LEGISLATIVE COUNCIL

Wednesday 18 February 1987

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

ABORIGINAL POLICE VEHICLES

The Hon. M.B. CAMERON: I seek leave to make a statement prior to asking the Attorney-General a question about police vehicles in Aboriginal settlements.

Leave granted.

The Hon. M.B. CAMERON: Members will be aware that in January this year it was reported that a scheme involving Aboriginal police aids was being used to combat not only normal problems in the community but also the problems of petrol sniffing in remote South Australian Aboriginal communities. The scheme involved a chosen Aboriginal from each of four communities travelling to Adelaide to attend a training course with the Police Department and then returning to police his particular area, at this stage assisted by another fully trained policeman. These aids have been responsible for a substantial initial drop in the number of petrol sniffers in these communities and the scheme, although in its infancy, appears to be a success at this stage.

I understand that a verbal agreement was made between the communities and the Police Project Team prior to launching of the scheme that the communities would be expected to provide funding for police aid vehicles. These vehicles are absolutely essential for police aid work. In fact, it would be almost impossible for the police aids to do the job without them. The Aboriginal communities approached the Commonwealth for funding for the vehicles at that time, but were refused. The Police Department was therefore forced to provide them with vehicles on a temporary basis so that the scheme could get off the ground. I understand that the vehicle situation is to be reviewed in October.

If the decision in October is to withdraw the vehicles, and if no other arrangements have been made, the scheme will not function. To compensate, police from outside would need to be flown in from time to time when there are problems and people who should be held at police stations will not be put under proper restraint because such police stations do not exist in many of the Aboriginal communities. In many cases it is very important that the offenders be taken out of the particular situation. All this adds up to far greater expenditure than the cost of four vehicles. It would mean flying people in and out. Further, the nearest police station to some of the communities is more than 400 kilometres away.

I believe that the State Government should not opt out of its responsibility to police these communities. As an example I cite my own small home town which has a population of about 350. It has a police station, and a policeman, who has a police house and a police car. I remind the Minister that it is all brand new. It is probably only 20 minutes from the community to the nearest police station. There are many situations similar to that one.

The Hon. J.R. Cornwall interjecting:

The Hon. M.B. CAMERON: Well, that is good. The Government should accept that the Aboriginal communities are a normal part of our society and that they should receive the same facilities (and in some cases, because of the remoteness of the communities, perhaps better facilities) as do towns in the rest of South Australia.

No other town in this State is expected to provide funds for police vehicles. In other areas of similar size police officers, vehicles and office accommodation are provided as a matter of course. The fact that the communities are expected to find funding for their own vehicles could be viewed as a case of racial discrimination against these people. First, will the Attorney-General say why the Aboriginal communities are expected to provide funding for their own vehicles when this expectation does not apply to any other town in this State; and, secondly, will he take steps through the Government to ensure that Aboriginal communities are supplied with vehicles for police aids on a permanent basis?

The Hon. C.J. SUMNER: I am pleased to see that the honourable member has acknowledged the success of the police aid scheme. As the honourable member knows, as a result of the passage of legislation through this Council with his support, one explanation for this occurrence may well be that these lands are private. That does not mean that the facilities are not provided, because obviously there is a Government presence in those lands in a number of areas. I will ascertain answers to the honourable member's questions and bring back replies.

BANKRUPTCIES

The Hon. L.H. DAVIS: I seek leave to make a short explanation before asking the Attorney-General, representing the Treasurer, a question about bankruptcies.

Leave granted.

The Hon. L.H. DAVIS: Bankruptcies in South Australia skyrocketed from 748 in 1985 to 1 167 in 1986, which is an increase of 56 per cent. In the last six months of 1986 the increase was an alarming 61.1 per cent, which was an increase from 401 in the last half of 1985 to 646. The recently released figure for January is 101, which is more than double the January figure of just two years ago. For the past 10 months up to and including January 1987, each month's bankruptcy figure has been a record for that month. For these 10 months the month's figure has always been over 90, or at least three a day, whereas in 1985 the figure exceeded 80 in only one month.

The growth in bankruptcy figures has been greater in South Australia than in any other State. Although South Australia has only 8.5 per cent of Australia's population, for the last six months of 1986 South Australia had 18.3 per cent of the total bankruptcies in Australia. In fact, Victoria, with three times South Australia's population, had fewer bankruptcies—614 to 646—than South Australia in this six month period to the end of December 1985. I understand that about 30 per cent of bankruptcies relate to business failures and the balance relate to individuals.

I have been advised by accountants that high interest rates, Federal and State taxation including fringe benefit taxes and land taxes, as well as generally tight economic conditions in rural and urban areas, are the main factors accounting for this record level of bankruptcies. My questions to the Attorney-General are as follows: First, is the Government aware of this dramatic trend in bankruptcies in South Australia; and, secondly, what steps has the Government taken to remedy the situation?

The Hon. C.J. SUMNER: The honourable member has indicated that his discussions with the accountants apparently identified high interest rates as being one of the reasons for an increasing level of bankruptcies not just in South Australia but in Australia. He also mentioned the fringe benefits tax and State taxation. It is a little hard to see how State taxation could have contributed to more bankruptcies.

I would be most surprised if that were the case, given the taxation package which was introduced in 1985 by the State Government and which provided relief in a number of areas of State taxation, including relief in the land tax area. Indeed, in the last Budget, relief was provided in the land tax area. At the last election, progressive relief with respect to payroll tax for small businesses was promised and is proceeding; it was taken a step further in the last Budget. So, with respect to taxation on small business in this State, I say categorically that State taxes are not contributing to the problems that the honourable member raised.

I do not want to go into a debate in this Chamber about interest rate policy. I am sure that the honourable member is as aware as I am of the economic situation facing Australia as a result of the current account deficit and that most of the Federal Government's strategies are designed to cope with that difficulty. One aspect of that is interest rates, which are higher than one would wish.

It might also be worth noting that the various solutions offered by the factions in the coalition in Canberra (assuming that it still exists) also seem to be directed to the economic problems arising out of the current account deficit, which I am sure—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am surprised that my quite innocuous comment should provoke such a spirited reaction from members opposite. I was merely concerned to point out that the various propositions being put forward by the different factions in the coalition in Canberra are also directed to dealing with the current account deficit. It is true that they have or seem to have quite radically different ways of dealing with the matter.

The Hon. C.M. Hill: Who are you going to vote for in the preselection?

The Hon. C.J. SUMNER: I don't have a vote in the preselection.

The Hon. L.H. Davis: Don't you?

The Hon. C.J. SUMNER: No, I am not a delegate.

An honourable member interjecting:

The Hon. C.J. SUMNER: No, I am like you in the Liberal Party.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member is a wet in the Liberal Party. He is described in the Liberal Party as a wet.

The PRESIDENT: Order! Look, I call the Council to order.

The Hon. C.J. SUMNER: He got wiped out at the last Liberal Party conference—he and Michael Wilson and his lot.

An honourable member interjecting:

The Hon. C.J. SUMNER: Yes, your crowd was wiped out.

The Hon. L.H. Davis: I didn't get wiped out.

The Hon. C.J. SUMNER: Yes, the wets got wiped out. You know that as well as I do. You ended up with Bruce McDonald as the Deputy Chairman of the Liberal Party.

The Hon. L.H. Davis: Answer the question.

The Hon. C.J. SUMNER: I am quite happy to be taken down all these different tracks, with your indulgence, Ms President. If honourable members want to interject, I will do my best to answer the interjections as I have always tried to do in the past.

Members interjecting:

The PRESIDENT: Order! I have tried several times in the past to suggest that the various interjections are not only out of order but totally irrelevant to the question or to the answer that was being provided to the question. Perhaps we could return to the topic of the question.

The Hon. C.J. SUMNER: In any event, the State Government has given considerable relief in the State taxation area and, therefore, I do not believe that State taxation has contributed to the increase in bankruptcies, which the honourable member has identified and which is occurring to some extent in South Australia and the other States of Australia. I will not repeat the Government initiatives in the small business area: they are quite well known. Indeed, as members know, the Government established a Small Business Corporation which I believe has been of substantial assistance to small business in this State and has assisted many individual businesses to overcome some of the problems that they are facing in the current difficult economic situation.

MAGISTRATES COURT DELAYS

The Hon. K.T. GRIFFIN: I seek leave to make a statement prior to asking the Attorney-General a question about bottlenecks in the magistrates courts.

Leave granted.

The Hon. K.T. GRIFFIN: I have been informed that there are continuing bottlenecks in the magistrates courts in dealing with criminal matters which it has been suggested could be relieved by greater flexibility on the part of the Department of Correctional Services and longer hours of sitting by those courts. In September last year the delay was 14 weeks for one day trials and 24 weeks for two day trials.

On 7 February the committal proceedings relating to the murder of Treacy Mathewson were adjourned until 26 March after only two days of hearing because no earlier time could be found. If the accused had not been in custody, the time would not have been fixed until some time in July for reviewing the committal proceedings. Apparently in that case the magistrate was sitting at 10.15 a.m. and finishing at 4.15 p.m. He could not start earlier because the accused could not be brought from the new Remand Centre any earlier and the court could not go beyond 4.15 p.m. because the accused had to be taken back to the Remand Centre by 4.30 p.m.

I understand there are two pick-ups of prisoners each day. If the prisoners are not picked up for court in the morning, the next is at 2.15 p.m., which means that prisoners get to the outlying courts such as Holden Hill about 3 p.m.

In the first week of February there was a problem getting a prisoner to Holden Hill court; he should have been there by 10 a.m. but for some reason he missed the morning pick-up of prisoners from the Remand Centre, and did not get there until 3 p.m., which obviously wasted a considerable amount of time. In many other instances I understand there have been difficulties in getting prisoners to courts on time.

I am also told that at Adelaide magistrates courts no trials start in the afternoon, partly because of the time constraints in getting prisoners there and returning them to the Remand Centre by the 4.30 p.m. deadline and partly because there is only a morning call-over by the magistrates to sort out what is happening with the lists. Yet most trials take only a few hours and could be finalised in an afternoon if there was greater flexibility in the availability of prisoners.

Lawyers are even having trouble getting to see their clients in the Remand Centre which on occasions means further delays in the legal system. I am told they can see their clients only between 8.30 a.m. and 10.30 a.m. on weekday

mornings when prisoners have a recreational session in the afternoon, and 12.45 p.m. to 4.30 p.m. when those recreational sessions are in the morning. The only weekend access by lawyers to clients now is Saturday morning.

If there could be better access by lawyers to prisoners, less rigid times at the Remand Centre when prisoners could be available in court for more time, longer sitting times in the magistrates courts and trials starting in the afternoons, that would go a long way towards relieving the severe congestion in those courts, mean less inconvenience to witnesses who frequently are required to attend at court on a number of occasions before they finally give evidence, and reduce the large costs associated with numerous attendances at court. My questions are as follows:

1. Will the Attorney-General ensure that the prison system does not dictate to the magistrates courts when prisoners are available for hearings, that there will be a greater level of flexibility in the availability of prisoners in courts so that cases can be disposed of more quickly and efficiently, and that access time to prisoners by their lawyers is more flexible?

2. Will the Attorney-General endeavour to ensure that all impediments to longer sitting hours in the magistrates courts are removed and that the courts do sit longer to reduce the present congestion?

The Hon. C.J. SUMNER: I have been concerned, and still am concerned, about the court lists in the magistrates courts. However, the Government has taken a number of initiatives in the past few months to deal with court lists and it would be fair to say that the Supreme Court list is now in reasonable shape with respect to the civil and criminal jurisdictions as a result of the change in the jurisdictional limits of the Supreme Court.

With respect to the District Court, efforts have been made in the Planning Appeal Tribunal which have reduced the lists in that tribunal quite dramatically in recent times. Special assistance was provided to the Licensing Court to enable the lists to be reduced. In relation to pre-trial conferences, a magistrate has been appointed to the District Court to assist with the District Court civil lists and temporary assistance has been provided in the District Court to enable the criminal and civil lists to be reduced.

I am informed that at present the criminal lists in the District Court are again in reasonable shape and it is expected that the additional assistance provided by using the masters of the Supreme Court as acting judges in the District Court while continuing with the services of Mr Boehm, a former master, as an acting master in the Supreme Court, has meant that the additional resources in the District Court should lead to reductions in the lists there.

With regard to the Children's Court, Cabinet has just approved special temporary funding to enable a former magistrate, who is in fact about to resign, to continue in the Children's Court for a period of six months to deal with the lists in that court. Of course, that now leaves the Magistrates Court. In that respect the Government has announced that the procedures there will be reviewed, and that is proceeding. That may lead to some changes in operations and to legislation which governs that court. Obviously, that review will not be concluded for some time.

I note the matters raised by the honourable member in his question and I will refer them to my colleague, the Minister of Correctional Services, in so far as they relate to his portfolio. Certainly, if anything can be done to assist in the smooth running of the courts, either within the courts themselves or within correctional services, that will be examined.

I should say that, with the review that is going on in the magistrates courts and the attention that has been given to the lists in the other courts, I hope that it will be possible for the Magistrates Court lists to be reduced substantially over the coming 12 months. To some extent this will depend on resources, but it may also be that, if the District Court lists are reasonably up to date, resources from that court may be made available to assist the magistrates courts.

