the naval ships going into the Inner Harbor. Sir, I ask you to call for and examine the records of the Public Works Committee, because I believe that matter has been within the government's knowledge for at least some months and I ask whether the Leader of the House's Business has knowingly or inadvertently misled the house.

Members interjecting:

The SPEAKER: Order! Given the cacophony which came from the opposition, I will check the *Hansard* record.

The Hon. M.J. ATKINSON: Point of order, Mr Speaker: I draw to your attention the utterance of words verging on an expletive by the member for Unley directed to the government, namely telling the member for Giles to 'Stuff off.' I ask him to withdraw.

The SPEAKER: Did the Hon. member for Unley make such a remark?

Mr BRINDAL: If I did it was in answer to being challenged by raising what I consider a valid point for the integrity of this house by the opposition. If I am required to withdraw, and I will, sir, then I ask you to stop churlish members of the government carrying on every time the opposition takes a point of order.

Members interjecting:

The SPEAKER: Order! There is no point of order. I accept what the honourable member for Unley said. Neither members of the opposition nor the government ought to seek to provoke other honourable members by way of interjection to do anything that is disorderly, and interjecting itself is disorderly. Quarrels will be the consequence and we waste time.

RADIOACTIVE WASTE DUMP

Mr CAICA (Colton): My question is to the Minister for Environment and Conservation. What was the cost of South Australia's legal challenge to the federal government's bid to dump Australia's radioactive waste in South Australia? At the time of the legal challenge there were claims that the costs would be quite exorbitant.

The Hon. J.D. HILL (Minister for Environment and Conservation): It is true that before this court case was resolved there were claims that the cost to the state in legal fees would be hundreds of thousands of dollars. In fact, the member for Davenport said it would cost hundreds of thousands of dollars, and others said up to a million dollars. There were all sorts of extravagant claims made about it. We were also told that we could not win.

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: The opposition said that it would cost hundreds of thousands of dollars. I am pleased to tell the house that the cost of the legal action for South Australia was $82 475, and I am also pleased to say that the commonwealth has been forced to pay that amount. So, the cost to the taxpayer is zero, and the success of the South Australia government in relation to this action was absolutely 100 per cent. They were wrong on both counts. It did not cost hundreds of thousands and it was a success. They said that we could not win and we did.

The Hon. R.G. KERIN (Leader of the Opposition): I have a supplementary question to the Minister for Environment. How many hours of government law officers' and other public servants' time were used during the defence?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I am not surprised that the Leader of the Opposition is asking this question. I saw *Stateline* on Friday night and it is now clear—

The Hon. R.G. KERIN: Point of order, sir.

The Hon. J.D. HILL: —that the opposition supports a nuclear industry in South Australia.

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: That is absolute rubbish. Point of order, sir: the question was very specific about how many hours of government law officers' and public servants' time were used in the defence.

The Hon. J.D. HILL: I have informed the house of the cost to the government, which has been paid by the federal government. But every single one of those hours was worth it because we won and we are not getting the dump that you wanted.

Members interjecting:

The SPEAKER: Order!

PORT RIVER, BRIDGES

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Transport confirm that the government will deliver on the promise made by the Treasurer to his constituents that the government will build opening bridges across the Port River?

The Hon. P.F. CONLON (Minister for Infrastructure): We will, sir.

Members interjecting:

The Hon. P.F. CONLON: Yes; we will. The opposition has had a number of different positions: ours has not changed. It was originally—

Members interjecting:

The Hon. P.F. CONLON: No; it was originally their commitment to the people of Port Adelaide to build opening bridges. We know that they like to make a promise before an election—such as not privatising ETSA—and then doing something else afterwards; it was their commitment. One of the principal reasons for the commitment to opening bridges was to preserve the heritage and workings of the harbour. One of the principal reasons was to continue to enjoy—

Members interjecting:

The Hon. P.F. CONLON: Really, sir; I have improved my behaviour so much, but these people are just recidivists. One of the principal reasons was to allow the visits of warships to the harbour.

Mr Williams interjecting:

The Hon. P.F. CONLON: Rubbish, sir. Apparently, Mitch knows better. We were told by the people of Port Adelaide that that was very important to them.

Members interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. P.F. CONLON: It is all right, sir: it is their time. After the most recent naval visit to Port Adelaide some months ago, the ship went to Outer Harbor. Because of past discussions about the visit of naval ships, we have been seeking, I must say, a straight answer from the navy for a very long time. That answer was provided very recently, and I will place on the record the letter from the Premier to the federal minister dated today. It states:

> I write regarding the potential use of Port Adelaide inner berths by the Royal Australian Navy.
>
> My government remains committed to opening bridges as part of the Port River Expressway Project. This will enable the inner harbour to continue as a working port and attract significant visitor numbers to one of the nation's most significant waterfront heritage precincts in close proximity to the Adelaide CBD.
>
> Visits to the inner harbour produce significant benefits to the local community. The continuation of Port Adelaide's inner harbour berths as a working port is also important to the maintenance of the cultural and civic life of the area. In addition, visits by navy vessels at the inner harbour help increase the profile of the area.
>
> I understand that the Deputy Chief of Navy has recently advised that RAN vessels visiting Port Adelaide in future will normally berth at commercial wharves downstream of the proposed new bridges, or at the Outer Harbor berths.
>
> It is important for the future of inner harbour berths that potential users take advantage of the opportunity presented by the opening bridges.
>
> I ask you to urgently reconsider the navy's decision and commit to the use of the inner harbour berths by visiting navy vessels so that the area upstream of the bridges can be kept as a working port and the character of the area preserved.

The simple truth is that the first unequivocal indication from the navy came within the last fortnight. Whether people like it or not, we take seriously the expenditure of public moneys; it is a very significantly relevant consideration.

The Hon. Dean Brown interjecting:

The Hon. P.F. CONLON: Dean says that we do not need an opening bridge. The opposition has more positions than the *Kama Sutra*. The truth is that we have done everything we can, and kept a commitment to keep faith with the people of Port Adelaide. We are simply asking their colleagues at a federal level to help us keep faith with the people of Port Adelaide. We are asking for their assistance with their colleagues. This was originally their commitment, so I ask the Leader of the Opposition whether he can please give us

assistance with his federal colleagues to keep faith with the people of Port Adelaide.

TRUANCY

Ms THOMPSON (Reynell): My question is to the Minister for Education and Children's Services: how is the government tackling the issue of truancy in our schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Reynell for her question. I know she is keenly interested in school retention and engagement issues. Since 2002, the government has directed unprecedented attention to the issue of truancy and youth engagement. It is particularly targeting those children who are chronic non-attenders and who are at extreme risk of being involved in crime, drug addiction and a future of unemployment and low achievement. Since the beginning of 2003, we have been involved in providing every school with an attendance improvement package, which is allowing them to work with parents and families particularly, as well as the community, to find ways to motivate young people who are at risk of disengagement and show poor attendance record.

In fact, each school has developed its own individual attendance improvement plan, and we have employed an additional four student counsellors whose role is to be involved in attendance issues, bringing the total number to 14 of those who work with chronic non-attenders. In some cases, those attendance issues are enhanced by getting workers with, say, Khmer language skills or Aboriginal employment officers particularly to work with families with issues which might otherwise require a more sensitive manner of dealing with the families than we have routinely within our staff. In 2003, we developed a new memorandum of understanding to work with the Police Force, with guidelines on how the police should operate with our school leaders in order to identify truancy amongst children, return those children to school and collate information so that further action can be taken.

We have invested $1 million in school attendance action zones to enable those schools which particularly have low attendance data and rates to improve the attendance of their students. Murray Bridge, of course, is one of those areas which has worked quite collaboratively using the small business and tourism group within the city to use the best endeavours of traders, who identify and know many young people in the community and who work with the police to allow those truanting students to be removed from the street and taken back to school. There are other safety committees within the community operating in Elizabeth and Sturt, involving SAPOL as well as DECS, to work on this difficult issue. The other project similar to Murray Bridge has involved local shopping centres in Salisbury, Hollywood Plaza and Elizabeth City Centre, as well as delivering living skills programs to help those young people who are disengaged and also through home visits to parents encourage parents to identify the issues and the ways in which they can work with schools to improve their children's attendance.

It is absolutely fabulous to see that one in five high schools across the state have now put leave passes in place, and when children leave school grounds they are monitored so that the success of their attendance improvement can be carefully monitored. As a result of the government's action since 2002, there have been some extraordinary success stories within our community. I might comment on the fact that one school has had a 70 per cent reduction in unexplained absences and a significant increase in families contacting the school to work with the educators. Another school has had a 24 per cent reduction in absences and a 24.5 per cent reduction in unexplained absences; and even improved arrival times, with a 42 per cent reduction in late arrivals.

The SMS messaging system introduced as well into the system has been very successful in some schools, such as a school with a 15 per cent reduction in student absences and an 18 per cent reduction in unexplained absences. This is a difficult job which requires carrots as well as sticks, and we will not resile from prosecutions where parents have allowed the situation to decline and there has been a lack of support from the home in getting children back to school. However, I have to say that the money, the energy and the focus is more than ever has been seen in this state, and I think we are working towards a dramatic improvement across the state in attendance with the reduction in truancy.

CROWN SOLICITOR'S TRUST ACCOUNT

Ms CHAPMAN (Bragg): My question is to the Attorney-General. Was the Attorney-General aware that Kate Lennon was requested to provide funding of $30 000 out of the department's budget to purchase artworks for the office of the Aboriginal affairs minister?

The Hon. M.J. ATKINSON (Attorney-General): I do not have any recollection of that, but I will get an answer.

Ms CHAPMAN: I have a supplementary question. In getting that information, will the Attorney-General confirm who actually made that request?

The Hon. M.J. ATKINSON: I will get an answer for the member for Bragg promptly on each of the matters she raises.

PREGNANCY CAMPAIGN

Ms RANKINE (Wright): My question is to the Minister for Health. What risks are associated with drinking during pregnancy and what is the government doing to ensure that women are aware of these risks?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for her question, and I congratulate her on becoming the house's newest grandmother with her baby grand-daughter being born last Friday. Congratulations to the member for Wright.

Ms Bedford: You didn't mention my grand-daughter.

The Hon. L. STEVENS: The member for Florey is also a new grandmother, but the member for Wright is the newest grandmother. To answer the question: last week, the government launched a new campaign urging women not to drink during pregnancy. The Children, Youth and Women's Health Service campaign is one of the first in Australia to explicitly recommend that women drink no alcohol at all during pregnancy. Until recently, the public has not received clear messages about the risk to babies if pregnant women drink alcohol.

The aim of this campaign is to inform everyone that just before and during pregnancy there is no safe time to drink alcohol, and that alcohol can harm a baby for life. Exposure to alcohol in pregnancy is said to be the leading preventable cause of birth defects and developmental disabilities. Its harmful effects can be lifelong. Effects can include: minor abnormalities of facial appearance; reduced growth before and after birth; and damage to the brain, including, intellec-

tual disabilities, specific learning difficulties, problems with attention (hyperactivity), problems with social skills, and mental health problems.

While there is some disagreement worldwide about the amount of alcohol women can safely drink and when they can drink during pregnancy, experts at the Children Youth and Women's Health Service have decided to advise women that avoiding all alcohol is the safest choice. That is a sensible and responsible public health message. Coincidentally, the US Surgeon-General also released this advice about one week ago. Information will be sent to GPs, health services, rural areas and indigenous communities as part of the campaign which is being run by the Centre for Health Promotion at the Women's and Children's Hospital. This campaign recognises that pregnant women are part of the wider community and that their families, friends and health professionals all need knowledge to better support them to make healthy choices during pregnancy.

BUSHFIRE ASSISTANCE

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Minister for Environment and Conservation. Will the minister match the Commonwealth's $2.68 million funding package for the longer term re-establishment of farming enterprises in the fire affected region of Eyre Peninsula? Last Friday, the federal government announced that it would provide an additional $2.68 million to assist farmers to re-establish their farms. This funding commitment is contingent on the South Australian government matching that amount.

The Hon. P.F. CONLON (Minister for Infrastructure): I assure the Leader of the Opposition that there should not be any problem at all securing the money, because not only have we already matched it but we have already exceeded it. Not only have we already matched the offer from the commonwealth, we have already exceeded it on the ground. It is in the hands of farmers and on the farms helping those people. One of the first things the Premier did was to commit $6 million of state government money within the first two days, and we started spending it within the first two days. We are currently finalising where that figure is likely to be, but the truth is that it is likely to be that that $6 million has almost entirely been expended or committed to be expended without adding anything further. I think it is bloody rich of the federal government six weeks after the event, having offered no assistance whatsoever—

Members interjecting:

The Hon. P.F. CONLON: Sorry, they did. They gave $300 to every household. That was it. That is what—

An honourable member interjecting:

The Hon. P.F. CONLON: 'Not true,' he said. I can assure members that it is absolutely true. They gave a small amount of emergency assistance, while we were spending $6 million of South Australian taxpayers' money. We do not regret that at all, because we are already giving those people some needed assistance to get themselves back on their feet. But this is six weeks after the event. If they do not believe it on that side, I can tell them that the people of the Eyre Peninsula know better. Members opposite should go and talk to them, because they know what has been occurring.

The only thing that we saw from the commonwealth in the early weeks was a bill for $60 000 a week for using the army. I hope they are sending a bill to the Japanese over in Iraq, because they are sending one to the South Australian government for the Eyre Peninsula—and I hope they have the good sense to remedy that. But I can assure members that not only have we matched the commonwealth money, we have already exceeded it, and I am very keen on having a talk to Mr Truss about when we will see his money.

MIGRANTS, RECREATION AND SPORT

Ms CICCARELLO (Norwood): My question is to the Minister for Recreation, Sport and Racing.

Members interjecting:

The SPEAKER: Order!

Ms CICCARELLO: What is the government doing to assist new and emerging communities to become involved in recreation and sporting activities?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for Norwood—

Ms Breuer interjecting:

The SPEAKER: Order, the member for Giles!

The Hon. M.J. WRIGHT: —for her question and also for her great interest in this area. The government has developed close working relationships with organisations such as the Migrant Resource Centre of South Australia, the Multicultural Communities Council of South Australia, Adelaide Secondary School of English and the Migrant Health Service.

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order, the member for Bright!

The Hon. M.J. WRIGHT: In addition, we are working in partnership with key sporting bodies to enhance these pathways, particularly in the sports of soccer, basketball, athletics, cricket and Australian Rules, as well as encouraging new migrants and refugees to establish their own networks and partnerships with community groups and sporting agencies.

I have been advised that the organisations presently receiving state government support for new arrivals to access community recreation and sport include: the Migrant Resource Centre of South Australia, to provide financial assistance to new arrivals for ongoing participation in sport and recreation and to conduct the annual refugee soccer carnival, which is a major event during Refugee Week; the Multicultural Communities Council of South Australia, to conduct the Sharing Through Recreation Program, which builds links between individuals and communities from culturally and linguistically diverse backgrounds to mainstream sport and recreation opportunities; the Adelaide Secondary School of English, to conduct an after school sports centre program for their new arrival students, with a number of state and local sporting organisations working in partnership to deliver this program; and the Thebarton Aquatic Centre, in partnership with the Muslim Women's Association of South Australia, to conduct a women's swimming program. The Office of Recreation and Sport, in conjunction with the University of South Australia, has also developed cross-cultural awareness training for sport and recreation organisations, which combines the basics of cross-cultural awareness with sport and recreation specific information.

