LEGISLATIVE COUNCIL

Tuesday 18 August 1998

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 2.15 p.m. and read prayers.

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Appropriation,

Statutes Amendment (Young Offenders).

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: 129, 206, 210, 234 and 242.

YOUTH TRAINEES

129. **The Hon. T.G. CAMERON:**

1. How many youth trainees were employed in the public sector by the Government for the years—

(a) 1994-1995;

(b) 1995-1996;

(c) 1996-1997; and

(d) 1997-1998?

2. How much has the scheme cost the Government for the years—

(a) 1994-1995;

(b) 1995-1996;

(c) 1996-1997; and

(d) 1997-1998?

3. How many youth trainees will be employed in the public sector in 1998-99?

The Hon. R.I. LUCAS: The Minister for Employment, Minister for Youth has provided the following information:

1. 1994-1995 1028 Trainees
   1995-1996 917 Trainees
   1996-1997 1084 Trainees
   1997-1998 1035 Trainees
2. 1994-1995 $4.7 million of special State funds
   1995-1996 $4.6 million of special State funds
   1996-1997 $6.8 million of special State funds
   1997-1998 $3.4 million of special State funds **

**A number of the trainees engaged in the 1997-1998 financial year will not complete their traineeship until the 1998-1999 financial year, and therefore further expenditure of State funds on salaries and wages for those trainees is still to occur.

3. The Government announced in its recent Employment Statement its intention to engage 1200 trainees in the public sector in the 1998-1999 financial year. The Government has made a similar commitment for the 1999-2000 financial year to engage 1 200 trainees.

SPEEDING FINES

206. **The Hon. T.G. CAMERON:**

1. How many motorists were caught speeding in South Australia between 1 April 1998 and 30 June 1998 by—

(a) speed cameras;

(b) laser guns; and

(c) other means;

for the following speed zones—

60-70 km/h;

70-80 km/h;

80-90 km/h;

90-100 km/h;

100-110 km/h;

110 km/h and over?

2. Over the same period, how much revenue was raised from speeding fines in South Australia for each of these percentiles by—

(a) speed cameras;

(b) laser guns; and

(c) other means?

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised of the following statistics by the Police.

Speeding Offences Issued and Expiated During April 1998 to June 1998 (Speed Camera Offences)

	Issued		Expiated	
Vehicle Speed	Number	Amt $	Number	Amt $
Less than 60km/h	477	67 837	541	77 146
60-69 km/h	78	14 710	62	11 891
70-79 km/h	47 169	6 170 710	40 794	5 299 219
80-89 km/h	5 457	911 988	3 950	659 930
90-99 km/h	6 591	951 470	4 944	698 766
100-109 km/h	2 249	343 607	1 860	269 835
110 km/h and over	710	131 686	366	67 374
Unknown	33	5 762	23	3 905
Total	62 764	8 597 768	52 540	7 088 066

Speeding Offences Issued and Expiated April 1998 to June 1998 (Non Speed Camera Offences)

	Issued		Expiated	
Offences Description	Number	Amt $	Number	Amt $
Exceed speed between school signs 15-29 kph	-	-	1	183
Exceed speed between school signs 30-44 kph	1	292	-	-
Exceed speed between school signs 45 kph and over	1	292	1	292
Exceed speed between school signs by up to 14 kph	1	118	2	236
Exceed speed certain heavy vehicles 15-29 kph	64	14 528	35	7 945
Exceed speed certain heavy vehicles 30-44 kph	8	2 336	4	1 168
Exceed speed certain heavy vehicles by up to 14 kph	51	7 548	34	5 032
Exceed speed general 15-29 kph	125	22 875	78	14 274

Speeding Offences Issued and Expiated April 1998 to June 1998 (Non Speed Camera Offences)

	Issued		Expiated	
Offences Description	Number	Amt $	Number	Amt $
Exceed speed general 30-44 kph	19	5 548	8	2 336
Exceed speed general 45 kph and over	2	584	2	584
Exceed speed general by up to 14 kph	39	4 602	27	3 186
Exceed speed passing school bus 15-29 kph	2	366	1	183
Exceed speed passing school bus by up to 14 kph	1	118	1	118
Exceed speed road works 15-29 kph	220	40 260	260	47 580
Exceed speed road works 30-44 kph	53	15 184	50	14 600
Exceed speed road works 45 kph and over	6	1 752	18	5 256
Exceed speed road works by up to 14 kph	50	5 900	47	5 546
Exceed speed school zone 15-29 kph	9	1 647	4	732
Exceed speed school zone 30-44 kph	2	584	-	-
Exceed speed school zone 45 kph and over	-	-	1	289
Exceed speed school zone by less than 15 kph	6	708	3	354
Exceed speed town 15-29 kph	7 718	1 409 647	5 561	1 017 659
Exceed speed town 30-44 kph	550	160 305	319	93 148
Exceed speed town 45 kph and over	32	9 344	14	4 088
Exceed speed town by up to 14 kph	5 043	594 248	3 985	470 229
Exceed speed zone 15-29 kph	3 593	657 151	2 703	494 645
Exceed speed zone 30-44 kph	365	106 580	236	68 912
Exceed speed zone 45 kph and over	67	19 564	38	11 096
Exceed speed zone by up to 14 kph	1 275	150 449	981	115 756
Speed sign erected on or near bridge by up to 14 kph	11	1 298	9	1 062
Speed signs erected on or near a bridge 15-29 kph	58	10 431	39	7 137
Speed signs erected on or near a bridge 30-44 kph	5	1 460	7	2 044
Speed signs erected on or near a bridge 45 kph and over	2	584	1	292
Speed within 30 metres of school crossing 15-29 kph	2	366	1	183
Speed within 30 metres of school crossing 30-44 kph	1	292	-	-
Total	19 382	3 246 961	14 471	2 396 145