As a matter of practice, I have insisted that any new appointee to the District Court should undertake to sit in any jurisdiction where a District Court judge is required or, indeed, to sit in any jurisdiction for which a magistrate is required. I hope that, if the lists in that court are brought reasonably up to date, some additional assistance can then be given to the magistrates courts.

In any event, after this temporary period of assistance to the District Court and the Children's Court, if it becomes clear by the middle of this year that the magistrates court lists are still unacceptably long, I will take up the matter with the Treasurer to see whether temporary assistance can be provided in the magistrates court as well. I will examine the suggestions made by the honourable member and consult with my colleague about them.

The Hon. K.T. GRIFFIN: I ask by way of a supplementary question: in the light of the answer provided, will the Attorney-General obtain and provide to the Council details of the current waiting times pertaining to the various courts?

The Hon. C.J. SUMNER: Yes.

DUCK SHOOTING

The Hon. M.J. ELLIOTT: I seek leave of the Council to make a brief explanation before asking the Minister of Health, representing the Minister for Environment and Planning, questions relating to duck shooting.

Leave granted.

The Hon. M.J. ELLIOTT: A number of comments and observations have been made to me regarding duck shooting. Besides the obvious fact that this is a blood sport—and in itself that offends many people—I refer first to the decision of the Government this year to have two season openings: first, 14 February for waters more than 10 kilometres from the Murray River, and then 7 March for waters within 10 kilometres of the Murray River, and then yet another opening for Bool Lagoon, which will operate for two days on 11 March and 14 March. Further, there is very little overlap with the Eastern States season which opens on 14 March. So, in effect, what is happening is that duck shooters can take advantage of about four seasons in operation, if they care to get in their cars and drive from place to place.

The Hon. L.H. Davis: A bit like the Democrats in their preselection!

The Hon. M.J. ELLIOTT: Again, an inane remark. It really does seem that these dates fit in very well with those who are keen on shooting ducks but this does not take into account the ducks much at all. Another comment that has been made to me concerns the shooting of protected species. Studies have been undertaken in Victoria (I do not think South Australia ever has the ability to undertake such a study) which have shown that in one season one quarter of all the freckled ducks in that State were shot. In fact, on some waters as many as 60 per cent of them were shot. In many cases this was done quite by accident. Shooting can start half an hour before sunrise and continue for a half an hour after sunset. I honestly believe that most shooters do not know what they are shooting, other than having a vague idea that it is a duck as it goes overhead.

The freckled duck is one of the 10 rarest species of water fowl in the world. It is endangered, and I believe that the way things are going it has very little chance. Also, evidence has come from Victoria that some species of duck which moult quite late are, in fact, flightless or near enough to being flightless when the duck season opens—so they are simply blasted off the water. And this is called sport! Statistics from studies undertaken in Victoria show that for every 10 ducks shot dead on the spot something like two die later from incidental wounds. By 'incidental' I mean that when shooting into a flock of ducks a good shot will get the one aimed for and that any ducks in the vicinity will pick up the stray shot, often leading to a lingering death later on.

People suggest that duck shooting is culling, but anyone with any understanding of what culling really means would agree that that is nonsense. First, there is not an overabundance of ducks and, secondly, if one starts shooting healthy animals, of course the end result is a weakening of the species. In the wild, it is expected that the weaker animals will die, but when hunters are involved they will indiscriminately shoot healthy animals.

Lead shot has been gathering in Bool Lagoon, to the extent that now lead shot has been banned, and I am thankful that the Government has at least recognised that problem. Now, only steel shot is allowed to be used at that location. The Government spent a great deal of money establishing a colony of magpie geese at Bool Lagoon. The magpie goose had been wiped out in South Australia. They were reintroduced, but now the magpie geese are dying because of the lead concentration in the water.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: The magpie geese are not a pest at Bool Lagoon—that is just an ignorant statement from the honourable member opposite. My questions to the Minister are as follows:

1. Does the Minister foresee duck shooting coming to an end? If so, what part will he play?

2. What counts of protected species are made to determine the effects of accidental and/or indiscriminate shooting by duck shooters?

3. Why are there two major opening dates in South Australia rather than one, and further why did not at least one coincide with the Eastern States opening dates?

4. Why, when shooting dates for Bool Lagoon were allocated, were not the two season opening dates of 14 February and 7 March chosen, instead of 14 March and 11 April?

5. Are there other wetlands besides Bool Lagoon showing high lead levels?

6. Can the lead deposited in Bool Lagoon by duck shooters be practically removed?

7. If not, can its effects be countered in any way?

8. If some action can be taken, how much will it cost and how long will it take?

9. How much damage has been done by lead poisoning to the colony of magpie geese recently established by the Wildlife Service?

10. How much did it cost the Wildlife Service to establish the colony?

11. If it can be saved, how much will it cost to do so?

12. Is it true that the magpie geese are being allowed to die of lead poisoning so that they can be used to study lead poisoning?

13. Is the meat from birds at Bool Lagoon safe for human consumption?

14. Has the Government considered the long-term effects of lead shot pollution upon wildlife in this State and, consequent upon that, upon the State's tourist industry?

15. Does the Minister believe that duck shooting is culling?

The Hon. J.R. CORNWALL: I understand that Standing Orders are currently under review with a number of recommendations to be made in the near future. I hope that when that happens it will take account of the manner in which this issue has been raised. There are 15 questions and to ask that many without notice is an abuse of Standing Orders. Quite clearly there is enough flexibility under Standing Orders for matters of importance to be raised during Question Time without the necessity to ask numbered questions 1 to 15. I hope that the amendments to Standing Orders will take this sort of abuse into account. The matters that the Hon. Mr Elliott raises are obviously matters of public interest and public importance and I will be happy to refer all 15 questions to my colleague the Deputy Premier and bring back 15 replies.

Dr M. HEMMERLING

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to asking the Attorney-General a question on Dr Mal Hemmerling.

Leave granted.

The Hon. R.I. LUCAS: On 11 March 1986 the *Advertiser* carried the following report:

> Dr Hemmerling and Mr Barnard have formed their own company, Prix-Motions International which, in effect, is the company contracted to manage this year's Australian Grand Prix. The contract, for an undisclosed sum, is between Prix-Motions and the Grand Prix office, which is the statutory authority responsible to the South Australian Government.

Again on 21 March the *Advertiser* carried the following report:

> In particular it is believed the board will examine plans to grant a 'performance bonus' to the two men in the form of a percentage of overall Grand Prix sales . . . The Director of the Premier's Department, Mr Bruce Guerin, said any such contract would need to be approved by the Cabinet, and the Government had not yet received details.

I repeat that he said, 'Any such contract would need to be approved by the Cabinet.' The Attorney-General has provided me with the following information in reply to questions on notice: first, no company was formed to manage the Formula One Grand Prix; and, secondly, Dr Hemmerling now has a contract of employment with the Premier negotiated by the Grand Prix Board and Crown Law, providing for a salary of $75 000 per annum plus an expense allowance, and the contract will run to 31 December 1991.

On the basis of those answers that the Attorney-General has provided to me, it appears there have been major changes to Dr Hemmerling's original announcements and intentions made in March last year. My questions to the Attorney-General are as follows:

1. Did the Cabinet reject the proposal from Dr Hemmerling and Mr Barnard to form a company to manage the Australian Formula One Grand Prix and, if so, why?

2. Did the Cabinet reject any concept of a performance bonus to be paid to Dr Hemmerling and Mr Barnard and, if so, why?

3. Does Dr Hemmerling have any other arrangements with the Government or one of its agencies for other work resulting in extra remuneration to Dr Hemmerling and, if so, was it part of the contractual negotiations with Dr Hemmerling?

The Hon. C.J. SUMNER: The problem that arose was that the proposal, which was not firmed up as I understand it but was merely indicated by Dr Hemmerling as being a means whereby he could continue to be involved with the

Grand Prix whilst providing him and Mr Barnard with flexibility to do alternative work, was that it was considered inconsistent with the position of Executive Director of the Grand Prix. In other words, the Executive Director had to be completely responsible to the Grand Prix Board. There were difficulties in having a company, a director or manager of which could also operate as the Executive Director of the Grand Prix and be responsible to the board. If someone has a company and is a director of such, their responsibility is to that company under the provisions of the Companies Code.

It was therefore considered that there could be a conflict of interest if an individual was both general manager, shareholder or director of a company and also Executive Director of the Grand Prix. That problem was canvassed with Dr Hemmerling, his legal advisers, the Grand Prix Board's legal advisers and the Crown Solicitor during discussions. In the end the result is as I have outlined to the Parliament, the details of which were given yesterday in terms of salary.

That enabled Dr Hemmerling to continue and, in effect, to run the Grand Prix. The Government was concerned not to lose Dr Hemmerling's services because of the manner in which he had carried out his duties with respect to the first Grand Prix and obviously someone who had achieved that success would also have had an interest taken in them by other people organising such events in Australia or overseas. It was important that a reasonably remunerative contract be entered into between the Grand Prix Board and Dr Hemmerling.

In the event the arrangement was as I outlined to Parliament yesterday and that is the contract that has been entered into. The honourable member asked specific questions with respect to the answer I gave yesterday, in particular whether there is any other aspect to the contract. I will seek a reply and advise the honourable member.

CHILD MAINTENANCE PAYMENTS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Community Welfare a question about child maintenance payments.

Leave granted.

The Hon. DIANA LAIDLAW: A joint communique following the conference of social welfare Ministers in October last year in Darwin expressed 'enthusiastic support for the Federal Government's proposals to introduce a national child maintenance scheme'. Later in the same month, in response to Opposition questions during the Estimates Committees, the Minister noted:

> I would think that it is probably one of the best schemes devised in the world.

In October the scheme proposed that from 1 July 1987 non-custodial parents should compulsorily pay, through the taxation system according to a predetermined formula, for the support of their children upon separation or divorce. I note also that Federal and State Liberal Party members recognised the need for a new and enforceable child maintenance scheme. As the Minister's statements indicate from time to time, we also find deplorable the arrangements whereby up to 70 per cent of non-custodial parents (and in South Australia up to 30 per cent) avoid their responsibilities to their children.

In view of this background after having been contacted by a number of people I was highly alarmed to learn that several reports last week in the media said that the Federal Government proposed to water down this scheme which the Social Welfare Ministers so enthusiastically endorsed last October. Apparently, the Cabinet committee overseeing these reforms has decided to recommend deferring the introduction of a blanket legislative formula for maintenance and to water down a number of the central proposals.

First, is the Minister able to confirm the accuracy of these reports that the Federal Government aims to water down and to defer the implementation of the proposals put forward last October to establish a national child maintenance scheme; and, secondly, if these reports are correct, in view of the enthusiastic endorsement that the Minister and other Territory and State Ministers gave to the proposal last October, is he prepared to stress to the Federal Government that any delay in the introduction or any redesign of the scheme would simply perpetuate a situation where increasingly large numbers of children are forced to live below the poverty line?

The Hon. J.R. CORNWALL: At the Social Welfare Ministers Conference in October, to which the Hon. Ms Laidlaw refers, the Federal Minister for Social Security (Brian Howe) produced a comprehensive discussion paper which outlined, as the honourable member quite rightly said, a national child maintenance scheme or, as we prefer to call it, a child support program. It received enthusiastic support for a number of reasons; first, it was to be universal in its application; and, secondly, it was intended to stop the child starvers who simply go interstate and for two-thirds of whom in this country the payment of maintenance for children is an option. I do not think that any fair-minded person believes that payment of maintenance for children ought to be an option: there is a very clear obligation which must be met. The fairest and most effective and efficient way to do that is through the taxation system.

A number of other options were examined. When I was in New Zealand last year I talked to senior officers in the social welfare area about their scheme. At the end of the day I think everybody agreed that the taxation system was the fairest and the most efficient way to do it, so I do not think that we ought to be criticised for enthusiastically supporting a national scheme which will ensure that non-custodial parents meet their clear obligations. I am not privy to anything that may have transpired in the Federal Cabinet in recent weeks. I am not a member of the Federal Cabinet: I have my hands full being a provincial politician in South Australia. I support the concept of non-custodial parents meeting their obligations through the taxation system on a predetermined formula. I understand that it is intended to be prospective from 1 July.

The Hon. Diana Laidlaw: That is still to be the case?

The Hon. J.R. CORNWALL: As I said, I am not a member of the Federal Cabinet, but the proposal is, whether it be from 1 July or some other date, that the use of a predetermined formula to meet the obligations through the taxation system will be prospective. Those non-custodial parents who have been meeting their obligations and who have been paying a maintenance order made by the Family Court prior to the date of the application of the scheme will not be required to meet an amount according to a predetermined formula; in other words, that one-third of non-custodial parents in Australia who have done the right thing and who have consistently met their obligations will continue to be obliged to pay according to the order made by the Family Court. This is certainly the scheme in general terms that I as the State Minister of Community Welfare support—

The Hon. Diana Laidlaw interjecting:

The Hon. J.R. CORNWALL: No, that is the scheme that I support as at today, as well as last October and well before that. When I became Minister of Community Welfare, one of the first things that I did was make a public statement

deploring the fact that in this State almost one-third of non-custodial parents are able to avoid their obligations. By leaving the State or by various devices, one-third in this State and two-thirds interstate are not meeting their obligations. I believe it ought to be compulsory for the non-custodial parent to meet their obligations. It certainly should not be incumbent on other taxpayers to do that. In all fairness and with any sense of fair play, that should not be the situation.