I had the opportunity last week to launch the Mixed Web Design Competition, which was organised by the Multicultural Communities Council of South Australia, in which school children are challenged to design a web page with the theme: how does your school develop respect and interdependence through physical activity? The government is working in

partnership with key stakeholders to ensure that new arrivals, especially those from culturally and linguistically diverse backgrounds, have an opportunity to access quality recreation and sporting opportunities within the South Australian community.

CROWN SOLICITOR'S TRUST ACCOUNT

Mrs REDMOND (Heysen): Will the Minister for Families and Communities advise the house whether his former CEO of the Department for Families and Communities, Kate Lennon, ever briefed him on money that was carried over for the Layton report recommendations or on money that was held in the Crown Solicitor's Trust Account for child protection matters?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): The answer is no.

DEAF AND HEARING IMPAIRED INITIATIVES

Mrs GERAGHTY (Torrens): My question is directed to the Minister for Families and Communities. What is the state government putting in place to promote the inclusion of deaf and hearing impaired people in our South Australian community?

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I thank the honourable member for her question, and I acknowledge her longstanding commitment to issues concerning people with disabilities in our state. I am pleased to inform the house that the state government has recently supported two very worthwhile initiatives of Deaf SA. We have provided Deaf SA with funding of $63 000 for a new web site. The second initiative is the employment of an indigenous worker to build bridges with people in the Aboriginal community who are deaf and hearing impaired.

The woman is Joanna Agius, who has been deaf since birth. She will link indigenous people with Deaf SA services, including interpreting, the provision of assisted hearing devices, Auslan classes, and support and information. These two initiatives are incredibly valuable. They are small things but they reach out to a large number of people in an extraordinarily effective way. Members will find the new web site—www.deafsa.org.au—a very useful service in helping people to find deafness-friendly organisations and services.

I am pleased to say that one of those organisations is the Housing Trust. Last year it became the first state government agency in South Australia to introduce new hearing systems for customers with hearing loss at all its offices across the state. I have also made sure that my ministerial office is hearing friendly; and we have a counter-hearing system at the reception desk. Since 1891 Deaf SA has been working for the South Australian deaf community doing a wonderful and well-respected job. I attended a service at Deaf SA the other day with some members. We witnessed a church service carried out in Auslan. It is something to see a hymn signed in Auslan. It is a wonderful thing.

I would encourage all members to take the opportunity to visit Deaf SA and attend some of its services. It is a very revealing way of beginning to understand the world of a person who is hearing impaired or, indeed, deaf. It is a wonderful community. They give extraordinary support to each other, and these two small initiatives will improve that service offering.

CROWN SOLICITOR'S TRUST ACCOUNT

Mr HAMILTON-SMITH (Waite): When did the Premier first become aware, either officially or unofficially, of the existence of the Crown Solicitor's Trust Account?

The Hon. M.D. RANN (Premier): I will check the record, Marty, and have a look for you and try to put you out of your misery.

SUSTAINABLE ENERGY

Mr O'BRIEN (Napier): Will the Minister for Science and Information Economy inform the house how the government is supporting research into sustainable energy?

The Hon. P.L. WHITE (Minister for Science and Information Economy): Investing in research that does lead to savings and energy efficiencies—whether that is via cost savings or the reduction in greenhouse gasses—provides benefit not only to our environment but also to consumers. The state government does distribute grants to industry and research institutions aimed at encouraging focused research into sustainable energy. These are organised by the Sustainable Energy Research Advisory Committee (SENRAC), which comes under the control of the Premier's Science and Research Council—

The Hon. M.D. Rann: Brilliantly chaired!

The Hon. P.L. WHITE: A brilliantly chaired council, I might add. I refer, of course, to Professor Tim Flannery as well as our esteemed Premier as the co-chairs. These grants, coming under the council as they do, ensure that SENRAC grants for these projects align well with South Australia's Strategic Plan targets, in particular the targets of reducing government energy use, solar and wind generation, reducing greenhouse gasses (in line with Kyoto) and reducing South Australia's ecological footprint. The projects that have most recently been funded include:

- An electric water heater restrike disabler, which allows water heating elements not only to come on once during the course of the off-peak period but at an optimal time to minimise losses, thus preventing unnecessary restrikes.
- An automotive dual fuel control and data logging systems test and trial, to allow truck and bus diesel engines to run on a mix of diesel and propane, resulting in reduced greenhouse gas emissions and fuel cost savings.
- An energy efficient airconditioning system utilising gas heating and multistage evaporative cooling. The aim of this project is to improve multistage evaporative coolers by increasing efficiency integrating gas heating to provide better comfort and energy savings.
- A commercialisation and demonstration of the University of South Australia's roof integrated solar heating system, which is a solar heating system that is going to be progressed to commercial design, and two prototypes will be produced and trialled by the Housing Trust.
- Innovative commercial refrigeration systems for stationary and transport applications incorporating phase change materials. That project aims to develop an innovative technique for refrigeration in trucks by charging them when stationary, using phase change materials to maintain the cargo at the desired temperature throughout the trip.

Funding has also been provided to develop a business case for a sustainable energy innovation support centre.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Why has the Treasurer failed to come back to the house with urgent answers to the five questions in relation to the transfer of funds that were asked more than three months ago? On 14 February of this year, I asked the Treasurer when the parliament could expect answers to the five questions on the transfer of funds that had been asked on 12, 26 and 27 October of last year. The Treasurer stated on 14 February in response, 'I will seek an urgent response on that.' I have checked the answers tabled today and there is no response.

The Hon. K.O. FOLEY (Treasurer): I signed off on a response to that question, from memory, last week, or it may have been on the weekend; I will get that checked now. From memory, the response was to the effect that my office had checked the allegation that the deputy leader made, only to find that I in fact answered the substance of those questions both in that answer and the following day in a ministerial statement. I think my answer says to the deputy leader that we have checked everything, we understand that I have answered the questions; however, if the deputy leader can point to aspects of his question that he does not think were not covered by the ministerial statement I made the following day that many months ago, then please contact my chief of staff.

YOUTH GRANTS PROGRAMS

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Youth. What was the outcome of the last round of youth grants programs?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): The Office for Youth called for applications in November last year for our Youth Grants program, and I am pleased to report that a total of $200 000 in grants has been approved to 13 organisations. This round of grants has gone to looking at addressing reconciliation, at engagement in the community or at young people in their paid working life, and this round is also the first possibility we have had for triennial funding of up to $60 000. These grants focus on how young people can develop their skills and can also be more active in their community as well as influence decisions that are made in the community.

The funded initiatives include $60 000 for the Point Pearce Community Partnership program, which is aimed at providing mentoring services for young indigenous people living at Point Pearce, between the ages of 15 and 18. The Migrant Resource Centre of SA Inc has also received $60 000 from the Refugee to Resident Project to support young refugees who have recently arrived in South Australia in their transition from new arrival to resident, and $58 000 has been allocated over three years to the South Australian unions for their project 'Fair Go for Young Workers' to inform and educate young people about their rights in the workplace and how to create safe and fair workplaces. In addition, $9 090 has gone to the Mallee Health Service 'Time Out' project, which is aimed at engaging young men in the Mallee area who are currently, or who are at risk of becoming, socially isolated or excluded from their communities. The Restless Dance Company has received $17 200 for their project 'Crossroads' to develop artistic skills of young people with a disability, and $14 000 has been allocated to SHine SA for the establishment of a multicultural peer outreach program to train young people from culturally and linguistically diverse backgrounds as peer educators.

Of the 13 successful applicants, three are indigenous reconciliation projects, four are in regional areas, two focus on young refugees, and two engage with young people from non-English speaking backgrounds. I am very pleased that these grants are hitting the needs that are out there in our community and I commend members to look out for the next round of applications, particularly looking at their own electorate.

LAND TAX

The Hon. W.A. MATTHEW (Bright): Can the Premier advise the house how much has been spent on land tax advertising on radio, in newspapers and real estate lift-outs over the past month, and can he advise the house from where, precisely, these funds have been drawn?

The Hon. M.D. RANN (Premier): Clearly, there needs to be a more intensive campaign because of the misinformation being put around by some quarters. So, it is very important in the public interest that the details of the tax cuts—which, I think, the honourable member would agree are as big tax cuts as he has ever seen since he has been in parliament—

Members interjecting:

The Hon. M.D. RANN: Members opposite were the guys who put up land tax: we are the ones who are cutting it, and the people have a right to know!

The SPEAKER: Order!

The Hon. W.A. MATTHEW: I rise on a point of order under standing order 98 and relating to relevance. I asked the Premier a very specific question and it was: how much has been spent and from where have the funds been drawn? So far, sir, the Premier has simply sought to debate it.

The SPEAKER: We live in hope.

The Hon. M.D. RANN: We are cutting tens of millions of dollars of land tax, but hundreds of millions of dollars over the cycle. I will get the information requested but the bottom line, and what the Deputy Leader does not want to hear, is that he was the premier who increased land tax and I am the premier who has cut it.

The Hon. W.A. MATTHEW: I have a supplementary question. Does the Premier still stand by his statement to this house of 19 June 2001 that 'every time we see a politician on a taxpayer funded ad it is just a cheap way of doing the party ads'?

Members interjecting:

The SPEAKER: Order! The question is out of order: it is not a supplementary question at all.

Members interjecting:

The SPEAKER: Order!

LEGAL AID

Mr RAU (Enfield): Can the Attorney-General inform the house about the eligibility for legal aid funding in South Australia?

The Hon. M.J. ATKINSON (Attorney-General): I hear the member for West Torrens saying that the Hon. R.I. Lucas and the member for Bright did very well out of legal aid, but that was an unconventional form running to hundreds of thousands of dollars. I welcome the opportunity to have a

word in the ear of some members of parliament who do not bring much thinking to their representations to me. Each month I receive requests from members of parliament on behalf of constituents about legal aid funding for individuals. I am surprised by how many of these requests are from veteran members of parliament who have served as former ministers. The Legal Service Commission offers gratis legal advice, and is responsible for making grants of legal aid for trials. Members of the public can apply for legal aid funding through the Legal Services Commission or, if they wish to be represented by a particular private lawyer, through the lawyer's office. If an application for legal aid is refused, the applicant can appeal to the Legal Services Commission Appeals Committee. The decision of the appeals committee is final. Let me repeat that for the benefit of the member for Finniss: the decision of the appeals committee is final. It should be noted that the Legal Services Commission is statutorily independent in its—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: I'm sorry?

The SPEAKER: Order! The Attorney-General will not provoke the disorderly behaviour.

The Hon. M.J. ATKINSON: The member for Heysen does not care to repeat her interjection.

The SPEAKER: It is just as well.

The Hon. M.J. ATKINSON: It should be noted that the Legal Services Commission is statutorily independent in its operation and its discretion to grant legal aid. I do not think, for instance, that on the merits of the case the member for Bright would have got more than $100 000 of taxpayers' money for his personal and private defence of the defamation suit against him.

The Hon. W.A. Matthew: You are misleading—

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. R.G. KERIN: Point of order, sir: the question was clearly to do with legal aid and the attorney has drifted far and wide from that.

The SPEAKER: The honourable Attorney-General.

The Hon. M.J. ATKINSON: The Crown Solicitor found that the member for Bright's remarks were not in the course of his utterances.

The Hon. W.A. Matthew: Tell the whole truth.

Members interjecting:

The SPEAKER: Order!

Mr Koutsantonis interjecting:

The SPEAKER: Order! The honourable member for West Torrens, who has already asked the question, will be remembered tomorrow.

The Hon. M.J. ATKINSON: The Legal Services Commission does not answer to me as Attorney-General, or indeed any other member of parliament about individual cases, and I cannot tell the Legal Services Commission to give or refuse someone legal aid. There are some cases for which the Legal Services Commission does not give legal aid. I refer the member for Bright to the opinion of the former crown solicitor about his case; I refer to Mr Mike Walter. Often this is because some other avenue of help is available—in the case of the member for Bright, his ministerial colleagues. The Legal Services Commission also will not fund cases if it is determined that the applicant can afford his or her own representation, or where chances of success are poor.

LAND TAX

Mr BRINDAL (Unley): Has the Premier approved the procedures by which Revenue SA collects interest on unpaid accounts? On the Leon Byner program on 5AA today, details were revealed of a person who had to pay $8 000 in land tax. This person made arrangements to pay by instalments over four consecutive months. The first and the last payments were made early, the second and third payments were made late. Consequently, the person received an invoice for $1 600 interest. This represents an annualised interest rate of 495 per cent.

The Hon. K.O. FOLEY (Treasurer): For a start, I would not automatically take seriously the member for Unley's mathematics. Clearly, maths is not one of his strong points, because he struggles to get the numbers in his electorate every time a preselection comes around. I can only guess that the member for Unley would wish that the Leader of the Opposition would embrace him with the passion that he has embraced Nigel Smart as the candidate for Norwood. The Leader of the Opposition likes some candidates, some members, and not others.

The Hon. R.G. KERIN: Point of order, sir: it is all very interesting but I wish that the Treasurer would get back and answer the question that was actually asked.

The SPEAKER: The honourable Treasurer.

The Hon. K.O. FOLEY: Sir, the issue of the fines that relate to non-payment of tax bills was, in fact, a regime that was in place under the last government. We, in fact, introduced the ability for instalments to make it an easier system—one which has responded to requests from taxpayers. But, the fine mechanism was a system that was operational under the last government.

Members interjecting:

The Hon. K.O. FOLEY: What he's talking about.

Members interjecting:

The Hon. K.O. FOLEY: Well, late with one instalment. There were no instalments under the previous government. The instalment process report was brought in by this government but, obviously, the same fine mechanism applies. I am happy to get this matter checked, and I am happy to come back to the house with further information, if the member for Unley would like to provide me with the details.

Members interjecting:

The Hon. K.O. FOLEY: The Leader of the Opposition seems unhappy with my answer, suggesting that what I am saying might be wrong. If that is the case, I will bring back more detailed response for the leader.

The Hon. W.A. Matthew interjecting:

The Hon. K.O. FOLEY: The member for Bright says that I never bring back answers. As I have just said, it was alleged by the deputy leader that I had not answered a question, but when I checked I had in fact done so the very next day in a ministerial statement. Clearly, the deputy leader was not listening, or perhaps he just wanted to play politics.

Mr BRINDAL: I have a supplementary question. Does the Treasurer then concede that, given that this instalment scheme was not in place under the previous government, the system of fines must then relate to his scheme? Does he also believe that the penalty rate, given the escalation in a land tax since 2002, should have been adjusted?

The Hon. K.O. FOLEY: Some counsel to the member for Unley, if I can offer it: you would not want to upset the member for Bragg much more by jumping ahead of her there

with a question. You've got enough trouble with the member for Bragg—and he nods in agreement, sir. The point I made to the house was that the mechanism of applying fines for late payments of tax bills, whether they be by instalment or by the original accounts, if there was not an instalment process in place, involves a particular formula and mechanism for determining what that level of fine would be. That was something that was inherited from the former government. But, again, I am happy to take the member's question on notice. Wherever possible, I look forward to assisting the member for Unley in servicing his constituents because I, for one, cannot begin to understand why the Liberal Party and the leader would not be supporting his continuation in this parliament. Whilst we do not always agree, he certainly argues strongly for his electorate of Unley—

The SPEAKER: Order!