UNEMPLOYMENT

210. **The Hon. T.G. CAMERON:**

1. (a) Will the new advisory group to be formed by the State Government to draw up strategies to combat unemployment, as planned by the Minister for Employment, involve businesswomen as well as businessmen; and
   (b) Will community, unions and other interested parties be invited to be part of the group?
2. If not, why not?
3. How frequently will the group meet?
4. Will the issues discussed and the decisions taken be made public?

The Hon. R.I. LUCAS: The Minister for Employment has provided the following information.

1. (a) Yes.
   (b) Yes, where appropriate.
2. Not applicable.
3. As necessary and in accordance with the terms of reference.
4. When appropriate.

EQUAL OPPORTUNITY

234. **The Hon. T.G. CAMERON:** How many cases were referred to the Equal Opportunity Tribunal and the Human Rights and Equal Opportunity Commission for the following years—

1. How many Certificates of Compliance have been issued as required by the Electricity Act 1996?
2. (a) Who is responsible for the audit of Certificates of Compliance; and
   (b) What is the method of the audit of Certificates of Compliance?
3. (a) How many non-Compliances have been reported to date; and
   (b) What action was taken in each case?
4. How many jobs have been completed by electrical contractors and maintenance personnel since the Electricity Act came into effect?

The Hon. R.I. LUCAS: I refer the honourable member to answers provided in the House of Assembly on 2 July 1998 to similar questions asked by the Member for Gordon.

QUEEN ELIZABETH HOSPITAL

242. **The Hon. CARMEL ZOLLO:**

1. What funding arrangements have been made to provide a magnetic resonance imaging facility at the Queen Elizabeth Hospital?
2. What steps have been taken to gain funding for this facility?
3. Will the Minister for Human Services ensure that the Queen Elizabeth Hospital receives this important facility?
4. What period has been provided to secure this facility?

The Hon. DIANA LAIDLAW:

1. An amount of $800 000 was included in an allocation to North West Adelaide Health Service (NWAHS) in 1997 for a small specialised MRI which would enable electrolytic tumour destruction and other interventions which would reduce length of stay and surgical trauma. This was part of a package of initiatives aimed at reducing surgical waiting lists.

2. Subsequent detailed investigations regarding the structural and physical requirements to install such equipment proved to be time consuming as this leading edge technology is used in only a few centres in Europe. As a result of the investigation, NWAHS has advised that according to best clinical practice guidelines, this MRI machine is not really ready for introduction into clinical practice.

3. The establishment of MRI facilities requires significant capital and recurrent funding and must be viewed in response to economic population size and priority need.

4. New Commonwealth funding arrangements for MRIs handed down with the May 1998 Budget will have implications for the State.

The feasibility of funding new MRI sites under these changes is yet to be determined, however, the Commonwealth will only fund services provided at approved sites. The indicative criteria for approved sites will be those sites in existence as of 12 May 1998. South Australia has taken up with the Commonwealth a number of issues arising out of the Budget announcement on MRIS.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Regulations under the following Acts—
- Education Act 1972—Non Government Schools Registration
- Financial Institutions Duty Act 1983—Principal

District Council By-laws—
- Mid Murray—
  - No. 11—Permits and Penalties
  - No. 12—Council Land
  - No. 13—Moveable Signs
  - No. 14—Flammable Undergrowth
  - No. 15—Caravans
  - No. 16—Straying Stock
- Port Pirie—
  - No. 1—Permits and Penalties
  - No. 2—Moveable Signs
  - No. 3—Council Land
  - No. 4—Flammable Undergrowth
  - No. 5—Dogs
  - No. 6—Bees
  - No. 7—Animals and Birds
  - No. 8—Taxis

By the Attorney-General (Hon. K. T. Griffin)—

Rules of Court—
- District Court—District Court Act 1991—Obtaining Interstate Evidence

Evidence Act 1929—Report of the Attorney-General relating to Suppression Orders for the year ended 30 June 1998

Supreme Court Act 1935—Report of the Judges of the Supreme Court of South Australia for year ended 31 December 1997

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
- Liquor Licensing Act 1997—Dry Areas—Long Term—Various

By the Minister for Transport and Urban Planning (Hon. Diana Laidlaw)—

Regulations under the following Acts—
- Motor Vehicles Act 1959—
  - Accident Towing Roster
  - Trade Plates
- Road Traffic Act 1961—
  - Clearways—Henley Beach Road
  - Prohibition on Fishing from Bridge.