Where a non-custodial parent has met the obligations and the order imposed by the Family Court (and remember that that can be varied from time to time on the application of either parent), then it seems to be fair and reasonable for them to continue to do so. We do not want to create a new class of poor. If one simply moves the obligation from one area to another without taking a number of factors into account, then there is a great danger that we would do that. Where the obligation has not been met (and that applies to about 70 per cent of non-custodial parents in Australia), then the predetermined formula and the collection of maintenance through the taxation system should apply to that person, regardless of the date of separation and any previous orders.

In my view, the only exemption (and this view is supported by my department) from the predetermined formula and the compulsory collection through the taxation system should be the non-custodial parent who has made a conscientious effort to meet the obligations prior to the introduction of the scheme.

The Hon. DIANA LAIDLAW: As a supplementary question, will the Minister agree to determine the accuracy of media reports last week that the Cabinet committee overseeing the implementation of these reforms has recommended that their introduction be watered down and that their implementation be deferred?

The Hon. J.R. CORNWALL: 'Watered down' and 'deferred' are fairly emotive words.

The Hon. Diana Laidlaw: Media reporting—

The Hon. J.R. CORNWALL: Media reporting suggests—usually reliable sources. I suppose that the Hon. Ms Laidlaw can find out as readily as I can.

HOSPITAL CLASSIFICATION SYSTEMS

The Hon. J.C. BURDETT: I seek leave to make a short explanation before asking the Minister of Health a question about private hospital classification systems.

Leave granted.

The Hon. J.C. BURDETT: Members would be aware that the basic private hospital structure imposed by the Commonwealth will come into force on 1 March 1987. The present system, of course, has been one of categorisation of private hospitals and, although there certainly have been problems with the scheme, it has worked reasonably well. The new scheme is to categorise patients according to the procedures that are to be carried out. I read the Commonwealth HBA circulars 79 and 84 which relate to these matters. It is clear that the reimbursements are not necessarily related to the amount of care that the hospital will have to give to a patient. In particular, private psychiatric patients will be treated as general patients at the lowest level of benefit. My questions are:

1. Will the system mean a greater strain on private insurance schemes?

2. Will this lead to a greater gap to be paid by insured patients?

3. Will this lead to greater pressure on the public hospital system?

4. What will be the impact on public hospital waiting lists?

5. What will be the impact on patients requesting treatment in private psychiatric hospitals?

The Hon. J.R. CORNWALL: I am not surprised that the Queensland Premier despairs for some members of the Liberal Party. They talk about deregulation but when somebody moves to put it into practice they scream. In fact, what has happened with regard to the categorisation of hospitals is that we are witnessing deregulation in action. From 1 March, it will be the patient who is categorised according to the level of treatment and support that that particular patient needs rather than the hospital. That is a fairer and more sensible way, and it has the support, as I understand it, of at least those in the private funds who have taken the trouble to study what it is all about. It will give the funds some say for the first time as to the level of reimbursement, and that is very important.

What happened with the categorisation of hospitals was that there was political pressure and a lot of juggling to try to get category 1 and a number of hospitals obtained that category while hospitals that were so close to being comparable that it almost did not matter finished up as category 2 hospitals. That not only had the effect that they were $30 a day per patient worse off but inevitably it also tended to reflect on the status of the hospital. For example, surgeons preferred to operate at category 1 private hospitals rather than at category 2 hospitals.

The Hon. R.J. Ritson: It also caused doctors to send category 3 patients to category 1 hospitals for a higher refund.

The Hon. J.R. CORNWALL: There were a number of ways in which the system could be manipulated. Based on experience, I think that everybody agreed that some form of categorisation was desirable. However, it was the majority opinion of the medical profession, the other health professions, the funds and at least some of the hospitals that a fairer way to do it would be to categorise the patients.

I suspect that some of the complaints are coming from those hospitals which, quite frankly, derived a relatively unfair advantage out of the original categorisation. Despite some of the protests that might be coming from some of the interested parties, when this system settles down, it will be a fairer and more equitable system that will guarantee that the private funds are applied in the most efficient way that is reasonably achievable. My information, advice and personal belief is that it will not in the medium to long term mean a greater strain on the private funds. It will not mean a greater gap. At least in South Australia, it will not create greater pressure on our public hospital system. The consistent evidence over a period of more than a decade in South Australia is that the number of people who use the private hospital system has remained relatively constant. There have not been any significant peaks and troughs. There have been some movements within the system, but they have not been significant.

As to the waiting lists that the Hon. Mr Cameron likes to recycle from time to time, I told the Council last week that, as a result of the strategy that was put in place in the 1986-87 Budget, already the numbers on the waiting lists in the metropolitan public hospitals have been reduced by 500, which is almost 9 per cent.

I made the point last week that the scheme had only been in place for quite a short period; that it was not being put forward in any trumpeted or boastful way. I will be perfectly happy to wait another 12 months to get firm indications that the scheme is working. However, I point out—indeed, I warn members opposite—that if they are staking any

claims to try to discredit further a good health system in South Australia, if they want to continue to knock the best health and hospital system in Australia—

Members interjecting:

The Hon. J.R. CORNWALL: They are knockers. They continually knock and denigrate not only our hospitals but our health professionals.

An honourable member: What about our health Ministers?

The Hon. J.R. CORNWALL: Well, I am quite tough. I can go 15 rounds with a lot better fellows than the Camerons of this world, I can tell you. I have had 45 bouts and only two of them have gone the distance, and I won both of them on points. If it is part of their knocking tactics to attempt to denigrate our very fine public hospital system and all of those who work in it and if they hope to nail the waiting list to the mast, they will be very, very disappointed indeed because all of the indications at this point, early though they may be, are that the scheme is starting to work.

The Hon. M.B. Cameron: You should go down to the casualty department at the Royal Adelaide Hospital and see what they think of you there.

The Hon. J.R. CORNWALL: As to the Hon. Mr Cameron's interjection, in which he called it the casualty department, I point out that they have not been called casualty departments for something like 12 years. Only this morning I had discussions with two senior consultants who have just done a review at the RAH—

The Hon. M.B. Cameron: I know about that. I have a copy.

The Hon. J.R. CORNWALL: I know you have a copy. They made the point in conversation with me this morning that the accident and emergency service—the trauma service—at the Royal Adelaide Hospital is very good indeed. By national and international standards, it is very good.

The Hon. Diana Laidlaw: Perhaps you are not reading the right report.

The Hon. M.B. Cameron: No, the wrong section.

The Hon. J.R. CORNWALL: I think I will just sit down. I will let him make a fool of himself without my help.

The PRESIDENT: Order! Private conversations must be held outside the Chamber.

The Hon. R.J. RITSON: I have a supplementary question. Will the Minister give a brief answer to the Hon. Mr Burdett's question about the future outlook for psychiatric patients?

The Hon. J.R. CORNWALL: No.

MINISTERIAL STATEMENT: PRISONERS' EMPLOYMENT

The Hon. C.J. SUMNER (Attorney-General): I move:

That Standing Orders be so far suspended as to enable me to make a ministerial statement.

Motion carried.

The Hon. C.J. SUMNER: Yesterday in this Council the Hon. Mr Griffin raised an issue relating to advice given to prisoners seeking employment upon their release from prison. Over the past 24 hours the Leader of the Opposition in another place has claimed that it is Government and Department of Correctional Services policy to advise prisoners to lie about their criminal history when seeking employment. I do not wish to dwell on the individual case raised yesterday, because that case is now subject to whatever action that can be legally taken.

However, I do wish to inform the Council of the Department of Correctional Services policy in relation to this issue and how that policy is implemented. The department's policy, which has been in place since 1954, is that offenders are to be advised to follow the open and honest policy of revealing their criminal records. This policy is an integral part of induction courses which are conducted regularly for new recruits into the Department of Correctional Services. This policy is widely known and understood throughout the department regardless of the classification of any particular officer.

In addition, departmental psychologists are issued a Department of Correctional Services instruction No. 13 entitled 'Handbook of Professional Practice for Psychologists Working Within the Department of Correctional Services, South Australia'. On page 44 of that handbook under the heading of 'Issues of Competence' it states:

Psychologists who work in the criminal justice system, as elsewhere, have an ethical obligation to educate themselves in the concepts and operations of the system in which they work.

On the basis of the transcript of a hearing before the Industrial Commission and a statement given by Mr Burns to the Department of Correctional Services investigator, it is clear to the Executive-Director of the Department of Correctional Services that the actions of Mr Burns were completely contrary to that departmental policy.

After discussions with the Commissioner for Public Employment, the Executive-Director of the Department of Correctional Services advised that on the evidence available so far he would charge Mr Burns under section 67 *(e)* of the Government Management and Employment Act, although preliminary Crown Law advice is that this may not be possible due to the alleged offence having taken place during the period of the now defunct Public Service Act. In fact, the alleged offence took place in 1981—six years ago when the shadow Attorney-General's Party was in Government. The Hon. Mr Hill was a Minister in that Government.

As to how widespread the practice was, I cannot say, as it occurred during the period, as stated, of the former Liberal Government. However, in a recorded interview given yesterday Mr Burns stated:

It should be noted that the program was of limited duration and involved approximately four prisoners and therefore it should not be construed that the department has been giving this advice in a wholesale fashion over the years since the time the program was first initiated.

The practice of advising prisoners not to divulge their criminal history when applying for jobs is completely contrary to current policy. If it has occurred recently, as it did during the period of the Tonkin Government, it is not condoned. To re-emphasise this policy, if any re-emphasis is needed, I point out that all officers of the Department of Correctional Services tomorrow will be personally issued with a departmental instruction to highlight what the policy is.

QUESTION ON NOTICE

ASER DEVELOPMENT

The Hon. L.H. DAVIS (on notice) asked the Attorney-General: In view of mounting public concern over delays and mounting costs at the ASER site on North Terrace, will the Government, as a matter of urgency, provide information on the following:

1. The original budgeted cost in 1986 dollars of the completed ASER project and its constituent parts;

2. The current cost estimate in 1986 dollars of the completed ASER project and its constituent parts;

3. The estimated increase in cost to the South Australian Superannuation Fund Investment Trust resulting from any escalation in costs of this project?

The Hon. C.J. SUMNER: The replies are as follows:

1. At the time the original Principles of Agreement were signed in October 1983, nominal costs were allocated to the various components of the ASER project. However, since that time, there have been numerous changes to the scope of the project. For example, in the case of the Convention Centre, the Government decided, after a detailed assessment of the market, that a more extensive, versatile facility than originally planned was required. Extra car parking has also been provided in response to public demand.

Similarly, following the subsequent decision as to the location of the Casino, the ASER developers decided that the international hotel should be of a higher standard. The costs of the project have also been affected by changes to the expected commencement date of the project, some delays due to industrial action and higher than predicted market interest rates. The original budgeted costs are therefore irrelevant.

2. The ASER project is being carried out by the ASER Property Trust, which is a joint venture between SASFIT, the statutory body with the responsibility to invest and manage the Superannuation Fund, and Kumagai Gumi of Tokyo. Whilst the South Australian Government has provided support to the project in various ways, ASER is essentially a private development and the ASER Property Trust is entitled to the confidentiality enjoyed by any other commercial organisation.

Under the original agreement, the Government undertook to provide a guarantee of the repayment of Kumagai's loans to ASER, and this could be said to give the Government a right to inquire about the costs of commercial elements, but now that Kumagai has indicated that it no longer required the guarantee (as previously reported to the Parliament), the developer cannot reasonably be expected to make such information public, other than through the normal reporting mechanisms required by law.

However, the public elements of the project comprising convention centre, car parks and a proportion of the public areas, are to be leased by the Government at a rental which is related to the cost. The Government has been involved in the design of these elements and has kept itself informed of cost movements. The currently estimated costs, including fees and interest charges up to completion of each stage, are:

(a)	Convention Centre	$39 million
(b)	Car parking	$17 million
(c)	Public areas	$38.7 million

3. The South Australian Superannuation Trust provides comprehensive information on its commitment to the project through its annual reports, the most recent of which has been tabled this session.

CITY OF ADELAIDE (DEVELOPMENT OF PARKLANDS) BILL

The Hon. I. GILFILLAN obtained leave and introduced a Bill for an Act to prescribe the principles that should be observed in managing and developing the city of Adelaide parklands and to prevent development of the parklands without the approval of both Houses of Parliament. Read a first time.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 15 April 1987.

Motion carried.

SELECT COMMITTEE ON SECTION 56 OF THE PLANNING ACT 1982 AND RELATED MATTERS

The Hon. T.G. ROBERTS: I move:

That the time for bringing up the report of the select committee be extended until Wednesday 18 March 1987.

Motion carried.

BRIGHTON FORESHORE

The Hon. G.L. BRUCE: I move:

That the Corporation of Brighton By-law No. 1 concerning bathing and controlling the foreshore, made on 18 September 1986, and laid on the table of this Council on 23 September 1986, be disallowed.

The Joint Committee on Subordinate Legislation, of which I am Chairman, met over a period of many weeks before Christmas and took evidence from various residents in the area and from the council. In a vexing situation such as this you cannot please everybody or anybody. Evidence was given by both sides and the main disagreement, of course, was in relation to the horses on the beach at Brighton.