The Hon. K.O. FOLEY: —and it can only but show the divisions in the Liberal Party—

The SPEAKER: Order!

The Hon. K.O. FOLEY: —to leave such a good member hanging out there.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! That gives a whole new meaning to the word 'interest', which was the subject of inquiry made by the member for Unley.

TRUANCY

Ms CHAPMAN (Bragg): My question is to the Minister for Education and Children's Services. Given the minister's statement today of her government's unprecedented contribution to attendance improvement in schools, can the minister tell us how many parents of chronic truants have been successfully prosecuted and paid the $200 fine in the three years of her government?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Bragg for her question. She is right; we have invested quite a lot of energy, time and money into attendance in schools with our truancy package. In fact, I can tell her that between the two years (2002 to 2003) 28 000 students had not missed a single day of school during term 2, and it went up to 35 000 the following year, which I think is amazing—not even a cold or a cough kept them away. However, in terms of the small numbers of recalcitrant students, it is true to say that, as much as those opposite would like to attack teachers and parents, almost every parent I know wants the best for their children, and to have a child truanting is a challenge—

Ms CHAPMAN: Mr Speaker, I rise on a point of order. Whilst this is quite interesting, Mr Speaker, it does not answer the question. I specifically asked how many parents of chronic truants have been prosecuted in the last three years?

The Hon. J.D. LOMAX-SMITH: The number of students who are recalcitrant is very low. The number of parents who engage in manoeuvres to prevent their children going to school is very low. However, we have identified about half a dozen families where there are recalcitrant non-attenders and I intend to prosecute them. However, as the member for Bragg knows, the law is an unwieldy beast: it is slow; it is tedious; and it is irritating. I have to say that the law is something which does not move quickly. However, I want that small number of parents to be dealt with. However, I have to say that fining people is not—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: —always the way to achieve the end: it is the last resort—and with these parents I think we have reached the last resort. I have to say the irony is that we act against parents whose children truant from public and private schools alike—because they come from both systems.

LAND TAX

Mr HAMILTON-SMITH (Waite): Has the Treasurer received any advice on how many of the 44 000 land tax payers he has stated will now be exempt from land tax payments will still be exempt this time next year? Former Valuer-General, John Darley, has stated that many properties currently valued under the new $100 000 threshold will rise above that level when the current Valuer-General reviews property values at the end of 2005.

The Hon. K.O. FOLEY (Treasurer): The only firm commitment and the only promise that the Liberal Party gave at the interesting public meeting I attended the other night was that the head of the Taxpayers Reform Association, Mr John Darley, will be offered a job after the next election to assist them with the valuation system—

The Hon. R.G. KERIN: Mr Speaker, I rise on a point of order. Not only is the Treasurer not telling the truth but the Treasurer is not answering the question.

The SPEAKER: The honourable Treasurer.

The Hon. K.O. FOLEY: I have to say that a number of people who were there heard it; that is, the Leader of the Opposition saying that after the election they have invited Mr John Darley to assist the government (if they win) to review the property valuation system in this state.

Members interjecting:

The Hon. K.O. FOLEY: Perhaps he will do it for nothing. That commitment to review the land valuation system is equal to Colin Barnett's canal from the Kimberley to Perth in terms of its cost.

The Hon. R.G. KERIN: Mr Speaker, I rise on a point of order. The question was clearly about how many of the 44 000 people whom he has been telling South Australians will be exempt will still be exempt next year.

The Hon. K.O. FOLEY: The 44 000 people, as we said at the time, from 1 July 2005, the next financial year, will not be eligible for land tax. The bigger issue to come out of the other night was that the Liberal Party will not put their policy out there because they don't have one.

The Hon. R.G. KERIN: On a point of order, Mr Speaker, if the Treasurer does not know the answer to the question he ought to say so.

The SPEAKER: Order! Yes. I think it is time to move on.

The Hon. K.O. FOLEY: Thank you, sir. I will conclude by saying that their commitment to turn upside down the property valuation system in this state is equal to Colin Barnett's disgraced canal—

The Hon. DEAN BROWN: I rise on a point of order, Mr Speaker. Under standing order 98 it is quite clear that the Treasurer has been debating this issue for some time and defying the chair. I ask you to bring him to order immediately.

TRADE, OVERSEAS

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I table a statement made by the Minister for Industry and Trade in another place.

PRISONER SEX CLAIM

The Hon. J.D. HILL (Minister for Environment and Conservation): I table a statement made by my colleague the Hon. Terry Roberts in another place.

GRIEVANCE DEBATE

NATIVE VEGETATION

Mr BRINDAL (Unley): I rise today to grieve on a matter that might be of more concern to my country and rural colleagues, but it is a measure of the seriousness with which the house should treat this issue that matters of native vegetation have reached the ears and attention of members in inner-city seats. The Native Vegetation Act was passed for laudable purposes—to preserve remnant native vegetation in the state of South Australia and native vegetation that could be saved—but it appears that, increasingly in the last years, this has become a reason for the Native Vegetation Council—and, in some cases, public servants who are obviously on a crusade—to do nothing more than impinge and trespass on people's rights in respect of the ownership of their land.

A member of one of my branches is the owner of a property situated between Mount Crawford Forest and the Parra Wirra National Park, and she has farmed this property for in excess of 50 years. During the 1950s aerial photographs were taken of the farm, and they show a number of native trees in situ. Because of the fads—and you would know them as well as most, sir, because of your association with the land over a long period—at one stage, through the broadcasting of native seed, she sought to regenerate some timber so that it could be harvested. Under the act she is clearly entitled to harvest such timber, as it has not regenerated naturally.

During the years my constituent has used the property continually, with horses, alpacas and other animals constantly grazing on it. She has now sought and obtained permission to put a vineyard on her property, this being one of the last viable activities that someone with a not large holding within close proximity of Adelaide can do with their property, but she has run up against the Native Vegetation Council. I have made representations on her behalf on a number of occasions, but the chief executive, whose name is Mr Whisson, appears to be entirely intransigent about all such matters.

The Native Vegetation Council agrees that, from an analysis of the aerial photographs taken in the 1950s, my member has planted many of the trees that are to be found on her property. However, they contend that some of these trees might have regenerated naturally. Herein lies the problem. She cannot clear any trees that have regenerated naturally, only those that she has planted. The council admits that there is no way of determining which trees she planted and which trees have regenerated naturally. That is, there is no way save one: that is, the word of my member who has farmed the property and is prepared to provide a statutory declaration to identify the trees which she planted and which she therefore can clear.

But that is not good enough for the Native Vegetation Council, which is threatening to challenge her in court, either itself or through third parties. It has also said that it wants to send out an expert to determine which were planted and which regenerated naturally. Unless you, sir, have the wisdom of Solomon and can help, or unless some of those public servants have more wisdom than God (and I say that with the greatest respect for God) they have no way—there is no power on this earth, save the person who broadcast the seed and watched the plants grow—to say who planted the trees.

I simply ask: when will it be good enough for the people of South Australia to have their word accepted in the form of a sworn affidavit, and when will public servants get out of people's personal business, get out of their properties and allow them to drive the economy of this state forward, rather than incessantly interfering with public policy, which might suit them and their chardonnay drinking mates on North Terrace but which is unrelated to the real world of agriculturalists, who are trying to make a genuine living and increase the prosperity of this state in the process. The Native Vegetation Act as it is being implemented at present is a disgrace. If the member for Unley can work that out in Adelaide, so should every member of this chamber be aware.

GUANTANAMO BAY

Ms BEDFORD (Florey): Jumana Musa is an independent legal observer to the Guantanamo Bay military commissions, and she was in Adelaide recently. Amnesty International Australia held a public forum two weeks ago entitled Guantanamo Bay: Icon of Lawlessness. Ms Musa is a human rights lawyer and Advocacy Director on Human Rights and International Justice for Amnesty International in Washington DC (and I note the passing of the Nobel Prize winning group's founder, UK lawyer Mr Peter Benenson). The aims and purposes of the internationally recognised organisation are, sadly, still as relevant today as they were the day of their first meeting over four decades ago, which makes all of us address the question of whether or not there can really be an innocent bystander. Ms Musa addressed the meeting and outlined how the US is ignoring international laws and Geneva Conventions in establishing Guantanamo Bay, and spoke on the alleged treatment of detainees and implications the situation presents.

Detainees are in a illegal black hole, and their human rights are gravely compromised. The case of Cornelia Rau here in South Australia has caused examination of detention and immigration processes, and a report in Saturday's *Advertiser* highlighted the case of Adelaide man Ahmed Aziz Rafiq, who has been held by the US in Iraq without charge in the infamous Abu Graib Prison for more than a year. He was to be released by the US, but the US has changed its mind. We seem to be happy to press this case, but we are not consistent in pressing others. We see in today's paper that the Australian of the Year in 1986, Dick Smith, is taking up the situation of a man detained by Australian immigration authorities for about six years for that very reason.

In Guantanamo Bay enemy combatant status denies those held the protections of the Geneva Conventions that apply to POWs. The judicial process being employed there—the military commissions—are not independent: they are linked to the US executive government, and the US administration appoints and removes members of the commission and has the final say on the outcome of the trials without challenge or appeal. Detainees are held incommunicado in detention. It has been reported that South Australian David Hicks was

held for eight months in solitary confinement without even being able to see the daylight.

Two points outlined in the Geneva Convention state that the integrity of evidence presented to a court must be of a high standard and the evidence given under torture must not be admissible. Allegations of torture have been made by Mamdouh Habib and other former Guantanamo Bay detainees. Although the federal government and intelligence agencies continue to question Mr Habib's torture allegations, these claims have forced the US government to concede that it is now undertaking an internal investigation in terms of how detainees are being treated in Guantanamo Bay.

An example of the type of force used at Guantanamo comes from an internal memo leaked to *The Associated Press* dated 3 February this year from the US military's Southern Command. It describes videotapes of assaults on prisoners by the Instant Reaction Force (IRF), a riot squad deployed against prisoners deemed to have broken the camp's rules. One video showed guards punching detainees and forcing a dozen to strip from the waist down. Another showed a guard kneeing a detainee in the head.

David Hicks has filed an affidavit alleging torture and ill-treatment, and his case remains one of intense interest around the world. His children live in my area and his family continues their struggle to have his rights upheld. Australia has a role in upholding the rights of its citizens abroad. What is of grave concern is the undermining of the rule of law and observance of international conventions in that torture is being redefined in the post 11 September climate. The moral and legal debate between acceptable interrogation norms and practices are being stretched to new levels, and the fine line between torture and cruel and inhuman degrading treatment are becoming blurred. It seems that the new US Attorney-General (Alberto Gonzales) is a proponent of endorsing such practices—for example, water boarding, which is the practice of binding a detainee and putting him under water until he feels he is drowning. That was not recognised as torture by Gonzales.

Ironically, the US State Department reports on human rights abuses in other countries and lists this very act as torture and (as the perpetrator) reclassifies it as cruel and inhuman degrading treatment. The US (or Australia) does not morally or legally free itself from its obligation not to torture people by turning a blind eye (as was the case with Mr Habib being sent to Egypt under the US policy of rendering, that is, being tortured and abused in a third country). This makes the US (or Australia) no less culpable in such cases and 'professionalises' and 'institutionalises' torture.

Our federal government must seek a full and independent detailed explanation as to the practices adopted by the US military and administration in Guantanamo Bay, how Mr Habib could be detained for three years and released suddenly without charge earlier this month and why Mr David Hicks continues to be detained and subjected to questionable charges under an unfair judicial process. The government should also obtain a copy of over 4 000 pages of documents obtained in December 2004 by US civil rights groups under the Freedom of Information Act about the abusive treatment of detainees.

Time expired.

SKILLS SHORTAGE

Mr SCALZI (Hartley): Today I wish to bring to the attention of the house matters concerning skills shortages and older workers. I have continuously represented the problems faced by young people with respect to training. Again, I note that, although we have an unemployment rate which has been good given the federal government's policies and economic strengths (and this government's taking credit for it), we still have a youth unemployment rate of around 25 per cent. I note that, whilst there has been an increase of 3 000 people in the Public Service, in the last three years in the Public Service there has been a slashing of 500 young people.

This government says that it will structure for the future. Well, it will not be able to do that unless it deals with these basic problems. Recently we have seen the first consultation of the federal government initiative to establish two of the 24 vocational colleges. I note that the minister (Hon. Gary Hardgrave) and federal members attended the Adelaide Oval last Thursday. The member for Bragg and I attended that consultation process with respect to training schools, but no Labor members attended. Of course, this is just one of a number of programs designed to address the pressing problem of skill shortages in Australia.

South Australia, of course, is in an especially precarious position because we have the oldest population profile and the lowest crude birth rate (June 2003: Ausstats) of all states and territories in Australia. According to recent statistics, the ratio for workers to retired persons is now 6:1. By 2025, the projection is 3:1, which has many ramifications for funding and support services for the aged. Between 2011 and 2030 the large post-war generation will be aged 65 and over, and with increased life expectancy retirement may last 20 to 30 years.

A particularly confronting statistic is that one in seven men over the age of 50 years are on welfare in Australia, including some 30 per cent who have suffered workplace injury. Those figures come from Steve Balzary, Australian Chamber of Commerce and Industry, Director of Employment and Training. The ACCI position is that mature-age workers must be retained in the work force and receive increased training opportunities both for recognition of prior learning and formalisation of qualifications, and also for upskilling and retraining. We must also explore ways of using the great resource of experience of such workers in training and mentoring roles alongside responsible restructuring duties.

It would also seem particularly important to focus now on WorkCover coverage for workers close to retirement age. Our current provisions are a barrier for many employers facing difficulty finding skilled staff, who would otherwise employ older, experienced workers. Income-related entitlements for injured workers are not available for workers past retirement age, usually 65. Employers, understandably, do not want to have risk shifted to them for placing of older workers, especially given that the WorkCover levy is the same as for young workers. A master painter in the north-east area has come to me with exactly this dilemma.

There are people with the skills to take up positions he is needing filled, who bring experience and a great worth ethic and who are available immediately, but as an employer he is concerned at possible liability and the lack of coverage for individuals concerned in the event of injury to workers over 65 for whom the normal WorkCover is not available. Whilst I understand that we cannot have an open chequebook approach for older workers, we must look at recommendations such as those in the Stanley report, which recommend capped weekly payments for a period of two years for injured workers within 12 months of retirement or above.

We are in a time when the economy has the ability, through increased GST resources and stamp duty. This government has the financial ability but is not looking ahead at how to deal with the problem of shortages in skills, not only for the young but for the more mature. When that ratio comes to one in three, how are we going to provide for our standard of living?

Time expired.

ROAD WORK DISRUPTION

Mr O'BRIEN (Napier): I have always been intrigued by the way in which random events such as road closures, road excavations and major construction activities can appear to be deliberately timed to cause maximum disruption and economic loss. Take the laying of bitumen. Ever noticed how it is only a matter of days before freshly laid bitumen, usually kilometres of it, is dug up by at least one utility before it has even had time to cool? What had been a wonderful job to turn a stretch of corrugated, over-patched road into pristine roadway is destroyed virtually overnight by excavation and poor repatching.

Or the road work that is always undertaken to coincide with a major event? If there is a multi-day horse event in the parklands, roadworks always seem to be carried out somewhere in the vicinity so as to impede access to the event. In the case of Formula One races or the Clipsal 500 (and I will return to this matter in a moment), every year there seem to be roadworks somewhere so that lanes are closed on major north-south arterials to coincide with road closures for the motor race. If it is the Festival of Arts, this is an idea time for major refurbishment of the Festival Theatre environs or a major upgrade of North Terrace. The cultural centres of our capital city are made more difficult to access. Our grand boulevard looks like a construction site, and our interstate and overseas visitors have to make detours in a city that is already unknown to them.

Road and footpath paving is another favourite. Again, excavation occurs within a matter of days of the job being finished, and the relaid pavers never, ever match the level of the surrounding bricks. Of course, this is always highly random, but it seems to have the precision of a military operation. Somewhere around Adelaide, in an underground bunker set up like a Battle of Britain ops room, sits a crack team who monitor all road works and major events to ensure that no fresh bitumen or paving goes for long unpatched or that a major event does not pass us by without causing major mayhem for the motorists of Adelaide.

Like the Luftwaffe approaching London, calls must stream into the bunker and road work teams are moved around Adelaide by bunker staff, equipped with sticks, pushing the units around here and there on a massive map of metropolitan Adelaide. And the degree of coordination! All the major utilities, councils and event organisers feeding information into this central ops room so that a major, once-every-20-year excavation must take place after the major road upgrade and not before, or that roadworks on a major north-south arterial occur during and not before or after the major event.

The Playford council saw the pristine bitumen laid around their new civic centre at the Elizabeth City Centre chopped up before it was barely cold, and last year the diversion of north-south traffic because of the Clipsal 500 was cleverly thwarted on day one of the diversion by the strategic closure of the northbound lane on West Terrace.

Like the RAF during the Battle of Britain, our bunker staff is getting better with experience. This year we have all the southbound lanes on West Terrace being torn up. The work commenced today. At the moment the work is being done between Hindley and Currie Streets coinciding with lane restrictions also commencing today, I am informed by the Adelaide City Council, on Dequetteville Terrace. In Clipsal week, when a stream of north-south arterials are closed, work moves to the Grote Street-Wright Street sector. All the bitumen across all the southbound lanes also comes up and will then be relayed. The work is expected to take at least a week in both sectors. There will be major traffic chaos—in fact, it was evident today—and there is, in all probability, a utility ready to dig it all up for pipes and cables within a day or two of its completion.

Adelaide is a small city in international terms. Random and unplanned acts seem as if they were planned to bring about maximum disruption and economic loss. A little planning and coordination could reverse all this. How about a virtual ops room run by the Local Government Association designed to minimise disruption to our traffic flows and road work costs. Its first task, somewhat of an emergency project, would be the rescheduling of the roadworks currently underway on West Terrace until after the Clipsal 500.

The SPEAKER: Sir Humphrey will be pleased.

TRAIN NOISE

The Hon. M.R. BUCKBY (Light): I rise today to bring to the notice of the house, and particularly the Minister for Transport, a problem being experienced by Mr and Mrs Thorne of Evanston in my electorate—that is, the issue of train noise. Fortunately, or unfortunately for them, Mr and Mrs Thorne's home backs onto a holding yard for the trains at Gawler. Of course, the trains start very early in the morning—in fact, the drivers start the trains somewhere around 4 a.m. for a warm-up phase to ensure that the engines are warm before they start their journey to Adelaide. That is fine, except that Mr and Mrs Thorne's house backs onto those holding yards and, as result, they are receiving significant noise very early in the morning. I wrote to the Minister for Transport some time ago and was advised that compressors could be used to warm the engines before starting. I appreciated that advice, and it would appear that some drivers—and I repeat, some drivers—are using the compressors to start the trains. As result, far less noise and less fumes are received by Mr and Mrs Thorne.

In this case I am asking the minister to again issue a memo or order to the train drivers to use the compressors. They apparently do the job perfectly well in terms of getting the engine ready for its journey and there is no reason why they cannot be used. As result of that there would be far less noise endured by Mr and Mrs Thorne and less fumes as well. They have told me that on many occasions they actually have to shut their doors and windows because of the diesel fumes coming into their home as result of the current practice.

Mr Brindal: I have to do that in Kings Park too. I live near a railway line.

The Hon. M.R. BUCKBY: Yes; but the member for Unley does not live next door to where the trains are being warmed up for a couple of hours. This particular action is having an effect on the lifestyle of Mr and Mrs Thorne and I believe it is one they should not have to endure. So, I say to the minister for Transport, please reissue the order to ensure that drivers use the compressors rather than walking in and

starting the engines at whatever time of the day that those are started, and to ensure that my constituents have a better lifestyle.

I would like to raise another issue at this particular time regarding the same constituents. They live in a Housing Trust home, and they are concerned that they are being asked to pay for certain areas of their home which were not working when they moved in. For instance, the floor in the shower is a flat surface, and it does not have a lip to hold the water in and to allow it to drain into the shower hole. Instead, they have water leaking out of the shower and onto the bathroom floor, and if they do not put a towel down, the water goes elsewhere in the house. I believe that this is a serious occupational health and safety issue. It is one which the Housing Trust should address, and it is one which the Housing Trust says my constituents have to pay for. I do not think that that is acceptable. Also, when they moved into the unit, the air-conditioner did not work, and the Housing Trust also says that they must pay for the repairs to the airconditioner.

Mr Brindal interjecting:

The Hon. M.R. BUCKBY: Yes, it would appear that they have to pay to ensure that the Housing Trust property is up to standard. If this was a private property, the owner would have to pay for these repairs and not the tenant. I believe that the Housing Trust should pay for both of these areas. In addition to that, there was a glider door which had to be serviced, all of which they were requested to pay for as well. It is not good enough.

LAND TAX

Mr KOUTSANTONIS (West Torrens): I was at the land tax—

Mr Brindal interjecting:

Mr KOUTSANTONIS: I thank the member for Unley for his claim that I am one of the only Labor members working of any substance, but I disagree with him. I think that there are many more. I was interested to see who attended that Land Tax Association meeting. I saw the Leader of the Opposition turn up for about ten minutes and then scuttle off for a dinner with Mr Tom Lipson rather than stick around and hear the concerns of 600 residents. The shadow treasurer was there; the member for Coles; the member for Hartley; myself; obviously the Treasurer was there; the member for Norwood; the Labor candidate for Hartley, Grace Portolesi; and I also saw Nigel Smart.

I found it interesting that the member for Bragg was the only Liberal MP not to sit with her colleagues. The member for Bragg chose to sit somewhere else, and it was interesting to see who she sat with. She sat with prospective Liberal candidate, David Pisoni, whispering in his ear, sweet nothings no doubt, about his future career. What happens in the Liberal Party is none of my business. Who they choose to pre-select is none of my business, but I make two points. The member for Bragg whispering sweet nothings into the ear of David Pisoni at the land tax meeting I thought very interesting; and I also thought that the controversy over Nigel Smart was very interesting. If I ever sell my house I want Rob Kerin to sell it for me, because the idea of convincing Nigel Smart to run for a Labor held seat, I think, is the greatest coup of the Liberal Party in a while. He must be a great salesman on a personal level, because when it comes to selling his message he is not very good. We found out today that it was not Rob Kerin who sold Norwood; it was one Christopher Pyne.

Another thing that I would like to talk about is *The Independent Weekly.* A journalist for *The Independent Weekly* (no friend of the Labor party's after advising John Olsen, but who has turned out to be a very good journalist) wrote some interesting things about the member for Mawson, and his dabbling into charitable funds and sponsorship money.

I find it interesting that the Auditor-General has cleared our Attorney-General and condemned the member for Mawson. He wants our Attorney-General sacked, but stands by the member for Mawson. What strange thinking. The independent umpire says, 'The member for Mawson is guilty, so stand by him,' and the independent umpire says, 'Our Auditor-General is innocent. No; sack him!' Alex Kennedy, former Liberal party staffer states:

> Brokenshire's actions, as set out by the Auditor-General, when the Emergency Service's Minister in the previous Liberal Government are mind-blowing for their audacity and stupidity. How he ever expected to get away with it, how we could possibly have considered that what he did was kosher, is the question that really needs to be answered. . .

She goes on:

> As soon as the Auditor-General's report was released, Liberal Leader Rob Kerin went in to bat for Brokenshire and refused to demote him from the Shadow Cabinet. Why? If the Liberals are so keen to have Attorney-General Michael Atkinson's head on a platter for what he did or didn't know about the 'stashed cash' affair, then Kerin must set an example that his team must not be allowed to behave as Brokenshire did when a minister. He should be demoted.

She goes on to say:

> It was an extremely bad call at a time the Liberals should be wooing the public service in an election year, and what for?

This is back to deputy Jim Birch:

> To support Brokenshire? After all that no Ambulance Centre has ever been built.

She goes on to talk about the lack of calibre on the other side when they were making ministers and dishing out ministries. Rob Kerin is the Colin Barnett of South Australian politics. Long may he reign as Leader of the Opposition, because this bloke decided to condemn the Auditor-General for supporting the Attorney-General for finding him innocent, and then backing up someone that the Auditor has found to be guilty shows a lack of judgment. And not backing his member for Unley in the same way he backs Nigel Smart is also a disgrace. The idea that the Leader of the Opposition is picking favourites in who gets preselected is completely outrageous.

CROWN SOLICITOR'S TRUST ACCOUNT

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I seek leave to make a personal explanation.

Leave granted.

The Hon. J.W. WEATHERILL: On checking *Hansard* I note that the question that I was asked by the member for Heysen during question time had two parts: namely, was I ever briefed on money that was carried over for the Layton report recommendations, or on money that was held in the Crown Solicitor's Trust Account for child protection matters. In relation to the second part of that question, the answer remains no, I was not briefed by Ms Lennon on money that was held in the Crown Solicitor's Trust Account for child

protection matters. In relation to the first part of the question: was I ever briefed on money that was carried over for the Layton report recommendations, I also believe the answer is no, but there may be some written briefing that I am unaware of, and I will check to make sure that is, in fact, the case.

CRIMINAL ASSETS CONFISCATION BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 860.)

Ms CHAPMAN (Bragg): This was a bill that was introduced into the House of Assembly by the Attorney-General on 10 November 2004. I am not certain as to why it has taken some four months to come for debate, given the government's haste to have this legislation passed, and of which they may well claim to be an important part of the government's agenda. I suppose it is a little bit like today's announcement that took some 10 months of the appointment of Mr Stephen Pallaras, QC as the new Director of Public Prosecutions. It was certainly long awaited. As the Attorney-General may appreciate, and I certainly hope he does, it is an important part of the effective prosecution and management of law and order issues in this state. Sentencing is one thing but the reality is that, unless you prosecute and unless you deal with these matters, the issues in relation to sentencing become absolutely irrelevant.

The current South Australian law is that the Crimes (Confiscation of Profits) Act is in existence, and that empowers the court to make orders against a person who is convicted of criminal offences—that is, forfeiture orders, pecuniary penalty orders and restraining orders. The act confers extensive powers on police and was first passed as part of a national initiative in 1986 and extensively amended in 1996, but most notable about this legislation is that it is conviction based legislation and it is now considered (and I will refer to a number of inquiries in relation to this style of legislation) to be ineffective.

The commonwealth and other jurisdictions have now moved onto civil forfeiture systems for the recovery of criminal assets and South Australia is the last state—and I emphasise that it is the last state—to retain a conviction-based system. This bill is designed to bring South Australia into line with the other jurisdictions; that is, it is a catch up for South Australia, which certainly on this occasion cannot in any way claim to be a leader in this area of legislation. It is important to note that it has been requested by the Commissioner of Police. The bill is extremely long and quite complex, the reason being that we are not simply amending the current law as such: we are introducing a new civil forfeiture system for the recovery of criminal assets, which is a whole new area of the law and it requires procedures that are quite different from the law that is currently operating on the conviction-based position as I have outlined.

The essence of this system—and it is an important one for the Liberal opposition in this debate—is that it is court supervised. That is critical to the opposition's supporting this legislation, but it will not be without consideration of some amendments, to which I will refer shortly in relation to another place. Two questions need to be asked in dealing with this legislation. First, should we abandon the requirement that seizure cannot take place until after a person has been convicted; and, secondly, if the first question is answered in the affirmative, then is the model proposed in this bill for seizure an appropriate one? The short answer to the first question is that the current system of seizure after conviction has not worked as effectively as it could. Over the past eight years (that is, since the upgrade of this legislation in 1996) assets that have been confiscated or forfeited in South Australia have amounted to only $3 million.

By the time a conviction is recorded, the assets of even the wealthiest criminal are usually exhausted on legal expenses or otherwise dissipated. Of course, that also raises the question as to whether the person who will be brought to account under that legislation even has the assets in their name or control at the time. They are important considerations to be taken into account when we look at the way in which we have operated under the current system. When introducing the first civil forfeiture regime in 1990, the New South Wales premier (Hon. Nick Greiner) made the following points:

> [The purpose of this legislation] is to deprive those involved. . . of their illicit profits—profits earned at the expense of their victims and of the community generally. Importantly, it is not only the profits of a discrete transaction but the proceeds of a life of crime that will be confiscated. . . it is not only the person directly involved in the transaction but also those who knowingly benefit from his or her activities who will be called to account for drug-derived assets and profits.

He goes on to say:

> This legislation, like the Commonwealth Customs Act, treats the question of confiscation as a separate issue from the imposition of a criminal penalty. It essentially provides that a person can be made to account for and explain assets and profit whether or not the person has been convicted, and even if the person has been acquitted in the criminal courts. The critical thing that must be proved is that it is more probable than not that the person engaged in serious drug crime. Proof on the balance of probabilities is the same standard of proof as that used in ordinary civil litigation. The more stringent standard of proof beyond a reasonable doubt is a creature of the criminal law.

He states further:

> I want to emphasise, however, that no criminal consequences will flow from this legislation. Rather, the consequences are that the person has to justify, account for and explain where his or her assets came from. Only if the person cannot show the assets were derived lawfully will they be retained by the Crown.

The federal Liberal government and every other state have abandoned conviction based systems in favour of the criminal assets confiscation method. It is fair to say in relation to other jurisdictions in Australia that Western Australia has probably introduce the toughest law in this area. In Western Australia, the Court Liberal government introduced a criminal property confiscation bill in June 2000 in the lead-up to its state election. *The Western Australian* described the bill as a 'cynical political exercise'. It is important to note that the Labor opposition at the time criticised the bill but in fact voted for it.

The Western Australian law includes all of the measures contained in our current bill but goes further by providing for the confiscation of 'unexplained wealth' whether or not they have been convicted or charged with a criminal offence. 'Unexplained wealth' takes it beyond the legislation before us. So, it is the last but it is certainly not the toughest in relation to a new form of civil confiscation legislation in this country.