The Joint Committee on Subordinate Legislation in its wisdom has tabled all the evidence in Parliament, and it is available to all members of Parliament and also any interested members of the public. We tabled some evidence today and I would like to make reference to it. The committee received a letter from the City of Brighton which stated in the first paragraph:

> I refer to your letter of 29 October 1986 which confirmed verbal advice by the Chairman of the Joint Committee that council was required to hold further discussions with representatives of the South Australian Jockey Club and the South Australian Trainers Association in an endeavour to reach a compromise on the use of the beach at North Brighton for the exercising of horses.

I would like to clarify a point in that letter. At no time did the committee require that the council should have meetings with those two associations. The committee suggested that there might be a solution reached by way of compromise; we made the suggestion as a result of the evidence we received and the tabling of that evidence. The committee felt there could be fruitful discussions between the parties concerned. However, I draw to the attention of the Parliament that the Joint Committee on Subordinate Legislation does not have the power to amend any regulations presented to it: it can only accept or reject those regulations. In an endeavour to reach a possible compromise the committee, through me, suggested that the parties involved could meet again. It was a request—not a requirement. The council was at liberty to reject that request out of hand if it wished to do so.

Of course, in addition to the evidence we received today, we dealt with and discussed all the evidence taken over a period of many weeks before Christmas. When the Joint Committee on Subordinate Legislation met today there was a great heap of correspondence and petitions from various residents who would have liked to come before the committee again. The committee was of the view that it had received enough evidence and there was no new evidence

coming up from any of those residents or associations that were making further representations. The committee felt it was best that the matter be resolved today. Accordingly, I have moved this motion. Whilst it will not satisfy everybody, I believe that at least it will put those parties back into the position of having to talk to one another. Those parties will have to try to reach a compromise. Horseracing is a multimillion dollar industry in South Australia and, as one of the largest industries, it cannot be dismissed out of hand when for many years it has had the use of the beach; by the same token, the residents in the area have rights.

When I say that it is a very vexing question that has come before the committee, I mean that there are no true winners or losers. What we do is not going to make everyone happy. What we have done now, of course, will understandably upset the residents. However, if we had gone the other way and had not disallowed this matter, it would have upset the racing industry and the powers that are involved with it. I believe there is a large area that has not been fruitfully canvassed by the parties involved and we have not made the decision to disallow the by-law lightly. Continuing with the letter tabled from the Brighton council, I would quote one paragraph which disturbs me. The paragraph says:

> In speaking on the subject, the representatives of the South Australian Trainers Association made no real offer which could lead to a compromise.

The letter then goes on:

> They were prepared to accept a variation to the hours of beach use and suggested that its use on six days only in lieu of seven days per week would suffice. The length of the beachfront could also be reduced. However, they stressed that the use of the beach and the sea was of the utmost importance in the proper training and preparation of racing horses.

In opening that paragraph the council said:

> In speaking on the subject, the representatives of the South Australian Trainers Association made no real offer . . .

Then they go on to list three real offers that were made and discussed, but the beginning of the paragraph says 'made no real offer'. I believe that a real offer was made and there is possibly room for compromise. Given the fullness of time and what is going to happen to the beachfront, I have no doubt that eventually—and it has been mooted by members of the Parliament in another House—possibly there will have to be a special beach put aside for the exercise and training of animals.

The Joint Committee on Subordinate Legislation has discussed and looked at all the evidence presented and feels that the council and the South Australian Trainers Association and the jockeys could fruitfully engage in more discussions to see whether some compromise can be reached. Accordingly, I seek the support of the Council.

The Hon. J.C. BURDETT: I support the motion moved by the Hon. Gordon Bruce and I ask the Council to support what is, in effect, a recommendation by the Joint Committee on Subordinate Legislation. The background to this situation is that on 18 September 1986 the City of Brighton made this by-law, which had the effect of totally prohibiting horses from the foreshore in the vicinity of Gladstone Road. Previously horses, properly controlled, were permitted on the beach from 7 a.m. until 9.30 a.m. on licence by the previous by-law of the Brighton council. There are approximately 30 licences, not all held by trainers; some licences are held by the owners of hacks and show horses. The racehorses are brought to the beach by Morphettville-based trainers and the evidence tabled indicates that swimming and wading, preferably in the sea, are a necessary part of the preparation of some horses, particularly those carrying an injury. The evidence was quite convincing that this has been accepted as a necessary or at least desirable part of the program for training horses.

According to evidence from both sides, there would generally not be more than six horses on the beach at any one time, so we are not considering a lot of horses. Some residents were led by Mr M.P. Hodgeman, who was, in fact, the only resident who gave evidence. He complained particularly about early morning noise and to a lesser extent about pollution on the beach and the car park at the end of Gladstone Road and danger to persons on the beach. I think it would be fair to say that the noise complaint was the only one which seemed to have any universal credibility. The council evidence did not really support the latter complaints as to danger on the beach or menace from pollution.

The committee received petitions and letters on both sides from residents of Gladstone Road and the surrounds. They were fairly evenly balanced. Some of the letters written by residents of Gladstone Road, supporting the swimming of horses and the presence of horses on the beach, were quite well developed. As the Hon. Gordon Bruce said, the committee suggested to the parties involved that they should try to compromise. It seems that some efforts were made, but they failed. The resident who gave evidence has been most assiduous in relation to this matter for a long time; he is most sincere, and I accept that he represented a number of residents of Gladstone Road. The Mayor and some of the councillors and some of the officers of the council gave evidence, and evidence was recieved from the Trainers Association. They were the groups that gave evidence and, as I have said, other letters and petitions were received.

I think that the Parliament would always hesitate to disallow a by-law because, generally speaking, actions that are within the purview of a council ought to remain there, and I would say, Madam President, that I believe that the council has acted properly, as it was responding to some of its residents and ratepayers. However, I think the Parliament has to take a wider view and consider not only a group of residents or ratepayers in a council area but also other people who use a facility in the area, in this case the beach. That is why the committee has, in effect, recommended to the Council in the way in which it has.

Finally, I refer, as did the Hon. Mr Bruce, to the minutes tabled today in the Council, which included the fact that the committee will write a letter to the Brighton council recommending that it seek further consultation with the Trainers Association in an effort to arrive at some compromise. Realistically, the only way to enable that to happen was to disallow the by-law. Certainly, if there are complaints, as the Trainers Association has indicated that it is prepared to accede to some of the suggested measures for improvement, there can be further consultation and there are further areas for compromise. For those reasons I support the motion and I ask the Council to support it and, therefore, the recommendation made by the committee.

Motion carried.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 6)

Adjourned debate on second reading.

(Continued from 12 February. Page 2856.)

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill has of course been canvassed in another place and a number of questions arose out of the debate in the other place which the Minister of Transport indicated that he would be answering in this Chamber. I read the second

reading speech and I assume that the Minister, acting on behalf of the Minister of Transport, will answer those questions at the Committee stage. The Bill relates basically to red light cameras and the detection of people who are guilty of the offence of jumping the gun at the lights, in other words, crossing when the lights have already changed. Whenever anyone in this Chamber is on the road, particularly in the metropolitan area, they will see people crossing after the light has turned red. That is an extremely dangerous practice.

The Opposition supports the basic proposition of introducing red light cameras, but we hope that this does not lead to an increase in the number of rear-end collisions. It is essential that people are told not to panic. If they are coming to an intersection and the orange light suddenly comes on, they must not jam on their brakes and cause difficulties for the people behind them. It is essential that common sense prevails and also essential that people do not continue the practice, on coming to the intersection and believing the lights are about to change, of speeding up.

We have a problem in this city and State with driver attitude. I am not sure of the reason for that. I know that we have twice had difficulties after the Grand Prix. I do not think that anyone would clearly blame the changes in the road toll on that, but it is essential, in terms of traffic, that we do whatever is possible and introduce whatever rules are necessary to ensure proper attitudes on the road and sensible policing of these traffic rules. I understand that in Victoria when the red light cameras were introduced, because of the difficulty in establishing proof, the situation became slightly farcical. In fact, as I understand it from information provided in another place, the cost of prosecuting each offence was about $1 000 and the fine on average was $60. That becomes an expensive exercise indeed for the authorities without great return. It is essential that people understand that they cannot just get out of an offence.

Difficulties are associated with this Bill and those difficulties are hard to legislate against. I am always terribly nervous about going away from the basic rule of law that guilt has to be proved, but in this case a need exists for the relaxation of the terms of proof. Owner onus is a very difficult area. It was highlighted by the member for Mawson recently when she described in some detail the situation of a woman who had been sent certain accounts for parking offences when she no longer owned the vehicle. Because she did not take prompt action she ended up incarcerated in an institution for a short time. I warn people that this Bill will undoubtedly lead to that sort of problem occurring with this offence at some stage because some people in the community for various reasons do not take as seriously as they should certain notices sent to them. It is quite possible that in the interval between a person selling a car and the sale being established with the authorities people will be up for an offence they have not committed. Unless they promptly establish that they were not driving they will be guilty.

The other area of concern is that companies or, in the case of public servants, Commonwealth and State Governments will be charged with the offence and it will be up to them to get reimbursement of the fine from the individual. The Hon. Mr Griffin will be taking that matter further, particularly in relation to the problem of Commonwealth public servants. I look forward to his contribution. I will be putting a number of questions at the Committee stage in relation to this matter. I will be moving amendments to ensure that any introduction of new cameras or new offences will be done by regulation because it is essential that Parliament has some part to play. I do not believe that it is enough for the Government through the Governor to establish such matters.

If, for instance, we move towards the establishment of an offence for speeding through a detection camera, that matter should be debated. One honourable member recently said to me that one of the greatest deterrents to the offence of speeding is the fact that one is likely to be pulled over to the side of the road and to suffer the embarrassment of a person in uniform getting out of a car with its blue light flashing and its siren going. That certainly would have a deterrent effect on me, as I am sure would be the case with other people in the community. If there is just a camera and one receives something through the mail saying that an offence was committed on a particular date, I believe that a lot of the deterrent factor is removed. I believe it is essential that the police should not rely just on red light cameras and that they should continue to police these matters in other ways, and of course that will be the case under this legislation. That is possible, because in the earlier part of the legislation the prescribed offences are much wider than just ignoring red lights.

I will be very concerned if the introduction of red light cameras leads to a diminution of funds relating to other areas of traffic control and road safety. I trust that the Government will not reduce the amount of money that is being spent on random breath testing, because I do not believe that we are doing enough in that area. I note with some interest that a further review and study is to be conducted into the effects of random breath testing. I sometimes wonder when we will stop doing studies on that matter and start taking what I would regard as proper action.

However, that matter is in the hands of the Government and it is not a matter that is on my conscience, because I have made my position clear in that respect for a long time. In relation to random breath testing, I will watch very closely to ensure that there is no diminution of funds and personnel made available. Unless we adopt the methods used in New South Wales and Victoria, every review in the world will have absolutely no effect on the end result. As is the case with the red light cameras, one has to instil fear in the community. There has to be public education about the presence of such things and, unless that is the case, people will continue to offend.

Although the Opposition will move some amendments, we support the legislation. The Hon. Mr Griffin will take the matter of public servants further. We express some concern about the owner onus area. However, if that is the only way that it can be properly policed, I suppose we will have to agree to it. In order to ensure that it is not used as a revenue raising device and that it is used properly, I hope that the Government will review its operation. It is essential that people in the community, particularly employers, do not allow employees to get away with the offence. If an employee offends, the employer must take the necessary steps to recover the money from the employee to ensure that they are aware that they have offended and that it will cost them money. If employers just pay the fine and leave it at that, it will not have any deterrent effect on the employee who uses the vehicle. I query whether we should ensure by some means that the employers take the proper steps to recover the money.

In relation to public servants, it is absolutely essential, because there are so many Government vehicles, that the Government takes whatever steps are necessary to recover the money from public servants. If there are pools of cars, it is essential that the people using those vehicles can be identified readily at any time of the day wherever that

vehicle might be. That may require some extra work in filling out log books (and I do not refer to the FBT log books) to ensure that the employees identify themselves as the driver of the car at a certain time. The Opposition supports the Bill.

The Hon. K.T. GRIFFIN: Members must recall that, notwithstanding this legislation, the statutory offences that are included within the definition of a prescribed offence (including running a red light) are still offences that can, if detected, be prosecuted in the courts in the normal way. In effect, this legislation seeks to give another opportunity to bring home to those who offend the obligation to comply with the law and to ensure that situations of danger are not created by running red lights. It is really another part of the armoury against breaches of the traffic code, in addition to the statutory offences already relating to running red lights which, if detected, can be prosecuted in the normal way.

I make three points about the Bill. First, although the obligation to pay an expiation fee or, in default of payment of the expiation fee, to pay any fine which may result from a prosecution and a conviction rests upon the owner, there is no requirement on the driver to meet the obligation. I am anxious to ensure that there is no statutory bar to an owner seeking to recover the fine from the actual driver of the vehicle. I suggest that it is possible for an argument to be mounted that the onus being placed upon the owner under this legislation may therefore provide a defence against any claim by the owner against the driver. At the appropriate time I will propose an amendment which will seek to ensure that an owner, in the absence of any agreement to the contrary, is at liberty in civil proceedings to recover from the actual driver any penalty which may be imposed upon the owner and for which an appropriate defence under the new section 79b (2) does not apply.