It is important to note that civil confiscation or forfeiture is not new. Customs authorities, for example, have been seizing goods before there has been any trial or conviction against a party for centuries. The Australian Law Reform Commission's report of 1999 recommended the adoption of this form of action. It conducted a review entitled 'Confis-

cation that counts—a review of the Proceeds of Crime Act 1987', which identified the legal position as at 31 March 1999. The Australian Law Reform Commission's report recommended the adoption of this form of action. The commission recognised the distinction between criminal punishment and recovery of assets gained through unlawful conduct. I quote from paragraph 2.78 of that report, as follows:

> . . . the concept that a person should not be entitled to be unjustly enriched by reason of unlawful conduct is distinguishable from the notion that a person should be punished for criminal wrongdoing. That is to say that, while a particular course of conduct might at the one time constitute both a criminal offence and grounds for the recovery of unjust enrichment, the entitlement of the state to impose a punishment for the criminal offence, and the nature of that punishment, are independent in principle from the right of the state to recover the unjust enrichment and vice versa.

So, we have come to a situation where it is acknowledged across the country that the current system has proven to be relatively ineffective. One example that I might relate to the house is that one barrier to recovery is the requirement that a prosecution prove that the assets or funds sought to be seized were obtained as a result of a particular offence: that is, that the assets in the possession of the party against whom the action is taken need to be able to be identified as being the direct reward or beneficiary of a particular offence. This is especially difficult when one tries to pursue the assets of drug dealers. It is nigh impossible to be able to identify that a particular asset, profit or benefit owned by or in the control of the party in question has been derived directly from a particular offence. One needs to be able to look at a whole pattern of behaviour to cover the accumulation of that kind of asset or benefit.

No particular abuses or adverse effects have been reported from jurisdictions which have adopted the process of civil forfeiture. That is, the opposition is not aware of any party who has been acted against in relation to a civil forfeiture claim who has later complained of unjust or inappropriate action being taken. My understanding—and this has been operative in the last six years at the higher level in this state where some $3 million has been confiscated—is that what happens more often than not is that, when the claim is made, the party involved quickly abandons their claim to the title of those assets and disposes of them, and they therefore enjoy the benefit of not having to appear in a courtroom at all for the purpose of defending their position.

The Liberal Party supports in principle the concept of this new regime of civil forfeiture, but we are currently looking at amendments which are proposed to be introduced in another place so that there are appropriate legal protections. These are particularly in the form of judicial oversight and access to review by independent courts.

The second question is whether in fact this bill and the proposed structure—which is very new and comprehensive and which, of course, provides an entirely new structure—provides adequate protection; whether it will do the job that the current legislation is criticised for, that is, not being adequately effective. It is the Liberal Party's view that, on balance, the protections contained in the bill strike a reasonable balance between the right of citizens to hold private property and the right of the public to be protected from the depredation of criminal activity. Those protections, as I have indicated, are in the form of judicial oversight and review, and we would hope that, with amendments in another place, this will give adequate protection with respect to the former; the private right of citizens to hold private property.

It should not be overlooked here that this is a very substantial change in the law. Whilst it is a bit late coming, from the point of view of the rest of Australia, it is considerable, and it is something that we as a state should consider very carefully and make sure as best we can that that balance is maintained and that we provide a suitable regime that will, in fact, be effective.

The bill, of course, effectively repeals the Criminal Assets Confiscation Act 1996, to which I have referred, and replaces it with a new model. Many of the procedures that applied under the act to be repealed are, of course, relative to the conviction based forfeiture, and those aspects will continue. The pivotal new rule in this civil confiscation system is that the prosecuting authorities will be able to prove their case on the balance of probabilities rather than the more onerous standard of proof that applies to criminal proceedings, namely, proof beyond reasonable doubt. That, of course, is what now applies, because a conviction-based legislation currently operates.

There are some significant elements of the new bill to which I wish to briefly refer. They include: restraining orders and freezing orders; forfeiture orders; pecuniary penalty orders; literary proceeds orders; and information gathering, which includes the examinations and production orders, notices to financial institutions, search and seizure and monitoring orders. They largely relate to the support for the purposes of presenting the case for confiscation.

I will first deal with restraining orders and freezing orders. The freezing order is the short-term restraint. The bill provides that this be up to 72 hours, and may be put upon financial assets by police before they apply for a restraining order. The freezing order is made by a magistrate, who must be satisfied that there are reasonable grounds to suspect that the person in whose name an account is held has committed or is about to commit a serious offence or has derived benefit from the commission of such an offence. For the purposes of that legislation this is very important, because there is not much point in having a restraining order that ultimately will be made by a court if there is not some quick procedure and some interim relief that can be granted to protect the assets for fear that they might otherwise be disposed of until the court has an opportunity to deal with it in further detail.

However, the freezing order is confined to where there is a serious offence, that is, that the party has either committed or is about to commit a serious offence ('serious offence' is defined in the bill as an indictable offence and, of course, indictable offences are offences which are most serious and which are eligible for a jury trial and determination), a serious drug offence or a number of other specified serious offences. These include things such as use of children in commercial sexual services; illegal fishing; illicit participation in selling liquor; unlawful gaming; trading in native plants and fauna; keeping and managing of brothels; the unlawful possession of property and the like.

These crimes are identified because they are said to be the subject of organised criminal activity. I think the house will appreciate that these are what are perceived to be serious offences in that category of organised criminal activity, and it is only those that attract the benefit of being able to obtain this interim freezing order. So, it is certainly at the most serious end of the spectrum and is limited to the 72-hour period.

A restraining order can be made initially by a court, and a court then can make an order allowing part of the proceeds to be used for living expenses, business expenses or specified

debts. Such an order will cease to have effect if charges are withdrawn, the suspect is acquitted or the conviction is quashed. So, again, whilst there is a power to restrain—usually the disposal, investment or transfer of certain assets or bank accounts and the like—the court can have clear recognition of the fact that, until these matters are concluded, the person affected may well require funds for general living expenses, the operation of a business—presumably, a legitimate business—or, indeed, for specified debt. So, if they have obligations in relation to lease payments or mortgage liabilities and the like, one would expect that the court would grant relief pending the final determination of these matters by virtue of the restraining order.

The forfeiture provision (outlined in clause 47 of the new bill) provides that the court must (not may or think about), on the application of the DPP, make a forfeiture order if the person is convicted and the court is satisfied that the property represents proceeds of the offence, or after the expiration of six months the court is satisfied that the property represents proceeds of one or more serious offences. Here there is some correlation between the loss of the asset and the forfeiture and confiscation of the same on the basis of its being a direct proceed of an offence or a series of offences. Indeed, it must be one or more of those offences.

The pecuniary penalty orders are outlined in clauses 95 and 109 of the bill. This procedure enables the Director of Public Prosecutions (who, I am pleased to note, has been appointed today so that we can get on with the job, hopefully) to seek an order from a court for the forfeiture of a sum of money which represents or is equivalent to the value of property which was used as an instrument of crime or represents the proceeds of crime. Such an order is made in cases where the DPP is unable to pursue the tainted property itself. This relates to the forfeiture of a sum of money if the actual proceeds of the crime are not able to be identified.

As members might appreciate, there would be significant opportunity in relation to the type of offences to which I referred where the asset may be taken (and I do not mean to be flippant) in the form of diamonds or gold but which is disposed of and liquidated and of which funds are received. In those circumstances the DPP may take the view that it is necessary to seek from the court a forfeiture of a sum of money. The literary proceeds orders, I think, are very important. This new provision in the bill is designed to deprive a criminal from the benefit of commercial exploitation of their notoriety, most commonly seen by persons in this category selling their story to the media.

It may not only be in that form. They may sell rights to film making or to the publication of a book, and they may receive a cash payment—usually a very significant one if it is a serious offence or one which offends the community at a high level. It is important here that some action be taken to ensure that criminals in this situation are not able to avoid the law and the penalty by being able to sell their story for commercial benefit, and that they exploit this opportunity and receive personal financial gain themselves.

That is abhorrent to the opposition, and I am pleased to see that the government has included this important aspect in the bill. Generally, I believe that the public feels quite offended by persons in this category who make money often from the misery they have inflicted on others and for their criminal behaviour. The other aspect relates to information gathering. The current law relates to the question of investigations, and this bill expands somewhat those investigations and the capacity to be able to obtain and collate information for the purposes of these prosecutions.

Examination orders can be made by a court permitting the DPP to examine a suspect or a person related (principally by traced assets) to the subject with the objective of identifying assets. I would expect that this is likely to give sufficient power—one would hope—not only for the DPP to examine the suspect (that is, to question the suspect) but also a related person (such as a spouse or a colleague) who may well be able to identify a chain of events to trace certain assets which ultimately become the subject of a forfeiture order.

The court can make orders requiring the production of property tracking documents. Again, it is a situation where not only the questioning of persons may be relevant but also to be able to identify for the purposes of inspections where property has been transferred from one asset to another, and this is an important tool for the DPP in its investigations. Police can obtain information from financial institutions. I suppose that one can look at the subpoena powers in relation to the production of material and position for the subpoenaing of witnesses, but what is important here is that this is necessary as an aid to a civil action in these circumstances.

Monitoring orders may also be made by a court, which require a financial institution to provide information about transactions and accounts. What is important is that it is not sufficient (often) for a bank, for example, to provide the bank's statements or, indeed, even the file of correspondence between a person who is to be affected by this legislation and the institution without having someone explain the transactions and those accounts. It is important to be able to have a monitoring order to secure the opportunity to elicit information in those circumstances.

Magistrates may also issue search warrants and orders requiring owners of computers to allow access. What is important in the information-gathering power that forms part of this legislation is that it must be a determination by a court. A police officer in these circumstances cannot simply go along and carry out an investigation in this manner, require the production of documents, examine persons for the purpose of eliciting this sort of information or have access to the computers of other parties without having first satisfied a court that it is necessary to have the order. This is a very important protective aspect from the opposition's point of view in supporting this bill.

In terms of the legal costs, the bill allows for payment to be made to the Legal Services Commission for legal assistance costs out of property covered by the restraining order. That is another important element. I do not doubt it is a concern raised by a number of persons who are worried about civil liberties and the potential contravention of those in legislation such as this because, whilst it is operative across the country, it is new and it does challenge a number of positions that have been taken. What is important here is ensuring that a person to be pursued under this legislation not only has the relief available by a court to be able to draw funds to service debt and to make provision for living expenses but also to meet legal costs in dealing with matters such as these, ensuring that there is proper representation and that they are not alienated from the opportunity to do that.

As one might appreciate, if you place a restraining order on these assets and then leave the person to be pursued vulnerable to not having access to any funds for the purpose of legal representation, that would indeed impose a very significant prejudice and breach of the opportunity for a person in that situation to have the proper representation to

which they clearly should have access. I am not sure yet how extensive that will be, and whether it will mean that only a proportion of those funds will ultimately be available.

It is possible to envisage someone in this situation having had assets the subject of a restraining order to the value of $1 million, then immediately setting out to employ a team of legal counsel, with a few QCs thrown in, trying to use all the funds for that purpose. Obviously, that is not the purpose of this legislation. However, it is designed to protect the important right of any accused in that situation or persons facing forfeiture to have proper representation.

The Victims of Crime Fund is to receive the proceeds: they do not just go into general revenue. The proceeds received under the confiscated asset, presumably once the asset has been liquidated and the costs of administering the act are debited (that is, the costs of storage or sale of the asset, advertising and the like and the employment of an administrator under the act); once all those expenses of collection, storage, preparation and liquidation are met, then the balance must be paid into the Victims of Crime Fund. Under the current legislation those net proceeds follow that route, and we would expect that to continue.

I myself am a lawyer and there are a number of others in this house, and a number of lawyers' organisations have expressed a view that shows some caution in the introduction of this type of legislation, just as the Commissioner of Police and other law enforcement agencies have pressed for its introduction and accordingly supported these measures. One can argue endlessly about the merits of legislation of this kind. I note that the Premier has described them as sweeping changes and says 'I want the victims to benefit, not the crims'. Some lawyers, of course—if not in this house then perhaps in another place—will argue against that on the ground of civil liberties that I have referred to.

Others will say that innocent people will lose assets that were used in crimes without their knowledge or approval. That is something that will need to be considered. However, notwithstanding the posturing of the Premier on this matter, it is important to remind the house that South Australia is not leading the nation on this issue but following, and many months behind. Liberal governments elsewhere have embraced the concept of civil forfeiture and, as I have indicated, the opposition in this parliament will do likewise. I do add one caveat to the contribution I made in relation to this bill, and that is that it is very important to the opposition that this new structure, this new process, this new law is clearly under the umbrella of the independent courts. That is critical to our consent and support.

There are other aspects in the detail that we think can be improved to ensure that that protection is not mitigated. I am not suggesting for one moment that it is the Attorney-General's intention that there would be an overriding of civil liberties with scant regard for the same, but it is important when we pass this type of legislation that we get it right and maintain that balance that I have referred to between the civil rights of our citizens and those who profit from the serious crimes that I have referred to and who may never be brought to account in the criminal courts but who enjoy, as has been described in the courts in a review by the Australian Law Reform Commission, an unjust enrichment to those who have profited in those circumstances. The opposition supports the bill.

The Hon. G.M. GUNN (Stuart): I wonder how many members have read through this particular bill, because—

The Hon. M.J. Atkinson: I have.

The Hon. G.M. GUNN: I know the honourable member has and I give him full credit, but the 111 pages and 230 clauses are complicated. This bill is very important and its provisions are wide-ranging, and the questions I have on it are in relation to the average citizen, who may not have the ability or the resources to properly defend themselves, who may suddenly be confronted by an over-enthusiastic prosecutor who wants to question their assets. In the past in our system of parliamentary democracy we have given a great deal of protection to people in that sort of position but it appears to me that we are now moving down a road which will in many ways create difficulties for people in the future. I do not have any problem with seizing the assets of drug dealers and others who engage in the most disgraceful behaviour or of people who are making a living off illegal activities.

The first provision that was of some interest to me was on page 19, clause 10—Application of the Act, which says that the act applies to property within the state and outside the state. Would the Attorney, when he responds, tell me how a prosecutor in South Australia will have access to, or what legal steps need to be taken about, property which may be interstate or overseas? There was a list—I think it was in this week's *Sunday Mail*—of tax havens and of a large number of small companies that encouraged people to invest money there (I suggest a considerable amount of which may be ill-gotten). Will prosecutors in South Australia have access to that or be able to track that down (we know the difficulties that the prosecutor had in endeavouring to track down the ill-gotten gains of one Christopher Skase)? I think the Attorney needs to explain that to us in some detail.

The next clause I had some interest in related to the rank of officers who were able to apply for these orders. I take it that it would need to be a person of commissioned rank, someone who has a fair bit of experience in relation to these particular forfeiture orders, because it says:

> . . . if no evidence is given that tends to show that the property was not used in, or in connection with, the commission of the offence—the court must presume that the property was used in, or in connection with, the commission of the offence;

That is a pretty unique clause.

The Hon. M.J. Atkinson: It is not unique: it has been enacted in other states.

The Hon. G.M. GUNN: But we only have responsibility for South Australia, and we have been asked to create the laws in South Australia, and I am posing the question because it is my view that the role of members of parliament is to question the executive. I know it annoys ministers and the bureaucrats; however, if we do not question these provisions who is going to do it?

The Hon. M.J. Atkinson: It may be worthy of questioning, but it is not unique.

The Hon. G.M. GUNN: I think it is worthy of questioning because it appears to me to be all-encompassing, so I would like an explanation from the Attorney regarding why it is necessary, because if no evidence is given how can they assume or justify that an offence has been committed or that the property was used for improper purposes?

There are a couple of other provisions here that I have some concerns about, because I have given a great deal of thought to this particular measure. I spoke to a former police officer who was involved in the Drug Squad and he told me that we should be cautious in relation to this matter. I tried to get hold of my friend Maree Shaw to seek her views on this

matter, and I think that would be interesting in relation to some of these particular applications. There are a couple of other clauses which I had marked out on the way through because what concerns me is where there are third parties involved. I know that there has been a considerable attempt made to deal with it but it concerns me that a spouse, for example, who may not be aware of some of the activities but who may jointly own the house (the only house they have to live in) is suddenly confronted with a situation where the government, through its agencies, wants to seize that particular property. What sort of assistance is available to that person to ensure that they do not suddenly lose the roof over their head?

It is important that these questions are dealt with prior to us passing this particular legislation. It is very well to say that it operates in other states but we have seen some rather unfortunate activities in other states. We saw a full member of parliament put in prison, namely one Pauline Hanson, on the most disgraceful court proceedings. I am no friend of Pauline Hanson, and I think that every member of parliament should have read what the Chief Judge of the Court of Appeal had to say. It is a salutary lesson for any person, because I took some trouble to go through it, and it is a salutary lesson to ensure that people have due process. It also reminds us of a couple of other things, and I recall the advice tendered by former chief justice, then attorney-general King, when he went into some detail to explain to this house why every person brought before the courts had a right to be properly represented. It is a fundamental principle and in the Hanson case I would say that the defence team was not adequate, and I think the judge indicated that.

Therefore, in a case of this nature it is terribly important that people have adequate representation. To do that, in many cases, they have got to have resources. So, if you seize the asset, you may restrict. I know that it has been stated on many occasions that people deliberately delay the process, and there is a provision here which indicates that they can take steps to prevent a lawyer from deliberately holding up the process. Well, I always thought that that would be at the discretion of the judge to tell them to get on with it. So, having been through this particular document, which has taken a considerable amount of my time, I realise that it operates in other parts of Australia, and probably other parts of the world, but there is a danger that you see in legislature: we are passing legislation, and restricting people's rights.

There is currently a tremendous controversy taking place in the United Kingdom, where the government wants to empower itself to hold people for a considerable amount of time without them having any right to be taken before the court or to legal representation. This has caused a tremendous hassle. I have been watching some of this on pay TV, and it would appear that members of parliament on both sides of the spectrum are far from happy with the views being expressed by the Home Secretary. I heard an interesting thing on the ABC radio news channel yesterday evening when I was driving down here.

The Hon. M.J. Atkinson: The Western Australian election was on the news.

The Hon. G.M. GUNN: That is an interesting thing which we will talk about at a later time. I would not want to be sidetracked by the Attorney-General.

The Hon. M.J. Atkinson: There was very good coverage of the Western Australian election on news radio.

The ACTING SPEAKER (Mr Koutsantonis): Order! The father of the house will be heard in silence.

The Hon. G.M. GUNN: Thank you; the Attorney is trying to bait me. It was interesting that this particular matter was being debated, and one of the points made was that the now Home Secretary and his predecessors had been young radicals who, in earlier days, had vigorously exercised the right which they were now endeavouring to take away from people.

The Hon. M.J. Atkinson: Jack Straw, David Blunkett and Charles Clark.

The Hon. G.M. GUNN: That is right. So, just to use that as an example, I think that we need to be a little cautious. It is not the role of parliament to empower bureaucrats and to make life easy for them. It is the role of parliament to strike a sensible balance, and to ensure that when an ordinary citizen is confronted by the government or its agencies they have a reasonable chance to defend themselves. They should not be intimidated, they should not be threatened, and they should not be placed in a situation where they have to prove their innocence. That should be the role of the prosecution: to prove that they are guilty. Otherwise, there are going to be difficulties, and in my time in parliament I have seen a few—I take the view very strongly—and I see it on a weekly basis. One of the things that I used to say to the former attorney-general, Trevor Griffin, was 'Come and spend a day in my electorate office and you may have a slightly different view of the world, and you will see some real issues and deal with real people, whereas sitting up on the sixth or seventh floor in a building—

The Hon. M.J. Atkinson: Eleventh.

The Hon. G.M. GUNN: Eleventh, is it? I only went there a couple of times and you had to go through a bunch of security. I used to say to him, 'People can walk in off the street to my electorate office and come and talk to me and my staff, and we endeavour to help them.'

The Hon. M.J. Atkinson: You would be better at self-defence than Trevor would be.

The Hon. G.M. GUNN: I probably would be, but I am normally a retiring sort of fellow. I hold these particular views strongly, and I look forward to the views of the member for Fisher on this particular matter. I do not know whether he is going to make a speech on it, but I look forward to it. I ask the Attorney to answer those questions, but enough concerns have been expressed, without in any way wanting to make life easy for these villains who are preying on innocent people and causing death and despair around the community by promoting and selling drugs. We should deal firmly with them but we want to make sure that innocent people are not caught up in a course of action in which they cannot adequately defend themselves. I support the bill.

The Hon. R.B. SUCH (Fisher): I will make a brief contribution. I support the general thrust of this bill, although I do share some of the concerns of the member for Stuart, and I believe other members, in regard to ensuring that there are adequate safeguards in a measure like this. Although none of us wants to see criminals flourish and benefit from the illegal activities we do, nevertheless, have to make sure that there are safeguards. I guess there is a parallel in terms of dealing with terrorists: that we do not go overboard in the sense of taking away, for example, the reasonable freedoms that people are supposed to enjoy in a democratic society. I understand that the opposition and the member for Mitchell have flagged some changes.

Without digressing too much from the substance of this bill, I applaud the fact that the government is being tough on

crime, particularly at the top end of crime. I would like to reflect the frustration that I believe is widespread in the community: that there is not enough toughness (or, however you want to express it) in terms of action, accountability, penalties and whatever, for the bottom and middle order of crime, that is, vandalism, theft and assaults. In a way, our community has become used to accepting theft, vandalism, assaults and so on. It has almost become anaesthetised to accept an ongoing and significant level of crime perpetrated by people in our community.

I am sure that all members here are well aware of their Neighbourhood Watch reports. Every week something is going on, and it does not seem to ever change. I know that I have raised this before, and I have raised it in sort of philosophical letters with the Attorney, and I do not pretend to have any instant answers, but the public, like myself, has a sense of annoyance at what we see as people being able to get off without any real consequence for their action. On Friday, I was listening to the ABC News and, maybe, they did an injustice to Judge Bishop, but they were reporting that someone who had been growing marijuana escaped a custodial sentence with the defence that the marijuana being grown—and this was for a repeat offence—was for cookies. To be fair to the judge, we have to look at all the sentencing remarks, and the Attorney often says that, but listening to the ABC report, it did sort of get the blood pressure up a little bit.

When I filled up with fuel that night, the chap working in the service station made the same sort of comment and said, 'Oh, the law is an ass; the system is a joke.' It is a widespread feeling in the community that there is not enough consequence for people now. As I said, in fairness to the judge, I would have to look at the context of his remarks, and so on, but for people to be trotting out that sort of nonsense that they are growing a marijuana crop for cookies and so on, the public is sick and tired of hearing that sort of thing. You get on any train in Adelaide—

The Hon. M.J. Atkinson: There is some support for that in England.

The Hon. R.B. SUCH: I think that in England they are a lot tougher in many respects than we are. I am not blaming the current government; it has happened over a period of time. I do not know whether or not it is a sign of age, but I am increasingly moving towards a tougher position on a lot of these things. If you get on any train in Adelaide, all of the windows are scratched and bus shelters are smashed. As I said, Neighbourhood Watch reports that things are stolen. It is like reading a script from a movie. Nothing changes. I think the bottom line is that our criminal justice system is not working; there is something wrong. I am not suggesting, and never have, cutting off people's hands and hanging people—I do not believe in the death penalty, anyway—but, the current incarceration does not seem to act as a deterrent because, from my observation—and that is going back a few years now—nothing meaningful happens in prison. People say, 'Well, look; they lose their liberty, and that is the punishment,' but there is very little effective work done in any of our prisons. There is very little effective learning for most of the prisoners.

I think that the onus is on the government: its first duty is to protect people and the community, their person and their property. It really needs to have a look at why our system does not work in the way that the community expects it to work. You can blame the media and say it does not report it fairly, accurately and so on, but when there is an ongoing and consistent feeling in the community that there is something wrong with our justice system, even if it is fuelled by drugs in a lot of cases, I do not see that as an excuse. I find it somewhat ironical that we get rid of the drunk's defence and now we seem to have a drug consumer's defence, and we seem to be more sympathetic to that than to the drunk's defence. I do not see either of them as the defence. I do not want to digress from the bill too much, but I just make the general point that the community is frustrated.

We do not want catch-cries about law and order. We want meaningful actions and the whole system delivering in terms of reasonable accountability, deterring other people from engaging in criminal activity, so that at the end of the day we can have a society which has a lot less crime than we do currently. A state like South Australia and a city like Adelaide should have very little crime because of our age profile. We know that as people get older they tend to engage in less criminal activity, for one reason or another. We have very few young people as a percentage of the population compared to other states, and yet consistently and frequently we hear reports of car-jackings, high-speed chases, ram-raiding and the whole caboodle that goes on in little old Adelaide at night when these people seem to come out.

I think the drug industry is absolutely rife in Adelaide in terms of people seeing it as a second income, or in many cases a first income. There are people who are affected by it in terms of their behaviour and their driving. I think we have a very serious problem in the state, and I suspect it is the misuse of drugs and the use of illicit drugs that is fuelling a lot of this low and middle level crime. That is not to say we should not deal seriously with murder, rape and so on, we should. This measure before us now which takes away assets is good, providing there are proper safeguards, but I would like to see some measures in place which deal with all those other levels of crime which I have been talking about—theft, vandalism, assaults and so on—and which seem to occur day in and day out in this state without proper treatment, accountability or adequate punishment.

I think we have reached a point where these things are so frequent now that people accept it as part and parcel of everyday life. My electorate does not; I do not; and I would like to see the government focus much more vigorously on this, and I will happily support measures which will bring about a decline in crime not only at the top end but at the middle and bottom end as well, because I think people are entitled and should be able to live peacefully and without the fear of themselves or their property being harmed in any way, shape or form. I support this bill, but I want to ensure that there are adequate safeguards in the bill, so I will be looking very closely at the amendments to be moved by the member for Mitchell and the indication from the opposition that it will ensure that there are adequate safeguards in the way in which this bill is finally drawn up.

Mr HANNA (Mitchell): I speak on behalf of the Greens in relation to the Criminal Assets Confiscation Bill. The Attorney-General will be pleased to note that the Greens support the bill. He will be even more pleased to know that we strongly object to aspects of it. The underlying principle that those who commit crimes should not profit from their criminal behaviour is one which everyone would accept. If someone robs a bank of $1 million and gets sent to prison for 10 years, it would be unjust, notwithstanding the prison term, that they should be able to keep the $1 million. Similarly, if they are engaged in an illegal business, perhaps selling guns on the black market as some people do, and they are appre-

hended for that criminal behaviour, they should not be allowed to profit from that criminal industry.

The underlying principle of the bill is fine. However, this bill goes too far. There are two particular issues which I will raise now and which I will raise again when we consider the legislation in more detail. Before I get on to that, I simply observe that we do have a very conservative Labor government, but the one area in which it does show a degree of radical thinking is in its extension of the powers of the state versus the powers of individual citizens. It is important to note that we are not talking about the rights of criminals, but the rights of innocent people who are caught up in some way with the police and the criminal justice system. It is not as if anyone has a bleeding heart for people who commit serious crimes, but the Greens and a number of other individuals and groups in our society still value very highly the rights of our citizens to be able to go about their business and be free from intervention by police or other authorities, so long as there is not any reasonable suspicion of criminal behaviour.

The two particular aspects of the bill which I suggest are unacceptable relate to the burden of proof. It is unacceptable that people who could not be found guilty in a court of law are subject to the confiscation of their property. There is no guarantee in this bill that the acquittal of a person means that they are safe from the clutches of the state. It is not good enough if we have a system which says that a person and their family, including their innocent dependants, can effectively be punished, even though there was not enough evidence brought to the court by the prosecutor to say that the person actually committed the crime. There may be the flimsiest of evidence which the prosecutor can take to court and, on that basis, there would be an acquittal because we have in our criminal courts a burden of proof which is known as beyond reasonable doubt.

If there is a reasonable doubt about a person's guilt, they should not be punished. Most of our society, if they thought about it, I suspect, would accept that basic principle. It is a principle which is being eroded by the current government—and not just in this legislation. I will be moving an amendment to try to turn back that particular erosion of people's rights. We believe that the criminal standard of proof, which is proof beyond reasonable doubt, should be applied before a person's property can be taken away under this legislation.

The second matter which is of grave concern is the ability to search without a warrant. The general principle as it operates under our law at the moment is that police need to get a warrant if they are going to search premises or a vehicle. Any watering down of this principle should be resisted. The point is that there should be some judicial oversight of police powers of search and seizure. On that basis on behalf of the Greens I will object completely to clause 179 of the bill, which deals particularly with stopping and searching vehicles. Again, I come back to the basic principle that if people are going about their business innocently they should be free from interference by police or other authorities.

Having made those remarks in support of civil liberties—or, as one might say, the rights of innocent citizens to go about their business without undue interference from the state—I will leave my comments there and come back to those issues when we consider the legislation in detail.

The Hon. P.L. WHITE (Minister for Transport): I thank members for their comments in debate on this very important bill.

Mr Williams: Words of wisdom.

The Hon. P.L. WHITE: I think many of them were wise, some of them less wise, but we will get to that in committee. The member for Stuart raised a number of issues which can be appropriately addressed at this stage. First, the point needs to be made that the act will attach itself to the person of the defendant, and the court will be given the power to make orders about property. The court can order forfeiture if all other criteria are satisfied. If the property is beyond physical reach, criminal law consequences can follow as well as the usual procedure for the enforcement of any civil judgment.

The member for Stuart raised another point. It is important to point out in response to him that the section to which he referred—if I have the right one—places the onus on the defendant to explain. I think that answers his question. If I am right, if the defendant fails, the consequences must follow. Again in response to the member for Stuart, we do try to help spouses with this legislation. I draw the attention of all members to section 50 which requires that the DPP give notice to anyone whom he reasonably believes may have an interest in the property, and there are a great many provisions requiring notice of that kind. I hope that answers some of the questions raised during the second reading phase of this bill. I thank members for their contribution, and I look forward to my handling of the committee stage of the bill.

Bill read a second time.

In committee.

Clauses 1 to 6 passed.

Clause 7.