Secondly, in relation to those who may be driving vehicles owned by a State or Federal Government department or a statutory authority of the Commonwealth or the States, I do not think that this legislation is enforceable against a State or Federal Government department or statutory body. Insofar as the State is concerned, if an expiation fee is not paid by the State to itself, a prosecution cannot lie, because the Crown cannot prosecute itself. Even if an expiation notice were issued to a State Government department or instrumentality, really it would just be a transfer of money from one pocket of the Government into another pocket of the Government. With respect to the Commonwealth, constitutional questions may arise as to whether it can be bound to pay an expiation fee under State legislation where it is a servant or agent of the Commonwealth (either a department or an instrumentality) which is required to make the payment as the owner.

I would suggest that there will be some constitutional difficulties in achieving that objective and all of that suggests to me that, in so far as State and Federal Government drivers are concerned, the legislation is largely inapplicable, so a large number of drivers may not be affected by this piece of legislation, although those drivers, if caught running a red light other than by a red light camera, may still be subject to prosecution. In those circumstances, whilst I am not suggesting that any criminal obligation ought to be placed upon the driver of a State or Federal Government motor vehicle, nevertheless, there ought to be some procedure by which, if pursuant to the Constitution in respect of Federal Government drivers some moneys can be recovered from the Commonwealth, then quite obviously the Commonwealth ought to be able to recover that from its drivers, although I doubt whether any State legislation will be valid in enabling that to occur.

The third point relates to the definition of 'photographic detection device', which means an apparatus of a kind approved by the Governor as a photographic detection device. That really leaves it very open because, although the description is 'photographic detection device', it is by no means clear that any device so approved by the Governor must in fact have photographic capacities. It seems to me that it is much more appropriate for the regulations to deal with the approval of particular detection devices rather than that being promulgated by the Governor by notice. The regulation is at least subject to some measure of scrutiny, although not ideal scrutiny, by the Parliament. With those three reservations, I am pleased to go along with the indication by the Hon. Mr Cameron that we will support the second reading of this Bill.

The Hon. R.J. RITSON: It is difficult not to support this Bill, because the road toll is one of the greatest scourges of this country. Indeed, the road toll is worse on a per capita basis than it is in many other western developed countries, and we must accept the information we are given of the increasing number of accidents at traffic light controlled intersections. Certainly all of us know, as a matter of common knowledge, as we drive our vehicles around that, increasingly, the directions of traffic signals are ignored by a number of motorists.

Having said that, I want to deal principally with one part of the Bill; that is, the question of owner onus because, like my colleage Mr Ingerson in another place, I am quite concerned about the manner in which those provisions are drafted. The Bill really establishes a new offence without replacing or in any way repealing the existing offence of going through red lights and the difference between the two depends mainly on evidentiary matters and the question of the use of photographic devices to collect evidence.

This Bill provides that, where proceedings are taken on the basis of the photographic evidence, amongst other things, the registered owner of the vehicle will be guilty of the offence. The Bill also provides certain defences. First is the obvious one of arguing that the offence did not occur at all. I suppose that the only point in dispute there would be the timing or the accuracy of the device and the colour of the light. The two other forms of defence differ as between a natural person and a body corporate. If the registered owner is a natural person, one of the available defences is that the registered owner may prove that he was not driving the car. However, where the registered owner is a body corporate, the defence is that the car was not driven by an officer or an employee of the body corporate. What that really means is that, where the photographic evidence is relied on as a matter of legal fact, the owner has committed the offence and he cannot defend on the grounds that one of his employees was driving even if he provides the name and address and evidence of that employee's offence. It is not an offence for the employee; it is a statutory offence for the employer.

There are two problems with this. The first is what I call the fringe benefit tax principle: that is, the shifting of the responsibility from where it lies to another class of person much maligned by the unions, namely, the bosses, perhaps on the basis that they are bosses or on the basis that they can afford to pay, so I am a little offended by this further example of the fringe benefit tax principle.

However, of greater importance to the public at large is the question of the deterrent. We are all subject to the deterrent of knowing that if we break the Road Traffic Act, are observed by a member of the Police Force and reported, we will be dealt with. However, this Bill, which provides

for photographic devices and which may in future be used for purposes other than merely red light offence detection, creates and is intended to create a new and additional sense of a risk of apprehension, that is, a new deterrent over and above the existing body of law in an attempt to reduce accidents.

Given the situation if this Bill is passed in its present form—a situation in which employees know that where an offence is subject only to photographic evidence it is the employer's offence, not theirs, and that they will not be proceeded against—the additional deterrent effect that is hoped for will not act on salaried drivers. It will not hang over their heads. They will not have to worry whether they are photographed going through a red light because the Bill says specifically that it is the employer's offence and not theirs.

The question arises as to whether employers might seek to recover the costs of infringement notices incurred by employees as part of an arrangement within the workplace, whether that might be one of the conditions of employment that drivers recompense the employer for all such fines incurred. I do not know what attitude the unions would have to that. They may look at this Bill and say, 'Hey, the law says it is the employer's offence. Why on earth should we have this money recovered from us?' That remains to be seen, but it is my belief that the Hon. Mr Griffin will move amendments to make sure that this Bill cannot be used as the basis of an argument that employers should not be able to recover costs of employees. I will certainly support any alterations to that provision. Indeed, our colleague Mr Ingerson, when speaking in the Lower House, expressed great regret that, in the case of salaried drivers, the offence was not shected home to them, and he expressed the view that it ought to be.

Certainly, as I said, one cannot expect the additional deterrent effect of this legislation to be very persuasive in relation to salaried drivers who know that it is their employer's offence and not their offence. The question of Government drivers is of interest. There are very large numbers of people who drive as agents of the Crown and, as long as they are immune, the law has no effect on Government vehicles. Of course, as the Hon. Mr Griffin pointed out, there is an obstacle against proceeding against the Crown in its Commonwealth manifestation. There is an absurdity in the Crown's attempting to bind itself. Of course, that does not occur under this Bill, and it would be absurd if the Crown attempted to bind itself, to prosecute itself and to pay itself a fine from its own money.

I understand that Mr Keneally in another place gave an assurance to the House of Assembly that, as a matter of policy, the Government would seek to recover the cost equivalent of the fine from Government drivers if they were detected breaching the law through the new technology as proposed in this Bill. I was not there. I did not hear that: I heard it only second-hand, so I would like the Leader of the Government in this place to assure us that the Government will, as a matter of policy, exact a penalty from the drivers in its employ who may be detected by the new methods as being in breach of the law.

I would also be very interested to learn the Government's attitude to employers who seek to recover the cost of fines paid in respect of offences by their employees. It seems to me that there is a little bit of politics in this. I can imagine the unions representing salaried drivers being concerned about exposure to risk of prosecution as a result of photographic evidence and seeking protection from the Government. I wonder whether there has been discussion between the Government and the unions and whether an undertaking was given by the Government to immunise the unions, as it were, from the effects of penalties under this legislation.

I commend the second reading of the Bill to the Council in the belief that it is not reasonable for us to impose the measure *in toto*, but I look forward to hearing the Government's defence of the drafting of the Bill.

The Hon. I. GILFILLAN: We support the intention of the Bill and recognise that, if the red light cameras are to be effective, owner onus is essential with some sort of rational allocation of human resources to follow through the procedures. There is no doubt that abuse of the timing system of lights at intersections causes many accidents at intersections resulting in serious injury. I believe that the points raised by the Hon. Martin Cameron and the Hon. Dr Ritson are important in relation to the analysis and sifting through to arrive at the final drafting of the Bill. Quite clearly, the Hon. Martin Cameron's amendments are aimed at ensuring that the less direct *fiat* by Ministers in relation to the determination of the way in which we regulate and control and the more parliamentary debate and statutory decision making the better, even if it takes a little more time. Thus, I understand that the Hon. Martin Cameron's amendments seek to replace the Minister's direct authority with regulations for certain aspects of the Bill.

The point that the Hon. Dr Ritson raised is important. I do not share his suspicions about political motives. I believe that the crunch of this legislation is to penalise and deter drivers who abuse the intersection light system; thus there should be no artificial shelter that will encourage people to disregard it. On the other hand, the general public needs the protection that will flow from owner onus. There will be strong pressures on drivers who drive for companies not to abuse the system if the owners of these vehicles realise that, in the case of abuse, they will have to pay the fine. I hope that sensible industrial relations and a sense of fair play in relations between human beings will establish that in most cases the driver of a company vehicle, unless he or she can prove to the satisfaction of the owner that there was some mitigating circumstance beyond his or her control, will carry the burden of the fine.

I do not believe that we can establish that in law, and it may be very difficult to enshrine it in industrial awards, but I would be very surprised if the trade union leaders whom I know and to whom I have spoken would condone in any way some sort of protection being built into the system so that their members can drive free of any sense of responsibility that they will have to pay a penalty if they break the law. Because the matter has been raised in this place and in the other place, I hope that the Government, the trade union movement, employers generally and employees will arrive at an understanding about this issue so that the offender will be the person who pays the penalty in some way or another.

I refer now to a subject that is very dear to my heart. The whole issue of road safety has required substantial research. I make this point somewhat gratuitously in this debate, because I doubt whether the fact that people jump lights at intersections is not a very serious contributor to the number of road accidents. In so many other areas where we are attempting to move, we are really wandering about with our eyes closed hoping that we will hit on the right solution. I do not believe that we have anything like the adequate depth of research in many areas related to road accidents. One matter of which you, Mr Acting President, would have knowledge was raised with me by a doctor from interstate. In the opinion of that doctor, the percentage of drivers whose efficiency deteriorates as a result of relatively minor infections is quite significant.

There is a deterioration in driving performance through the day of people with virus infections or what he described as low level infections. There is quite an interesting range listed but I do not intend to canvass all those now. I make that point and again add my plea to the Government, through this debate, that all efforts be made to get an adequate body of research upon which we can make other sensible and effective decisions to reduce the road toll.

However, in this particular instance I believe that the case is proved beyond doubt. It is well worth implementing, and I look forward to seeing its results in the reduction of accidents at intersections. I believe that the minor discomfort that this may cause to those who are owners of businesses and whose drivers cause them to pay the fines is a relatively minor one compared to the overall good which I believe this legislation will bring—safer roads in South Australia. The Democrats support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): I thank members for their constructive contribution to this debate. There are a number of issues which I would like to check and clarify with my colleague the Minister of Transport and his officers. For that reason, I do not propose that we should go into Committee today. I shall consult overnight and conclude my second reading reply tomorrow, when I hope we can give this Bill a relatively speedy passage through the Committee stage. In those circumstances, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MEAT HYGIENE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2910.)

The Hon. J.C. IRWIN: I indicate that the Opposition supports this Bill and, indeed, the Bill that will follow it—the Meat Inspection (Commonwealth Powers) Bill. As anyone who has read the explanations and the clauses to be amended would understand, the two Bills are along very similar lines. With your indulgence, Mr Acting President, the remarks I make now can be said to cover both Bills.

Since 1965 meat inspections at local abattoirs have been carried out on behalf of the State by the Commonwealth under the terms of the Meat Inspection Arrangements Act 1964, which is a Commonwealth Act. This arrangement continued after the enactment of the Meat Hygiene Act in 1980 in South Australia, and the Commonwealth charges the State for services provided and carries out inspections according to State legislation. After the meat substitution racket some years ago, the Commonwealth set up the Woodward royal commission in 1981.

I now refer to Mr Bert Kelly, a former member for Wakefield in the Federal Parliament. He is known very well to many people in this Chamber and in rural industries as a person with a very long interest in inspection of meat. Meat inspections were being carried out concurrently by the State and the Commonwealth, thereby causing dual inspections at some expense. Mr Kelly headed the task force set up, I think, by the Fraser Government not long after the meat substitution rackets were discovered. The Woodward royal commission recommended the amalgamation of State and Commonwealth meat services to form a national inspection service; indeed, the same recommendation as that of Bert Kelly's inquiry.

Following that, a joint Commonwealth/State working party was set up to examine and advise on the legal, functional and financial aspects involved if South Australia were to refer its legislative powers to the Commonwealth. I will go through some of the points raised by the working party in its recommendations. First, the State's legislative powers with regard to meat inspection at domestic abattoirs were to be referred to the Commonwealth. I say here on behalf of the Opposition that it is not normal for the Liberal Party to be supporting the referral of powers to the Commonwealth. In fact, the Liberal Party is more inclined to want powers to go the other way—from the central area of the Commonwealth to the States. However, we support this move at this time, but I will not go into any great depth about that.

The second point of the working party's recommendations was that the State, through the Meat Hygiene Authority, retains responsibility for licensing all abattoirs, slaughterhouses and pet food operators and the State may rescind the powers transferred. The Meat Hygiene Authority will also continue to be responsible for the construction and hygiene standards of slaughterhouses and pet food works and to administer the Meat Hygiene Act.

The third point is that the Commonwealth assumes responsibility for collection of inspection fees. The State will benefit by simplification of the charge system and reduction in man-hours spent processing the fees and the elimination of debt risks where abattoirs go into liquidation or fail to pay.

Regarding the amendments in this Bill, the Commonwealth currently has observer status on the Meat Hygiene Authority, and has had for some time. This Bill formalises that by seeking to increase the number of members on the board from three to four and provides for the nomination of the Federal Minister responsible for the Commonwealth Meat Inspection Act 1983 to be a full member of the board. The Bill seeks to amend the principal Act in relation to the branding of meat and the amendment will mean that the branding of meat will be done at the direction of the State or Commonwealth inspector.

The Bill seeks to amend section 52 of the principal Act. The effect will be that meat produced in licensed abattoirs may not be sold unless it is passed fit for human consumption by a State or Commonwealth inspector. The Bill seeks to amend section 55 of the principal Act. Section 55 prohibits the sale of pet food products unless produced at licensed pet food works. The amendment will allow pet food to be produced at any licensed abattoir where, of course, it is inspected. This was an anomaly that was picked up by the working party and this Bill seeks to correct that anomaly. I indicate the Opposition's support for this Bill.

The Hon. J.R. CORNWALL (Minister of Health): My remarks in reply to the second reading debate will be very brief. However, I think it is appropriate to point out the significance of this legislation and the Meat Inspection (Commonwealth Powers) Bill. It is entirely appropriate for State powers to be referred to the Commonwealth in a number of areas. There are some quite outstanding areas in which it is not only desirable but necessary for us to have a national policy and a policy that is enforceable. One of these areas concerns meat inspection. This issue has been outstanding for decades, and it is very pleasing for me to note that, in South Australia at least, at last we have reached a position where on a bipartisan basis we are referring these meat inspection powers to the Commonwealth, albeit with suitable and adequate safeguards. Under the legislation, the good conduct of the service and the operation of the legislation will be reviewed, initially at least, on an annual basis, and the State has the power to revoke. So, as I say, there

are adequate safeguards. I could not let this occasion pass without recording my pleasure that at last in this significant and important area (and it is significant and important for the nation, particularly for our primary producers and consumers) this Parliament is about to pass this legislation.

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

MEAT INSPECTION (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 2911.)

The Hon. J.C. IRWIN: The Opposition is quite happy to support this measure also. Most of the remarks that I made earlier apply to both Bills. This Bill is reasonably short, containing five clauses. I shall refer only briefly to clauses 3 and 4. Clause 3 contains the interpretation provisions. 'Abattoir' is defined as a 'licensed abattoir under the Meat Hygiene Act 1981'—that is:

> . . . premises at which meat for human consumption is produced and at which meat for animal food may be produced from meat unfit for human consumption.

The definition does not include licensed pet food works or slaughterhouses under that Act. Further, the definition of 'meat' is defined as:

> . . . any part, or product resulting from the processing of any part, of the body of any animal, intended for human consumption or for use as animal food.

Clause 4 of the Bill provides for reference to the Commonwealth Parliament of legislative powers relating to the inspection of meat at abattoirs in South Australia. I support the remarks made by the Minister of Health, representing the Minister in the other place, about how long it has taken for powers to be transferred to the Commonwealth in relation to this matter, to do away with the dual inspection of meat. The Meat Hygiene Act Amendment Bill picked up the anomaly concerning pet foods and inspection. I indicate the Opposition's support for the Bill currently before us.

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

RETIREMENT VILLAGES BILL

Adjourned debate on second reading.

(Continued from 4 December. Page 2740.)

The Hon. K.T. GRIFFIN: The debate on resident funded retirement villages commenced in 1984, when a growing number of organisations became more actively involved in providing accommodation for older persons who were looking for retirement accommodation. At that time inadequate accommodation was available for them. The debate has gained some prominence since 1984, with a couple of notable retirement village complexes running into financial difficulties. The most publicised case in this State was one at Murray Bridge, concerning a retirement village under the auspices of the Frankston (Victoria) Baptist Church—which had no relationship to the Baptist Church in South Australia. In that case, a property was owned by a separately incorporated body. It had been heavily mortgaged to a major bank. That mortgage in fact related not only to the Murray Bridge property but to property in another State. There was no security of tenure for those who had paid something like $42 000 per unit to move in. Because of financial difficulties foreclosure was threatened, and the event of foreclosure would have left those who had paid their money very much out in the cold, in more ways than one. It would have meant that, had the property been sold by the mortgagee, the purchaser would have been able to acquire the property without having to acknowledge the interests of the occupiers of the units, and they could have been removed forcibly from the property, and their money would have been lost absolutely.

There has, of course, been one other major instance referred to publicly where there has been concern about the security of tenure of persons who participate in resident funded accommodation units. At the moment, offers to the public in respect of retirement villages is dealt with under the Companies Code under the prescribed interest provisions of that code. Everybody agrees that the prescribed interest provision of that code is really quite inappropriate to deal with the concept of resident funded retirement villages.

So, we have a Bill before us on the basis that, as from 1 July this year, the Companies Code will cease to deal with prescribed interest in resident funded retirement villages. The Bill was introduced on the last day of the sitting before Christmas, 4 December. The Attorney-General indicated that he was seeking submissions on the Bill. It was in the nature of an exposure draft available for public comment and he sought submissions by 12 February 1987. I presume that some bodies and persons have already made submissions. I know that a number of bodies, because of the Christmas/New Year interval, have had some difficulty in getting members together to obtain comments on the Bill and are still in the process of preparing their submissions. I know that at least one organisation, the Voluntary Care Association of South Australia, has sought discussions with the Government through the Corporate Affairs Commission and such consultations are in the process of being undertaken.

I have received comments from some organisations with respect to the Bill. Notwithstanding that others are yet to make submissions on the Bill, I and my colleagues are prepared to make our contributions on the basis of what we have received so far and our own assessment of this Bill. We do this in the hope that it will assist the Attorney-General to take into account what we see as some major difficulties with the legislation, but will nevertheless allow us to make further observations on the Bill during the Committee stages, if in fact it goes into Committee.

What the Attorney-General indicated before Christmas was that this Bill may be the subject of quite substantial amendments or, alternatively, it may even be withdrawn and a new Bill introduced. In whatever circumstances this Bill is finally considered in the Committee stage, the Opposition would take the opportunity to make additional comments as the result of receiving late submissions from members of the community who have an interest in this area of the law. I recognise that there is a difficulty with timing because we sit only until Easter and the Attorney-General desires to have this legislation in place before 1 July of this year. We will do our best to assist in the consideration of the legislation in order to meet the Easter deadline.

The Opposition supports the principle of the legislation and believes that it needs to be a legislative framework in which resident funded retirement accommodation is managed, promoted and monitored. We believe that three principal ingredients are appropriate to this legislation. First, there should be full and proper disclosure of all aspects of the accommodation being offered—the security of tenure, services related to the accommodation and the use and

occupancy of such accommodation. That information should be in a form readily available and easily understood and should deal with every aspect of the available accommodation being offered to the public.

Secondly, there ought to be adequate security of tenure. Quite large amounts of money are paid for the right to occupy units, but the basis upon which the security of tenure is given is at times unclear and, when clarified, is not so much security but insecurity and depends on the goodwill of the body which manages and owns the complex. Thirdly, there ought to be a fair and cheap procedure whereby disputes between residents or residents and the owner and administering body can be resolved. They ought to be fair and reasonable procedures, readily accessible and cheap for the residents who might seek to appear, and not be overwhelming or overawing.

A helpful paper has been prepared by the South Australian Council of Social Service Incorporated drawing attention to its concerns about resident funded retirement accommodation and focuses on the question of security of tenure, and on services which might be available to residents and which might be arranged through organisations such as Domiciliary Care, Meals on Wheels and the RD&S. Attention is also directed to the potential to entrap older people financially to the extent that they are unable to quit a unit without suffering a substantial loss of their investment.

SACOSS also draws attention to other aspects of retirement accommodation, referring to the fact that some of these developments are large-scale, in outer suburbs and quite significant distances from shops, public transport and other accommodation which would enable them to be supported by other members of the community as well as to relate to other such members. SACOSS also says that some are poorly designed so that a person may have to move out if they need to use a wheelchair or walking frame or are unable to drive any further. They are legitimate concerns which have two flavours—first, a legal flavour and, secondly, a social or community welfare aspect.

There are, of course, questions raised whether this is essentially a legal regulatory difficulty or whether it is in fact more a community welfare or social issue in a much broader perspective. The two certainly are very much enmeshed and inter-related. In my view the legal aspects are a very important ingredient to the whole debate on resident funded retirement accommodation and they ought to be very carefuly assessed. The social questions can be dealt with separately although, as I indicated, the two matters are very much interrelated.

This Bill covers all resident funded accommodation. It does not seek to distinguish between private sector, public sector, charitable, religious or community organisations which run those accommodation agencies. Nor does it seek to distinguish between hostel and unit type accommodation. For hostel type accommodation there is usually a requirement for a donation, which may vary from about $5 000 to some larger amount, as a prerequisite to occupying a particular room. This type of hostel accommodation is, largely speaking, subject to very careful scrutiny and control by the Commonwealth, partly because of its past subsidy activities and partly because of its continuing interest in this area. The Bill does not distinguish between those complexes that provide both unit type accommodation and hostel type accommodation. It does not seem to recognise those sorts of differences.

I think that there are some important differences in all those areas which need attention and we need to consider how this law will affect not only the big private sector developments but also the small country or other community developments which may comprise just a handful of units or accommodation for a small number of older people and which may not find it appropriate to be controlled under this all-embracing legislation.

This Bill does not make clear who is to administer it. There is a definition of the Corporate Affairs Commission, but it is not clear that in fact the Corporate Affairs Commission will deal with all of the regulatory aspects of the legislation or whether it will be involved in advertising, in offers to the public and in scrutinising those as they presently scrutinise documents such as prospectuses and trust deeds. There needs to be some clarification as to who is to have the ongoing responsibility for the administration of this Act and what sort of powers that body is to have, particularly in relation to offers to the public.

In relation to clause 3, a retirement village scheme means a scheme established for retired persons or predominantly for retired persons. 'Retired person' is defined as follows:

(a) a person who has attained the age of 55 years or retired from full-time employment;

or

(b) the spouse of such a person, or a person who was the spouse of such a person at the time of that person's death.

A 'retirement village scheme' is defined for persons as follows:

(a) persons are admitted to occupation of residential units owned by the administering authority of the scheme;

or

(b) residential units are purchased from the administering authority subject to a right or option of repurchase by the administering authority.

The administering authority is the body that owns the land, but is not to include a resident admitted to ownership or occupation. The administering authority presumably can also be a manager who might be managing on behalf of the owner of a retirement village scheme.

Some questions arise in relation to the definition of 'retirement village scheme'. First, it seems to me that the definition actually excludes those retirement village schemes which are not owned by the administering authority. If one looks at the definition, it means a scheme established for retired persons under which persons are admitted to occupation of residential units owned by the administering authority. That seems to exclude schemes which might be administered by a body separately from the body which owns them. In the definition of 'retirement village', there is no definition of 'complex of residential units'. In normal parlance, 'complex' would presumably mean a number of residential units, but I am of the view that there ought to be some definition of 'complex of residential units' to ensure no misunderstanding or misinterpretation of the application of this legislation.

The definition of 'retired person' is a person who has attained the age of 55 years or retired from full-time employment, plus the spouse of such a person. It is not clear what 'retired from full-time employment' may mean. Does it mean that, at the time of entering a unit within a retirement village scheme, the person says that he or she has retired from full-time employment? What is full-time employment? Does it mean 38 hours a week, 40 hours a week, or maybe permanent part time, but full time, nevertheless, in terms of that person's available time for work? There needs to be some clarification of what is meant by that.

With respect to the definition of 'administering authority', there may be in some smaller community schemes a provision for one of the residents to administer the retirement village, because there may be no other persons readily available within a small community. It may be that a person

who has entered a retirement village has particular skills. At the age of 55, if a retired person enters the retirement village, they may still have some 20 or 25 years ahead of them when they can provide a very competent and useful service to a retirement village scheme. It seems to me that to exclude from the definition of 'administering authority' a person who is in fact a resident and may own the land or part of it may well create some hardship.

The definition of 'business day' in clause 3 does not include a public holiday, but there is no reference whether or not that also includes a Saturday or a Sunday, because in some circumstances there are people who work on a Saturday and some who work on a Sunday. It may be appropriate in those circumstances, in the context of this Bill, to also include a Saturday or a Sunday where it can be demonstrated that, for the purpose of a particular retirement village scheme, either or both of those days are normal business days.

There is a reference in the definition of 'special resolution' and in the definition of 'strata retirement village' to a strata title scheme in relation to which the administering authority is the strata corporation. The definition of 'special resolution' merely refers to the definition in Part XXIXB of the Real Property Act where, in fact, the retirement village is strata titled.

I want to address some remarks to why a strata corporation should be involved in this legislation. I am of the view that a strata titled retirement village is quite a different concept from the resident funded accommodation that has caused the concern where there is no security of tenure or no registration of an interest on a certificate of title. We already have quite extensive law which relates to strata corporations, the administration of strata corporations and the strata titles and which adequately covers the rights of persons who are owners of a strata title or, by virtue of that ownership, members of a strata corporation. To impose upon a strata corporation the additional requirements of this legislation would prejudice both the title owned by those who have strata titles within a particular development and the potential value if their strata titles are to be subject to matters extraneous to the strata title system.

Strata titles have been established as being no different in effect from ordinary certificates of title for freehold land, and I would be reluctant to see any impediment placed upon them by legislation such as this. If there is to be some regulation of strata titles that might be regarded as part of some retirement village scheme, I suggest that it needs to be a separate part of the legislation that might relate only to matters such as advertising because meetings of residents or strata title owners, the relationship of the unit holders to the strata corporation, and charges for painting, insurance and maintenance are all covered presently under the Real Property Act in relation to strata titles.

The other difficulty with strata titles is that they are readily marketable and the nature of a strata title development may vary from time to time. It may be that its residents are predominantly retired persons now but in three or four years time may not be so. It may be that persons who acquire the strata title do not want to be recognised as older people who have to be looked after because the development in which they purchased a title happens to be described for the purposes of this legislation as a retirement village scheme.