Mr HANNA: I move:

Page 17, lines 36 and 37—
Delete paragraph (e)

By this amendment, I seek to take out the proposed new law that property can be confiscated even if no person has been convicted of the offence. There is a whole series of provisions in this legislation that deal with the confiscation of property on the civil standard of proof, that is, where the person whose property is taken probably is guilty, but not necessarily; there may be reasonable doubt about that person's guilt. As a test provision, I will put this amendment. If it is successful, I will proceed with numerous other amendments that deal with this onus of proof issue throughout the legislation. If I fail on this, it can be assumed that both the major parties will continue to oppose the provision. I will not be stupid about it, but I will test this provision, because it is a really important principle. This is a radical departure from existing principles.

I have already explained the essence of it. This is about preserving the rights of people who may well be completely innocent. These are people who may well have been to trial, the prosecution has brought forward all the evidence about the alleged commission of an offence and the judge or jury have said, 'No, not guilty', and yet the provisions of this bill allow that person's property and their family's property to be seized: in other words, there is at least a reasonable doubt about their guilt. In those circumstances, it is my submission that their property should be preserved, otherwise they are effectively being punished for a crime that they may well not have committed, and that is absolutely odious. The principle is straightforward, so I will put that amendment and test it.

The Hon. P.L. WHITE: The government opposes this amendment. The honourable member stated his position against the civil onus to forfeiture of property. It is no surprise, I think, that the government opposes this; in fact, at the last election the Labor Party was very clear on its policy in terms of these new laws. We guaranteed to the people of

South Australia that we would allow for the seizure of assets gained using the proceeds of crime, and in this bill we are setting out to do that. It contains new powers targeting the assets and profits of criminals. To agree to the honourable member's suggestion, which is against the civil onus to forfeiture of property, under those circumstances, would be against one of our fundamental planks and beliefs.

Mr RAU: I have a question with which perhaps both the mover of the amendment and the minister might want to assist me. It is my understanding that the legislation provides that, in effect, evidence which is before a court and which is tested in the normal way before a court but is found wanting from the point of view of the criminal onus is, nevertheless, considered by that same court to be sufficient, on the civil balance of probabilities, as having been obtained by virtue of criminal activity. So, we have, if you like, a formal legal process which has two elements running simultaneously, one of which, in the hypothetical raised by the member for Mitchell, fails—namely, the criminal onus—but one which succeeds—namely, the civil onus. Is my understanding of that correct, or is that a misunderstanding of the effect that the bill seeks to achieve?

Mr HANNA: Essentially, that is right. We can have a scenario where a person is prosecuted in one of our higher courts, the jury comes back with a verdict of not guilty and the jury is discharged. The prosecutor then applies for the seizure of the accused's assets, and they can proceed with that application and argue it on the civil standard of proof. Essentially, that is what the scheme is as proposed by the government. I think that is wrong.

The Hon. P.L. WHITE: My understanding is that the honourable member is essentially right except that they may not be simultaneous, that is, they may follow one upon the other.

Mr BRINDAL: I have been following this debate with some interest, and including, I think, the very intelligent amendment by the member for Mitchell. I heard the minister saying that this is part of the government's electoral promise. In respect of this bill, is the minister clearly stating to this parliament and therefore to the people of South Australia that the Labor Party has two sorts of justice system? The fact is that our law requires that for a criminal charge the charge be proved beyond reasonable doubt. There is a body of law about that. There is not a civil onus of proof in criminal offences.

But what the government is asking this parliament to approve and the people of South Australia to go along with, is that, despite someone being found innocent at a criminal level on a criminal charge, the state can then come in and confiscate their assets using a lesser onus of proof. If that is the sort of government that reckons it is tough on law and order and if that is what this government is promulgating as a measure of justice in this society, then the quicker I shift to Fiji, Thailand or maybe even Burma (somewhere that is somewhat at least more honest in their lack of public policy) the more pleased I will be. I strongly commend what the member for Mitchell is doing, and I cannot understand the minister's attitude to this when she is basically having two rules, and a rule that is not fair.

Mr RAU: Again, I would be more than happy for the minister or both the minister and the member for Mitchell to assist me with this question. As I understand it, at present an individual may be charged, for example, with a criminal offence of assault, be acquitted of that charge and nevertheless be then put through a civil trial in relation to the harm that person has suffered by virtue of what is alleged to be a civil wrong of an assault, and there is no present barrier for that to happen, and it does happen. I do not like picking on American examples, but it seems to me that the O.J. Simpson fiasco (reported as it was) was something along the lines where the defendant in the criminal proceedings was acquitted but was nonetheless put through a civil trial wherein, rather than having him imprisoned by the state, damages were sought.

If that is the situation that applies presently in South Australia, for example, with a matter such as a simple assault, I am having trouble understanding where the fundamental break in principle is to say that other forms of criminal activity which render a gain to a person involved in them may not be subject to a civil penalty in the same way as, for example, the victim of an assault might be able to secure a civil penalty for themselves. The only difference appears to be that, in the case of the assault, the person perpetrating the assault has not necessarily enriched themselves but they have nonetheless damaged the victim. If we are talking about a drug offence, for example, thousands of victims might be spread throughout South Australia. Might this not be seen more as a class action on behalf of the state to recover damages inflicted on many of its citizens unknown and unascertainable by the Crown?

Mr HANNA: The member for Enfield is right about his analysis of the current situation, but the important distinction to make between an unsuccessful prosecution for assault followed by an action in tort by the alleged victim is that here we are talking about the resources of the state being applied to a person who has been acquitted of a crime. If the prosecution and/or police were minded to see that someone was punished, regardless of acquittal in court on a criminal charge, they can do so through the mechanism provided by this legislation.

That is why it is a departure from principle. We still have a principle of double jeopardy: you cannot try a person twice on the same criminal charge. Maybe that is part of the government's reform package, but we have not got to that yet. For now, if you are put through the wringer in a criminal trial (where you have to use up your own funds to defend the matter), generally speaking, essentially you can be put through the wringer again by the state with its more or less limitless resources (at least compared to most private litigants) and have a punishment, in a sense, enforced upon you through the confiscation of your family home or other assets. That is the key distinction. There is every reason for a person, who says that they are a victim and who sadly watched a trial where their alleged aggressor was acquitted, to sue for compensation for them personally.

It is a different matter for the state to say, 'We've thrown everything at you in a criminal trial and you were found not guilty; we are now going to put you through that process again and use the same facts on a different standard of proof to effectively punish you.' That is the distinction.

Mr BRINDAL: Some time ago there was an attempt to prosecute a person well known to me, Stormy Summers, for keeping a brothel and a whole lot of other offences. The Attorney will know that that prosecution was spectacularly unsuccessful, as have been virtually all prosecutions in an area that the Police Commissioner described, I think, as 'antiquated law that simply does not work.' This house has not been minded to pass any new law on the issue of prostitution or prostitution reform despite requests from the Police Commissioner and despite the Police Commissioner basically

refusing to have his officers police what is an unworkable law, and there have not been any successful prosecutions for a long time.

The Hon. M.J. Atkinson: Not quite true.

Mr BRINDAL: The Attorney can correct me in a minute. As I read this law, this will allow the Attorney to bring in the charge, have the charge dismissed and then, with a much lesser standard of proof, confiscate somebody's assets. I put to the Attorney again that that is not only unjust, not in accordance with the law as it has worked for a long while, but is also immoral. If the Attorney can catch one of the citizens of this state breaking the criminal law, then the full measure of the law should be applied to them as we have developed that law over centuries. If the state fails, because its own laws are inadequate, to mount a successful prosecution, why should it be able to come in at second best and basically confiscate the profits?

In rounding off this question, I inform the house of the case of Crispin. This how the law works in South Australia. Mr Crispin was wrongfully accused of molesting his own children. His wife was told that either she abandon him or the welfare department, as it then was, would take away the children. Not believing her husband to be guilty, she stuck by her husband and lost custody of the children. When the matter came to court (and I refer the Attorney to the case of Crispin in our courts), the child under cross-examination said, 'I only said it because that's what the doctors and welfare people and that told me to say.' The judge's summing up was absolutely scathing.

He said that a great wrong had been done to this man and he did not know what could be done to repair the damage but that he hoped that those in authority would take notice. Take notice they did. The welfare department debriefed the children subsequently, and consequent to that, about two or three weeks later came and took away the last child from the Crispins. The Crispins have not seen any of their kids for about 13 years because the act says that, when an officer of the welfare department forms a reasonable opinion that something is so, then it is so. Here we had a case that went to court, where the judge apologised to the man concerned and where all the charges were dismissed, presumably because he was innocent, but the subsequent action of the state of South Australia was not only to not reinstate his children but to deprive him of his third child.

That is exactly the sort of standard we are setting in this case. I have a lot of time for the Attorney-General as a human being, but if he can sit there and say that this is anything other than a smart political trick; if he really believes in this, I am absolutely surprised. I do not know how this Attorney is sitting in this place trying to pass off this hypocritical rubbish as acceptable law to be passed by the parliament of South Australia.

The Hon. M.J. Atkinson interjecting:

Mr BRINDAL: The Attorney says that it is my party's policy. If it is my party's policy, then it is policy I do not agree with. I do not care whether the member for Mitchell and I sit on that side of the benches on our own. It would not be the first time I have seen 45 people being wrong and the member for Mitchell and I being the only two in this place who are right.

Mr RAU: Just a quick question of the Attorney. Is the class of matter to which the civil onus might apply any criminal activity at all? If it is a serious offence, as I understand it, is it not really a case of our legislating something along the lines of what I might call the Playtex principle: that where there is no visible means of support you seek to gouge a little bit back for the public instead of leaving it in the hands of the miscreant?

The Hon. M.J. ATKINSON: I gather that the member for Unley was saying not so long ago in this debate that, if this kind of proposal becomes law in South Australia, if he wanted to enjoy his usual measure of liberty it would be necessary for him to live in Burma.

Mr Brindal: I actually said that at least the lack of respect for the law is transparent there: they are honest about their corruption.

The Hon. M.J. ATKINSON: It is good to see the member for Unley working himself up to the necessary pitch of indignation—

Mr Brindal: Lather!

The Hon. M.J. ATKINSON: Lather, he interjects—so that he can do the task that the parliamentary Liberal Party has allocated to him of sitting alone with the member for Mitchell on one side of the chamber so that the member for Mitchell's division does not fail for want of a second MP supporting it. So I thank the member for Unley for the unenviable vocation he has of supporting the member for Mitchell in these quixotic amendments.

The law we are proposing is already the law in every other state. We are the last state to bring in this proposition and in some of the states it was brought in by the same Liberal Party of which the member for Unley is a member: indeed, a more draconian form of it was brought in by the Court government in Western Australia. In those states where it was brought in by Labor governments, my understanding is that it was supported by the Liberal Party.

Mr Williams: As it is here.

The Hon. M.J. ATKINSON: The member for MacKillop interjects, 'Is this it?'

Mr Williams: No; I said, 'As it is.'

The Hon. M.J. ATKINSON: It is the very text, it is the commonwealth's law that we are bringing in here in South Australia—the member for MacKillop is correct. Moreover, this proposal was recommended by the Australian Law Reform Commission, not noted for its disdain of civil liberties.

To deal with the member for Unley's specific question, I refer him to the definition of 'serious offence' in clause 3, which means that this bill applies to an indictable offence, a serious drug offence, and then there is a list of other offences, one of which is section 28(1)(a) of the Summary Offences Act, that is, the offence of keeping or managing a brothel, which is not often prosecuted these days. The offence used by the police to try to combat brothel prostitution is the offence of being on premises frequented by reputed thieves and prostitutes, not the offence to which this law applies. The reason for including this offence is that the offence is listed in the current act and in the Criminal Law (Undercover Operations) Act 1995. I hope that also answers the member for Enfield's query.

Mr BRINDAL: Since we are so busy copying the commonwealth and every other state, it strikes me as a bit of an anomaly that the Attorney is putting up as an example every other state and that this is a commonwealth template, and then he says that we will be able to catch miscreants in the prostitution industry. I point out to the committee that every other state in the commonwealth has changed the law related to prostitution: this is the only state, by and large, where there is stupid, antiquated and draconian law—

The Hon. M.J. Atkinson: By and large or specifically?

Mr BRINDAL: Quite specifically. There are different regimes in other states but all of them are more liberal than the regime in this state and all of them allow—

The Hon. M.J. Atkinson: I think our regime is pretty liberal since there are hardly any prosecutions.

Mr BRINDAL: Our regime is pretty liberal since, in fact, the Police Commissioner has refused to police it. That is why it is fairly liberal.

The Hon. M.J. Atkinson: What more can you ask for?

Mr BRINDAL: Well, when we get another police commissioner of the ilk of the last one who had, perhaps, a different moral stance in his own personal life and he decided it was a personal crusade to go and do that. The law of this state still stands—

The Hon. M.J. Atkinson: Don't you read the paper? Mal is up for another five years.

Mr BRINDAL: He may be. Sir, the Attorney interjects as if it is some virtue that the Police Commissioner is up for another five years. So what?

The Hon. M.J. Atkinson: Will you still be here in another five years' time?

Mr BRINDAL: No, but I do care that what we do leaves a lasting legacy that does not rely on having a decent police commissioner but rather on having a decent set of laws for the next commissioner—who, I hope, is equally as good—to actually enforce. I make the point that having used every other state as an example, and having used the commonwealth template as an example, it is a bit rum when he turns around and points to the only area where this state is lagging behind the rest of the commonwealth in terms of social reform and tries to excuse himself on the one hand for copying the other states and on the other for not copying the other states in this area. In places other than this it would be called hypocrisy; it cannot be in this place because that would be unparliamentary.

The Hon. M.J. ATKINSON: Clearly, the member for Unley is not interested in debating criminal assets confiscation: he wants to change the subject to something on which he is an authority.

Mr Brindal: You raised it.

The Hon. M.J. ATKINSON: With respect, Mr Chairman, the member for Unley raised the question of brothels and I answered him. It is all very well for him to try to change the subject but he seems to indulge in a reverie that his views are progressive views, in the van of history and part of the locomotive of history by dint of their being his views. I can assure the member that the question of what is a progressive law on the question of prostitution is conjectural.

Amendment negatived; clause passed.

Clauses 8 to 178 passed.

Clause 179.

Mr HANNA: This clause is opposed. This is a provision for stopping and searching vehicles, in particular. The position I am coming from is that anything which waters down a requirement for judicial scrutiny, including the obtaining of warrants, should be resisted. Again, we are talking not about the protection of criminal people but innocent people who may or may not subsequently be charged with a crime.

Clause passed.

Remaining clauses (180 to 230), schedule and title passed.

Bill read a third time and passed.

PARLIAMENTARY SUPERANNUATION (SCHEME FOR NEW MEMBERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February. Page 1603.)

Mr BRINDAL (Unley): I only wish to contribute briefly to this debate, and it is basically to inform the house that I am concerned that this bill should be presented to this house. I realise why; I realise fully the history.

The Hon. M.J. Atkinson: You can blame Latham.