There are a lot of problems in bringing strata titles under the ambit of this legislation and, unless there is some good reason for doing otherwise, they ought to be excluded. If they are to be included, they ought to be referred to only in a separate part of the Bill and only in a very limited context, perhaps in respect of offers to the public by the strata corporation but certainly not going any further than that. There ought to be no impediment upon the marketability of a strata title and, even if an option has been given for repurchase, that ought not to be something subject to controls and ought not to prejudice the capacity of the strata title owner to sell the unit, provided, of course, that that person has not voluntarily entered into the option and believes that he or she is not bound by it.

However, if there is a binding option it is a matter in contract. It does not affect the interest in the land and it is not, as I understand it, a caveatable interest. Clause 4 deals with the application of the legislation to retirement villages established before or after the commencement of the legislation. I have some concern about that, since certain schemes have been developed under totally different criteria and I would want us to look very carefully at what ought to apply retrospectively and what ought to apply prospectively.

In relation to clause 4 it is interesting that there is no reference to this Bill binding the Crown. While it may not at this stage be that the Crown is a party to any retirement village development, I could foresee that the South Australian Housing Trust may be involved in this sort of exercise and there is no reason why it should not equally be bound by the legislation as is the private sector.

In relation to clause 6, a number of suggestions have been made to me, on the one hand, that the three business days provided is too short because older people take longer to make up their minds (and I have some sympathy with that argument) and, on the other hand, that it does not adequately protect the rights of the administering authority. I tend, on balance, to believe that three business days is probably appropriate. However, it ought to be a matter which the Government considers, particularly in relation to the comment that older people sometimes feel unable to make quick decisions on such an important issue, although, I suppose they are no different from other members of the community who have to make substantial investment decisions in relation to homes and retirement, and maybe there ought to be no discrimination in that respect.

Clause 7 causes some concern, particularly in relation to the termination of the right of occupancy. This clause provides that there is a right of occupancy which cannot be terminated unless a resident dies, a resident decides to leave the retirement village, there is a breach of the residence rules, or the unit becomes an unsuitable place of residence for the resident because of the resident's mental or physical incapacity. Subclause (3) provides for the giving of a notice by the administering authority with a view to terminating a resident's right of occupation on the ground of a breach of residence rules. However, the termination cannot occur unless at least 28 days after the giving of the notice has expired.

There is no provision for giving earlier notice of termination. It may be that there are quite substantial breaches of residence rules, perhaps in relation to the health and hygiene exercised within the premises. Maybe the toilet facilities or other facilities have been blocked by the occupant and the occupant refuses to clear the blockage. Maybe there is a difficulty with unhygienic conditions with respect to food or other aspects of cleanliness. It may be that one of the residents has on the premises a pet which causes unbearable stench or damage to the premises. It may be that the resident is causing damage to the premises on a continuing basis. There is a whole range of circumstances one could envisage where there ought to be a right to terminate at an earlier time or require more urgent attention to the problems if they are breaches of the residence rules,

but this clause gives no opportunity for that earlier notice of intention to remedy the defects or defaults and terminate at an earlier time.

Subclause (6) provides that, where the right of occupation has been terminated, the resident must be allowed 60 days from the date of termination to vacate the unit. While the Supreme Court can make an order for the ejectment of a resident who has not vacated the unit at the expiration of the 60 days, there is no provision for earlier termination. If we add the 28 days minimum period to the 60 days, we have a period of 88 days or nearly three months, and there is no opportunity for an administering authority to resolve the breach of residence rules, the unhygienic conditions, or the damage to premises, and the authority must tolerate it, possibly also to the detriment of adjoining occupants.

It may be, of course, that there is even a breach by the administering authority and owner of a retirement village scheme *vis-a-vis* an adjoining occupant where the occupant has a right to quiet use and enjoyment of the unit. Where notice is given of a default by an adjoining occupant and the administering authority is unable to get rid of the adjoining occupant or to do something to remedy the breach of residence rules, it may be that the administering authority is in breach of the contract.

There is also provision in subclause (5) for an occupant to be removed from the premises on the grounds of mental or physical incapacity but only after two legally qualified medical practitioners, one of whom must be a person nominated by the resident or a member of the resident's family, have certified that in their opinion the unit has become unsuitable for the resident because of the resident's mental or physical capacity. The difficulty with that is what happens if the resident is incapable of making a request to a medical practitioner by way of a nomination? It may be a member of the family, if there is a member of the family readily available, but there may be either no member of the resident's family or no member of the resident's family readily contactable or accessible. It may be that they are all interstate, overseas or in the country, or perhaps the resident's family do not take much of an interest in the resident.

If the resident is mentally incapable of making a nomination then under subclause (5) *(a)* the administering authority will not be able to at least start the steps for getting vacant possession of the accommodation. In relation to subclause (5) *(b)*, if the resident has failed or refused to submit to an examination by a legally qualified medical practitioner in accordance with a reasonable request by the administering authority, the right of occupancy can be terminated.

That does not take into consideration that the failure or refusal to submit to an examination may be based on a reasonable cause, and so it seems to me that the resident who has failed or who has refused without reasonable cause to submit to an examination in accordance with a reasonable request by the administering authority should then be subject to ejectment from the premises. But the whole difficulty with the clause is that it does not deal with certain circumstances and certainly does not allow for some compressing of the timeframes within which action can be taken by an administering authority. That needs to be addressed by the Attorney-General. Clause 8 deals with premiums, and provides:

> A premium paid to the administering authority must be held in trust . . . until the person by or on whose behalf the premium was paid enters into occupation of a unit.

I do not have any difficulty with that concept, but it does not take into account what occurs now in some charitable or community arranged schemes. One which was drawn to my attention recently involved both hostel and unit accommodation in a country town. One of the local residents of the town sought from the organisation a unit which had not yet been built and which the organisation had no plans to build. The resident indicated that she was prepared to make a substantial sum available to enable the construction of the unit. She preferred to be in the complex rather than out in her own home or in some other part of the community, because it did provide facilities such as meals and cleaning.

If this Bill had been in force that unit could not have been built because the money which the prospective resident offered to pay and which she did pay would have had to have been put in a trust account and could not have been expended on building the unit, and the organisation could not have raised the funds to have constructed the unit in anticipation that it could subsequently draw the money from the trust account.

The other difficulty is that this premium also applies to the premiums which might be paid for hostel type accommodation. As I understand hostel type accommodation, a premium might be paid or a gift (as it is called) made in return for the right to go into the hostel accommodation on the basis that, if the person becomes infirm, the person can move out to an infirmary or to nursing home accommodation. The donation is used to fund the ongoing work of the organisation in respect of its accommodation for older people and may be used for repairs when a previous occupant has vacated the premises and for replacing carpets, and so on.

I am told that in one resident-funded accommodation—and this is unit accommodation—it can cost up to $10 000 to replace the floor coverings, to repair the furnishings and furniture, and to clean and sometimes repaint the premises. It is quite reasonable, I would have thought, that any gift or premium paid in respect of hostel-type accommodation should be able to be used immediately for those sorts of purposes. If a prospective resident does not enter into occupation of a unit, the premium must be repaid. This is a provision in clause 8 (2).

It does not say anything about the prospective tenant being in default. If, in good faith and in accordance with a contractual arrangement, a community organisation, for example, has made available a unit and has furnished it, and then the prospective occupant says, 'I don't want it,' then it is reasonable in my view that there ought to be some compensation available to the administering authority for any costs which might have been incurred in relation to that particular unit which cannot be recovered from some subsequent resident, and there ought to be some consideration taken of the prospective occupant saying, 'Look, I don't want it,' for one reason or another.

So, if there is default on the other side, then there ought to be some allowances for recovery of costs and expenses and any loss which might be occasioned. It may not be possible, for example, to get someone to enter the unit or other accommodation for a month or two, and in that time it is lying idle. It seems to me to be reasonable that if a prospective occupant is in default some compensation ought to be payable to the administering authority.

I return for a moment to clause 7, and raise one other question in the following circumstances. If there is a young, unemployed child of the tenant who nevertheless is an adult, who lives with the resident or tenant, what protection does that person have in relation to occupancy if the parents die or are placed in some other accommodation because of their mental or physical incapacity? On the other hand, what right will the administering authority have to require the vacation of the premises in those sorts of circumstances?

Is there any control which the administering authority can have over additional occupants, the charging of additional accommodation fees or rent? It seems to me that there needs to be some consideration given to these sorts of provisions, which are delightfully vague in the Bill at the present time.

I turn now to clause 9, which deals with contractual rights of residents, particularly under a service contract. I draw attention in subclause (2) to a description in line 10, where reference is made to 'the resident or person claiming under the resident'. I am not sure what 'under the resident' actually means, and that will need some clarification. My major concerns are with later subclauses. Subclause (3) provides:

> If there is a divergence between an oral understanding, and a written agreement, between the administering authority and a resident as to the refund of a premium or part of a premium, the resident is entitled to rely on whichever is the more favourable to the resident.

I find that a quite extraordinary provision. I would have thought that a written agreement should be the basis upon which the relationships between residents and administering authorities are determined, and to suggest that an oral understanding might override a written agreement seems to fly in the face of the law as we know it, and it has proved to be reasonable in dealing with contractual relationships between citizens. If we were to introduce the concept of an oral understanding, whatever that means, we would pave the way for considerable disputation and for intervention by relatives of residents in particular, who I understand are those who mainly take up the cudgels on behalf of residents and try to get more out of the administering authority than a contract would ordinarily allow. So, I am very much opposed to clause 9 (3). I think it is quite inappropriate and ought to be rejected. Clause 9 (4) provides:

> Subject to subsection (5), the rights of a resident referred to above are a charge on the land of the administering authority within the retirement village.

I am not sure what 'referred to above' actually means: presumably, it refers to the service contract and maybe also to the premium—but that needs clarification, if it is to remain in the Bill; I hope that it will not. The difficulty that I see with this provision is that the mere fact that there is a service contract will in itself create the charge, by virtue of subclause (4). It will not be readily accessible to the public. A charge means that it gains some priority over other interests in respect of the title, and in those circumstances a charge ought to be clearly identifiable if it is in fact to be placed on the land.

It is unusual for a service contract to be a charge. A service contract can be imprecise. It can be amended from time to time. There is no provision for that to be registered or to be available for public scrutiny, nor is there any provision for amendments to be notified by way of registration. Of course, the clause does not operate to create a charge on common property in a strata retirement village, but what about a charge over a strata title? Is that covered by this provision? The provision refers to 'on land of the administering authority', but what if it is on land which is administered by the administering authority and owned by another organisation? This Bill suggests that in those circumstances the charge will not be a charge—that it is only on land of the administering authority.

The disturbing aspect of this provision is that the charge is to have priority over all mortgages and charges except those registered before the commencement of this Act. It does not say anything about charges which might be created before the commencement of this Act—and there are a number of those, such as those under the Local Government Act for unpaid rates. Most of the charges of which I am aware generally are imposed by statute and relate to Government fees and charges or to those imposed by a local council, including charges such as road moieties.

If the charge is to have priority over all mortgages and charges it will mean, in effect, that it will be almost impossible to obtain funding to develop resident funded retirement accommodation because all mortgages thereafter are to be subject to some vague and not publicly registered charge under a service contract. It seems to me that it could even prevent the development of a resident funded retirement village which might be subject to mortgage even before sales have been made and in that event I can see it creating quite considerable problems with respect to raising funds.

There is no requirement to lodge the charge at the Lands Titles Office. There is no provision to identify on the public record to which unit the service contract is to apply. It may even apply to hostel type accommodation. The whole of the concept of clause 9 needs to be rethought. Maybe we need to look at legislation similar to that which applies to strata titles so that we can separately identify units which might be the subject of an occupancy agreement. If we do have separately identified but registered units similar to strata titles but not, in fact, strata titles, it may be possible to deal more effectively with this question of priority and of charges, and with funding.

Clause 10 deals with meetings of residents: it applies not only to units but also to hostel type accommodation. Whilst I have no objection to the meeting of residents to tell them what is going on, one has to remember that in many instances the services being provided to residents are upon terms and conditions which have been clearly identified at the commencement of the occupancy, and there ought not to be in relation to hostel type accommodation the sorts of mandatory requirements which this Bill appears to impose. If there are to be those mandatory requirements for meetings of residents, or for special resolutions of residents under clause 10 (7), then at least the rights of the administering authority ought to be more clearly identified. I would have thought that under the subclause which deals with an annual meeting of residents there is not the same necessity to provide financial and other income and expenditure details. Ordinarily, that is not something that concerns the residents.

The Hon. Diana Laidlaw: It certainly does in my strata title unit.

The Hon. K.T. GRIFFIN: I am talking about hostel type accommodation not resident funded separate units. I suggest that we need to look carefully at what involvement residents are to have in those complexes which deal with hostel type accommodation rather than unit type accommodation to overcome the conflict which may well arise where there is some of both sorts of accommodation in the one development. Clause 10 (7) provides that a special levy is not to be imposed on residents of a retirement village unless authorised by special resolution passed at a meeting of residents.

That can create some considerable problems where there may be special reference in the documents establishing the scheme or relating to hostel type accommodation which would give, in the case of hostel type accommodation, a quite unnecessarily disproportionate say in the effective running of that sort of accommodation. We need carefully to look at what power is given to residents in those circumstances, even in the context of unit accommodation akin to strata title accommodation. It seems to me that where the ownership of such units is vested in an administering authority or some other body there must be some flexibility to enable the costs of maintaining the premises to be fixed

by the administering authority and collected without the necessity for such things as special resolutions.

Clause 11 deals with unreasonable residents' rules. We need to clarify what is unreasonable or oppressive and in what context that is to be judged. Is it in respect of a particular resident or is it in the wider context of the operation of the whole development or scheme? It is not clear and, unless it is clarified, it can be a source of some confusion and possibly some concern.

I have referred in some respects to the question of registration of interest on certificates of title. Clause 14 requires a note of the fact that land is used as a retirement village to be endorsed on the relevant certificate of title. I am not sure what the consequence of that might be. It will certainly alert mortgagees to the potential difficulties, but it seems that, if it is to have a relationship to the charge provisions to which I earlier referred, there needs to be a more specific explanation and exposition as to the part that the notation plays in the whole of the scheme of this legislation.

In clause 14 (3) is a requirement that, before an application is made to the Registrar-General for endorsement of the relevant certificate of title, there has to be notification to each person who holds a mortgage charge or encumbrance over the land. No provision exists that that should be any particular period of notice, and that ought to be clarified. Clause 15 provides that the person to whom this provision applies shall not be concerned with the administration or management of a retirement village. That deals with persons who are insolvent within the meaning of the Companies Code and certain people who are convicted of dishonesty. There is no clarification as to what is meant by 'being concerned in the administration or management of a retirement village'. The marginal note says 'certain persons not to be involved in the administration of a retirement village'. That needs to be clarified and more detail included in the clause.

Clause 16 refers to a District Court having power to excuse an authority from the consequences of non-compliance with the provisions of the legislation. I do not see any great difficulty with that, but I draw attention to the fact that in clause 7 (7) ejectment is to be ordered only by the Supreme Court. As I understand it, the District Court does have powers to order ejectment, and it may be in these circumstances that the District Court is the appropriate body to have jurisdiction and exercise it in respect of getting people out of these sorts of premises.

Under clause 16 (3) an application to be excused from the consequences of non-compliance may not be made after proceedings for an offence relating to non-compliance have been commenced. It seems to me that that is a bit harsh. I would have thought that the court before whom proceedings are taken for non-compliance should have the power to make that sort of order if the court believes that it is appropriate in all the circumstances for that to occur. It seems to me that, if the application is not made to the court for it to be excused from non-compliance before the proceedings are issued (and they may be issued without notice), it is somewhat harsh if the administering authority could have gained an exemption.

Clause 18 (3) again raises the question of the vicarious liability of directors or managers of bodies corporate in the administration of the legislation where an offence has been committed by a body corporate. The difficulty with this is that there is not only private sector (that is, private enterprise bodies) involvement in these sorts of developments but also community, charitable and religious organisations involvement. My experience of persons involved in these bodies is that they tend to rely on executive officers for advice and are not fully cognisant of the consequences of particular actions being taken by the body corporate. I think it is harsh to make a director, where that person may be a member of a body of an incorporated association, liable in the circumstances under clause 18 (3).

Clause 19 is the regulation making power. Among other things, it provides for regulations allowing for the determination of disputes. My view is that that mechanism ought to be in the Bill and not in the regulations. I hope that when the Attorney-General considers submissions he will be able to put into the Bill, by way of an amendment, a suitable mechanism for the resolution of disputes.

There are other matters that I will raise during the Committee consideration of the Bill. As I have already said, they are not necessarily major items but they do impinge on the application of this legislation to those who may be responsible for providing accommodation for older people. The Bill requires some careful consideration and, I suggest, a great deal more work. I do not criticise the Government for that; I merely draw attention to what I see as quite significant deficiencies in the legislation.

I undertake to facilitate consideration of amendments which might be brought in by the Government after it has had a chance to assess all the submissions that it receives on the Bill. I think there is a need for some legislation, and it needs to achieve a proper balance between the rights of those who provide accommodation and the rights of those who are residents. The legislation must not prevent the proper and reasonable development of accommodation for persons who have a need for retirement village accommodation. I support the second reading.

The Hon. J.C. BURDETT secured the adjournment of the debate.

STATE EMERGENCY SERVICE BILL

Received from the House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The South Australian State Emergency Service has its origins in the Civil Defence Organisation reformed in 1961 on the initiative of the Commonwealth Government. The original aim was to protect the civil population from military action by hostile forces. As the threat of war diminished over the years, the civil defence emphasis gradually shifted towards counteracting natural disasters. In 1974, following the creation of the Commonwealth Natural Disasters Organisation, the State arms of the former Civil Defence Organisation became known as State Emergency Services. The service in this State was formally established by the Government approximately 25 years ago and is located within the Commissioners Command, South Australian Police Department. Administratively, the Director of the service is responsible to the Commissioner of Police.

The South Australian State Emergency Service is organised around local units. In June 1986 there were 65 such units with a total active membership of approximately 2 800 volunteers. Each unit is sponsored by local government, or in the case of outback units such as Leigh Creek and Yunta,

by the Outback Areas Development Trust. Funding of the organisation is from three sources:

The Commonwealth Government
The State Government
Local Government.

The Commonwealth Government, through the Natural Disasters Organisation, Department of Defence, provides specialised equipment, accommodation subsidies for the provision of Local Headquarters and the reimbursement of the salaries of regional SES officers. The total Commonwealth commitment for 1986-87 is in the vicinity of $340 000 for South Australia.

The Commonwealth conducts a public information program, comprising the production of training handbooks, disaster information pamphlets and films. This program is administered by the SES. In addition, the Natural Disasters Organisation has established the Australian Counter Disaster College at Mount Macedon in Victoria. At that college specialised counter disaster training courses are conducted for members of counter disaster organisations and Government departments from all States and Territories. The State Emergency Service is the nominating authority, in South Australia, for that college and as such provides the administrative support for potential South Australian students. The State Government provides funding to operate the permanent officer structure of the service and to provide a dollar for dollar subsidy to sponsoring local government organisations. The subsidy during 1985-86 (with a maximum payout of $5 000 to a local council) totalled $152 000. Each sponsoring council provides funding, some of which is subject to subsidy, for its unit. In some cases more than one council sponsors a single unit, for example Brighton, Unley and Mitcham support the one metropolitan SES unit—Mitcham. The structure of the service consists of a small headquarters, staffed by seven personnel, at Police Barracks, Thebarton. In the field, 10 regional officers have been appointed and are located within the country police divisional areas, including Stirling and Christies Beach subdivisions. Regional officers are supported by nine part-time clerical assistants, a total strength of 26 personnel. Prior to February 1985 there were only three regional SES officers. As a direct result of a recommendation of the Lewis Scriven Report, following Ash Wednesday II in 1983, which recognised the serious lack of counter disaster planning throughout the State, an additional seven regional officers were appointed.

Each regional officer has the appointment, under the regulations to the State Disaster Act, of executive officer to, and member of, his respective Divisional Counter Disaster Committee. The Director of the service has the same responsibility to the State Disaster Committee. In this role, each regional officer is responsible to the Police Divisional Commander for assisting in the preparation of counter disaster plans. Operationally, the service has two roles:

(a) State Disaster role.
(b) Day-to-day emergency role.

Under the State Disaster Plan, the SES has been identified as one of the 13 functional services. Its role in a declared disaster is to provide reconnaissance, search and rescue, and immediate sustenance within the disaster area and to provide a mitigation response to storm damage and floods. The four areas of responsibility are:

(1) Reconnaissance
To carry out reconnaissance in conjunction with police immediately after the disaster, to establish the nature and extent of the disaster and to report to the State Coordinator on matters which require attention.

(2) Search and Rescue
To provide search and rescue parties whose tasks are:
- the rescue of casualties (the trapped and injured)
- to render first-aid
- assemble the injured and shocked
- to direct persons who are independently capable and mobile to assembly areas
- to liaise through the field coordinator with other functional services, in particular fire, engineering, health, medical and ambulance, police and welfare
- to continue reconnaissance as required.

(3) Welfare
To provide interim warmth and sustenance to disaster victims before their arrival at welfare assembly centres.

(4) Storm and Flood
To provide a response for the purpose of the mitigation of the effects of storm and flooding.

In a day-to-day situation, the service responds to any call for emergency assistance. This can be as a primary response call or to support other statutory emergency services.

Plans have been developed for the SES to provide emergency food supplies to personnel from National Parks and Wildlife Service or Country Fire Service volunteers who are fighting a bushfire. Such a need occurred in the recent past on Kangaroo Island in December 1985, and also in the Danggali National Park. In addition, the service responds to numerous calls from the public and from other emergency services in alleviating storm damage. In country areas where no other service has the capability to respond, the SES attends at vehicle accidents.

During the year 1985-86, the South Australian State Emergency Service responded to 900 calls including 265 vehicle accidents and 257 which were storm orientated. The service is often called in to assist police in land search operations where there are missing persons. It has emergency rescue boats at principal towns along the Murray River and operates a sea-going craft at Port Lincoln. This Bill has been introduced to put the South Australian State Emergency Service upon a statutory footing. The Bill will assist the service by clearly defining its responsibilities and duties and, most importantly, by clarifying its powers and legal obligations. The Bill gives public recognition to the importance of the service to the community and will assist the service in setting its objectives.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 provides some necessary definitions, the most important being the definition of 'emergency'. The definition covers much the same area as the corresponding definition in the State Disaster Act, but without the qualification that 'extraordinary measures are required' to deal with the situation. Once an emergency has been declared to be a disaster under the State Disaster Act, this Act will cease to apply, except to the extent that the SES has an obligation to play a vital role in counter-disaster or post-disaster operations.

Clause 4 establishes the State Emergency Service, but not as a body corporate. The SES is, and will continue to be, a section of the Police Department with the Director and other officers being public servants.

Clause 5 requires that there be a Director of the SES and provides that the position of Director is a public service position.

Clause 6 gives the Director a power of delegation, subject to the Minister's approval.

Clause 7 provides that the Commissioner of Police is responsible to the Minister for the administration of the

Act and, in that role, is subject to the Minister's control and direction. The Commissioner is required to furnish the Minister with an annual report which must be tabled in Parliament as soon as practicable.

Clause 8 sets out the functions of the SES. The service is to assist the police in dealing with any emergency, and to assist the various other statutory authorities in dealing with emergencies in accordance with their relevant Acts. The service has the function of dealing with emergencies where no other body has authority to do so, and also where some other body does have authority, but has not yet assumed command. Other functions may be assigned to the service.

Clause 9 provides for the registration of SES units by the Director. An SES unit is, once registered, a body corporate. The functions of a unit will be largely provided for in its constitution, but regulations could also be made for this purpose if necessary. Provision is made for the dissolution of an SES unit and for the vesting of its assets in the Minister upon any such dissolution. An SES unit is given the same exemption from rates and taxes as the Country Fires Act gives to CFS units.

Clause 10 provides for the appointment by the Director of emergency officers for the purposes of the Act. The Director is himself an emergency officer.

Clause 11 empowers the Director to assume command of all operations to deal with an emergency that has arisen or is imminent, where no other body has authority to assume command, or where some other body does have that authority, but has not assumed command. The Director assumes command by written order (a method of publication may be prescribed by the regulations). An order only exists for 48 hours, but may, with the Minister's approval, be extended by a further 24 hours. If any other body lawfully assumes command of operations the Director's order under this Act ceases to have effect.

Clause 12 sets out the powers that an emergency officer has while an emergency order is in force. An emergency officer is given a general power to do all things that, in the officer's opinion, are necessary or desirable for the protection of life and property. More specific powers are given for such things as the taking over of land, vehicles or other property, directing or prohibiting the movement of people, vehicles or stock, demolishing structures, etc., or destroying seriously injured animals and directing people to assist the officer in the exercise of his powers. The powers set out in this clause are virtually identical to the powers given to authorised officers under the State Disaster Act.

Clause 13 makes it clear that if an emergency organisation from interstate 'crosses the border' to assist at an emergency in this State (that is, forest fires in the South-East) the members of that organisation have all the powers, rights, immunities, etc., that an emergency officer has.

Clause 14 empowers an emergency officer to assist upon request, the police, State Disaster authorised officers, commanding officers under the South Australian Metropolitan Fire Service Act and fire control officers or fire party leaders under the Country Fires Act. An emergency officer may also assist in dealing with an interstate emergency, if requested.

Clause 15 makes it an offence to fail to comply with a direction given by an emergency officer or by a person acting at the officer's direction, or to obstruct an emergency officer or a person at the officer's direction.

Clause 16 gives an emergency officer, and a person assisting at the officer's direction, the usual immunity from liability for anything done in good faith in exercising, or purporting to exercise, powers under this Act.

Clause 17 provides for volunteer emergency officers and persons assisting at the direction of emergency officers to be covered by the Workers Compensation Act while acting in that capacity. The method of determining average weekly earnings is the same as provided in the proposed amendment to the Country Fires Act.

Clause 18 is an evidentiary provision relating to emergency orders and emergency officers.

Clause 19 provides that offences under the Act are summary offences and prohibits prosecution except upon the authority of the Attorney-General.

Clause 20 makes it clear that this Act does not derogate from any other Act.

Clause 21 provides for the making of regulations.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

ADJOURNMENT

At 5.52 p.m. the Council adjourned until Thursday 19 February at 2.15 p.m.