Mr BRINDAL: The Attorney says we can blame Mark Latham, and perhaps we can. My contribution is simply this: I happen to be one of the members in here who is under what is euphemistically called the old scheme, and I am one of those members about whom the press say we have an unnecessarily generous scheme. I was working it out, and I am a contemporary to the day with the member for Spence, the Attorney-General, a number of others, and yourself, sir—you entered this parliament on the same day as me. We were compelled on joining this parliament to pay 11 per cent of our salary and our higher officer's salary in superannuation contribution. It is standard throughout this country that when an employee makes a contribution the employer is generally expected to match the contribution.

Our scheme matures at 20 years, as you know. By my rough calculation, if we had paid in 11 per cent of our gross per year for 20 years, and if the employer had invested 11 per cent along with us for 20 years, and if that fund had been well-managed—and it should have been, with money doubling itself every seven years quite easily—at retirement there would be an expectation that that fund would be holding something over 800 per cent of our salary, or eight years' full salary. That invested at 10 per cent a year, which my friends like the member for Light, who is an economist, tell me is not an unreasonable expectation, would yield a return of about 75 per cent of salary per year for life, and would also have a margin in it for administration. I am not blaming this government. It is a fact that all governments since I have been a member of the scheme and before did not contribute to the scheme. I believe that when we were in government we made an effort to start to catch up and pay into the scheme but it was rather laterally.

The point that I make to this house is that the so-called generous scheme was not so generous, and was probably a realistic scheme with realistic benefits had the government not been penny pinching. Had the government of the day invested in the scheme like it obliges every other employer to do, we would be entitled to our benefits and it would be costing the public of South Australia nothing. But previous governments did exactly that and contributed nothing. They waited until members retired and then said, 'Woops! We've got to now put our hand in the public purse,' having taken our money and invested it for all those years, then finding that they did not have enough money to pay out the benefit and having to make up the revenue from general revenue. You have the media and, I suspect, certain public servants barking and saying, 'Well, we can no longer afford the scheme.' I stand on my feet to say that we can no longer afford that scheme because we funded it the wrong way in the beginning, and it was not a generous scheme; it was a reasonable scheme giving reasonable return on the money that should have been invested.

The Hon. K.O. Foley interjecting:

Mr BRINDAL: The Treasurer can laugh, but I might not be long in this place, so I can tell the truth. I sat here along with the rest of us and voted for some members of this house to have a scheme less generous than the one I am in, and it never really sat well with me, and it still doesn't. So I am not minded to come in here and have us all vote for a third scheme where everybody here is on Tier 1 or 2, and we dud the next crop of politicians right fair in the eye before they get elected. I am not going to vote for that, for one reason. I should not have voted for it last time, and I regret that. I will not vote for it this time because I think it is unfair and it is just playing to populist politics. But I additionally will not vote for it because of what the Treasurer said: everybody in this place knows that I could lose my preselection.

How unfair would it be of me to vote for a scheme for the person who might take my job that pays a fraction of the benefit that I am going to retire on. No decent person could sit here and cast a vote that meant that when their worst enemy defeats them in a ballot that worst enemy should come here and get a fraction of what I am earning. So I find myself in this most unfortunate position that, no matter what happens, I will not be able to support this. I could not, in any conscience, vote for something that is going to dud one of my opponents, if they were successful, in the eye.

Mr HAMILTON-SMITH (Waite): I will make a brief contribution to this bill which I do not think addresses the real problem. The real problem is how we, as parliaments around the country, attract the right calibre and quantum of highly talented people into our parliaments to govern the country forward. The real issue is: are we going to get the best available to come forward and be members of parliament? That is one of the great challenges that our democracy faces at present. I have a very sincere concern that the disincentives for becoming an MP are becoming so great now that, as the years go by, I think that the quality of people coming forward is going to diminish, and this bill is going to give that process a considerable degree of help.

I am interested that this parliamentary superannuation concept was introduced by Ben Chifley in 1948. I do not think that anyone could say that Chifley was a profligate waster of public funding; in fact, quite the reverse. It recognised that there were some underlying issues of service as a member of parliament that needed recognition, and that MPs should be in a position to retire with some grace. Whether one does that, as was conceived by Chifley, in the form of a modest remuneration, but perhaps more generous than most superannuation, or whether one addresses the core issue of the total package is, perhaps, irrelevant. The issue is really that the community—and I think it is a problem for the community, not for MPs or the parliaments—needs to ask itself: is it an appropriate remuneration package to encourage into parliaments from the professions, from business, from the senior ranks of the public service and from academia the right calibre and quantity of terrific people to lead the country forward?

At present the superannuation package provides some offset to a fairly modest remuneration package. This bill will remove that. I think there is a 40 per cent reduction in the overall package, or thereabouts. If that was proposed in any other industrial forum it would be thrown out of court without question. There would be no argument that, if you reduce a total remuneration package by 40 per cent, there should not be some compensation or adjustment elsewhere. That is not going to happen in this case, and I understand the reasons why. I will be supporting the bill because the reality of life is that there are people out there who want MPs for a dollar a year, and any amount is too much. It is simply an unwinnable argument. This is why Latham raised it, this is why Howard conceded, and this is why we are here today passing this bill which I think will do the nation no great service. In fact, if anything, it will be a further disincentive to have people come into the place.

In preparing for this bill and in looking at its content, I noted with interest that the number of public servants alone in the state in 2003 earning in excess of $100 000 (which is around the state MP remuneration level) was 744. I see that, in 2004, that figure is approaching 1 000 people—it is 946. Some are earning as much as over $400 000. But in the $100 000 to the $109 000 bracket alone there are nearly 350 people: school principals, a range of public servants—some not in very senior posts, all on the same superannuation package that this measure will introduce for MPs. That is very fair and reasonable, but I simply ask: what incentive is there for any of these people to give up their present job with its leave, long service leave, sick benefits, and a range of other benefits, to simply go backwards to a scheme which is no better than what they have? In fact, it would result (in nearly 1 000 cases) in a massive reduction of income without any of the benefits they presently enjoy—no tenure, etc.

It is simply unconvincing. I think it will lead to a situation where either we will have the very wealthy and the very powerful coming into politics simply because it is the last domain, their last frontier, some would argue your Malcolm Turnbulls, people who by all means will make a great contribution but for whom it is the last unproven challenge; or, alternatively, very junior ranking people who will see it as a great opportunity and a step up. I am not bemoaning that. What is missing is the group in the middle. What is missing are people who have been successful in business, professions and other fields who simply will not be able to afford to come in. We all know the reasons for that. The media simply will not have a bar of it: politician bashing has become a national art form.

The ultimate irony is that we are debating a bill (as did our federal colleagues) which affects none of us. We are quite happy to ratchet down the conditions of service for those who follow us while we all frolic away with the present arrangements. I think there is a real irony and a certain sadness in that. If the measure had been proposed at a federal level to apply to all currently serving MPs, there would have been an uproar, as indeed there would have been in this parliament had it applied to current members. We would not even be standing here tonight debating it. We are quite happy to sink the boot into those who follow and provide a massive disincentive to their ever choosing this honourable vocation as a career choice—and it is an honourable vocation and one of the most important posts in the country.

I will be supporting the measure because the media and the clamour of public opinion will have nothing less. It is simply going to go through, but I say the real issue is: how do we attract the best people into the parliament? This is a massive step backwards. If we can find a solution, if we can come up with a formula that ensures that the best people available in the country step forward to lead it in its parliaments in these days when there are so many choices available, then I think we will have made a step forward. What we are taking is a step backwards. We are addressing one part of the issue without looking at it in its entirety.

The Hon. K.O. FOLEY (Treasurer): I move:

That the sitting of the house be extended beyond 6 p.m.

Motion carried.

The Hon. K.O. FOLEY (Treasurer): I have listened carefully to all contributions tonight. I do not disagree with many of the comments made by the member for Waite. However, I dissociate myself from anything the member for Unley said. I do not necessarily agree with his opinion as to the generosity or otherwise of the state parliamentary—

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: Sorry, I should not do that. Name me; send me home even earlier. This legislation should be supported by this house. I am confident it will be and we will manage the fallout from these decisions going forward.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. K.O. FOLEY: I move:

Page 4, line 8—Delete 'Section 46' and substitute:
Section 47

The Hon. I.F. EVANS: For the benefit of the committee, would the minister mind explaining the minor technical amendment?

The Hon. K.O. FOLEY: As I have said before in this committee, if the honourable member aspires to be a finance minister in a future Liberal government he should not embarrass himself by having to ask such a question.

Amendment carried; clause as amended passed.

Clause 3 passed.

Clause 4.

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

Page 5, after line 5—Insert:
(6a) Section 5(1), definition of member—after 'receipt of salary' insert:
but does not include a non-participating member.

For the benefit of the committee, this is a minor technical amendment and for those of us involved in the finance area, when we read the amendments, we recognise instantly that these amendments seek to give the members of parliament who participate in the scheme a once only choice; that is, when a new member is elected to this place, they have a choice as to whether they join this scheme or another scheme. In true Liberal tradition, we give the new members of parliament a choice as to which scheme they belong to. That is the meaning and the intention of the opposition's amendment. I indicate to the chair that, if this minor technical amendment does not get up, then we do not need to proceed with my following amendments because they are consequential.

The Hon. K.O. FOLEY: The government opposes this amendment, which involves the issue of salary sacrifice. It is inconsistent with the commonwealth's choice of funds provision. The government has yet to make a decision as to whether or not we will have a choice of funds provision as it relates to the public service.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: No, they don't here in South Australia. We have not made that decision in respect of our superannuation funds.

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: I am not sure whether the federal government has provided choice in respect of its super funds. We are yet to make that decision. As I said, we oppose the amendment.

Amendment negatived; clause passed.

The Hon. K.O. FOLEY: I move:

Page 6—
Line 2—Delete 'and' and substitute ','.
Line 3—After 'the relevant.)' insert ', and the amount of any contribution that the member makes towards the cost of providing an allowance will benefit by way of salary sacrifice (as contemplated by section 6A(2) of that act)'.

Parliamentary counsel advises that, due to recent amendments to the Parliamentary Remuneration Act (which commenced on 9 December 2004), some of the clauses in the Parliamentary Superannuation (Scheme for New Members) Amendment Bill 2004 need to be amended to the extent of updating. There is no change to the policy proposal.

Amendments carried; clause as amended passed.

Clauses 5 to 47 passed.

New clause 47A.

The Hon. R.B. SUCH: I move:

Page 33, after line 20—Insert:
47A—Amendment of section 3—Interpretation
Section 3—After the definition of 'commonwealth basic salary' insert:
'PSA' means the Parliamentary Superannuation Act 1974; 'PSS 1' means the scheme of superannuation known as PSS 1 under the PSA; 'PSS 2' means the scheme of superannuation known as PSS 2 under the PSA; 'PSS 3' means the scheme of superannuation known as PSS 3 under the PSA; 'PSS 3 member' means a member of PSS 3;

I make the observation that we are cutting benefits to MPs with this measure. So, I trust that the small number of members in another place and the media who were critical of this chamber, alleging with undue haste that we passed a measure to provide extra benefits for MPs by way of a work vehicle, will note that we are taking away benefits at a rather rapid rate. So, I trust there will be a bit of consistency from at least a couple of honourable members in another place.

Reference has been made to the current schemes. People should be aware that the current scheme (PSS 1) is not quite as generous as some people think in the sense that if a member dies their contributions do not go to their estate; there is a pension payable to a surviving partner or spouse. If someone chooses to serve in the parliament for a long time close to when the Grim Reaper comes along, they get very little (if nothing) out of their superannuation fund. They cannot take it all in cash. The figures that I have seen recently indicate that the average surviving spouse of a former member of the current so-called old scheme (PSS 1) is on $30 000 a year, and the average MP under that old scheme is on $50 000 a year. Those are the figures that I have seen, I believe, in the Auditor-General's Report. They are rounded off, but of that order. People are saying that PSS 2 was a cutback compared to PSS 1. The reality is that people can take that scheme totally in cash, as I understand it, and the estate can collect all of that money. So, in actual fact, the assertion that the old scheme was far and away more generous and better than the scheme that replaced it (PSS 2) is not quite correct.

My amendment simply says that it is unfair to take away benefits from members for the reasons that have been outlined by numerous members of this house. The member for Waite and others have made similar points, and I certainly did in my second reading speech. We are taking away benefits from members. If you did that in any other occupation in the way that we are doing it here there would be

industrial action, there would be an outcry, but we are into flogging ourselves for some bizarre reason. My amendment says that, where you take away the benefits—as we are quite clearly under the new scheme (PSS 3)—the remuneration tribunal may in its discretion determine to promote equity and, in effect, allow those members who are in the new scheme (PSS 3 members) to get some consideration in terms of other entitlements.

I remind members (and we need not go through it all again) that MPs do not receive the same benefits that senior executives receive in the public service in respect of annual leave, sick leave, long service leave, leave loading and all those things. We can argue the merits of whether anyone should receive all or less or more of them. But the reality is that MPs do not receive them, and we are going to make the incoming members of parliament the sacrificial lambs and take away benefits. What I am saying with my amendment is that the Remuneration Tribunal should be able to determine that they may receive some offset to take into account the fact that they are being denied what under other circumstances would have been their normal entitlement.

I indicate that my amendments Nos 2, 3 and 4 are consequential, so if No. 1 does not succeed the others fall by the wayside—as will probably happen to the new members who will be in scheme three. I have just written to the presiding officer of the federal Remuneration Tribunal (and it is somewhat unclear whether one has the right to do that, which I find rather strange in a democracy), pointing out the very principle that I am enunciating here; that when it comes time to adjust the pay of federal MPs (who are normally linked to senior executives in the Public Service), that tribunal might take on board the fact that the new federal MPs, along with all the state and territory MPs, will lose an entitlement and therefore, in fairness, that tribunal should take that into account. I do not mind whether the President rules me out of order. It would be unfortunate if he or she does. I am just trying to achieve fairness for people who will come after us. On that basis, and with that intention, as part of a general argument for equity, I move the amendment standing in my name and I ask members to support it.

The ACTING CHAIRMAN (Mr Brindal): Does the government accept the amendments?

The Hon. K.O. FOLEY: No, sir, we will oppose them.

New clause negatived.

The ACTING CHAIRMAN: The member for Fisher indicated that 47B and the subsequent amendment to clause 48, being consequential on the first, will lapse. Is that correct?

The Hon. R.B. SUCH: Yes.

Clause 48.

The Hon. K.O. FOLEY: I move:

Page 34—
Line 15—After '4A' insert:
or 6A(2)
Line 37—After '4A' insert:
or 6A(2)

The Hon. I.F. EVANS: Is this a minor technical amendment?

The Hon. K.O. FOLEY: Yes, it is.

Amendments carried; clause as amended passed.

New clause 49.

The Hon. K.O. FOLEY: I move:

Page 35, after line 11—Insert new clause as follows:
49—Amendment of section 6A—Ability to provide other allowances and benefits
Section 6A(3)—delete subsection (3)

New clause inserted.

Schedule passed.

Long title.

The Hon. K.O. FOLEY: I move:

Long title—Delete 'a related amendment' and substitute:
related amendments

This is a consequential amendment.

Amendment carried; long title as amended passed.

Bill reported with amendments.

Bill read a third time and passed.

ADJOURNMENT

At 6.15 p.m. the house adjourned until Tuesday 1 March at 2 p.m.