PROSTITUTION

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement from the Minister for Police, Correctional Services and Emergency Services in the other place on prostitution.

I also seek leave to table a report on prostitution in South Australia prepared by the Strategic Development Branch of SA Police.

Leave granted.

SPRINGWOOD PARK DEVELOPMENT

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I have today advised Mr Andrew Garrett, the proponent of the Springwood Park wine, food and tourism project, that I will not declare the project as a major development. As required by the Development Act I have addressed:

· whether the proposal was of major environmental, social or economic significance; and

· whether it was necessary that a major development declaration be made to enable the proper assessment of the proposal.

There are clear policies outlining the forms of development appropriate to the hills face zone. This proposal contains elements that are not envisaged by that policy and I do not consider that it is appropriate that a strategic planning policy issue of this significance should be addressed through the assessment process. Strategic planning matters should be considered by a review process and the Planning Strategy. However, I am not prepared to undertake a review of the hills face zone policies on the basis of this proposal at this time.

QUESTION TIME

GOODS AND SERVICES TAX

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Treasurer a question about the GST.

Leave granted.

The Hon. CAROLYN PICKLES: Fundamental to the Howard Government's planned GST is the decision to hand over to the States and Territories all the revenue from the new tax. Accompanying this is the abolition of many of the States' own source tax, potentially increasing South Australia's dependence on Commonwealth funds. The current situation is that more than 50 per cent of State revenue comes from Commonwealth sources. This begs the question and speculation about the future of the Grants Commission and horizontal fiscal equalisation, both of which are important to this State's financial base, not to mention the loss of State sovereignty. My questions to the Treasurer are:

1. Has the Government undertaken an analysis of the projected revenue to the State from GST and, if so, what is the result of that analysis?

2. What will be the status of the Grants Commission and horizontal fiscal equalisation in the new GST regime, and did this issue arise during the Liberal Premiers' tax package briefings in Canberra last week?

3. Does the State Government have any strategies to protect horizontal fiscal equalisation under the new tax regime, and have there been any discussions with the Federal Treasurer regarding this matter?

The Hon. R.I. LUCAS: The package from the Commonwealth includes a commitment to continue the operation of the Grants Commission and horizontal fiscal equalisation. State Treasury is still to work through with Commonwealth Treasury the precise impact of the projections in future years of the amounts of revenue which might come to the States from the Commonwealth's proposed tax arrangements, and

therefore at this stage I am not in a position to provide any more detail than that.

The Hon. Carolyn Pickles: Will you provide the detail when you have it?

The Hon. R.I. LUCAS: When we are in a position to know, in broad terms, the nature of what might be provided from the Commonwealth to the States in the future, I will be very happy to make some sort of statement to the Parliament, or publicly, as might be appropriate at the time.

GAMBLING

The Hon. P. HOLLOWAY: Further to the Treasurer's answer last week to Opposition questions, will he now say what impact he expects the Howard GST proposals to have on the State's gambling revenues; and will he also say whether the Government will cut State taxes on TAB and poker machines to protect returns to punters?

The Hon. R.I. LUCAS: State Treasury officers are working and will continue to work over the coming days and weeks with Commonwealth Treasury officers regarding the precise implications for the State of the proposed tax package. At this stage, we are not in a position to respond in detail and will not be able to do so until we receive the detail from the Commonwealth in relation to the proposed arrangements, in particular in relation to gambling.

The Hon. NICK XENOPHON: Further to the Treasurer's answer, does the Federal Government's proposal that GST revenue will go directly to the States mean that the States will be less reliant on gambling taxes than they presently are?

The Hon. R.I. LUCAS: That is a difficult question to answer because, in essence, it depends on how one looks at the GST component. As we understand the Commonwealth offer, it will apply a GST to the gambling industry in some way—however one might describe the exact formula—and its suggestion is that the States might take up the opportunity of reducing their gambling taxes. I guess it depends on how one portrays a 10 per cent GST on the gambling industry: is it or is it not a gambling tax? If one sees it as being a gambling tax coming from the gambling industry, then in relation to that there is really no change at all. Certainly, if the States were not to reduce their gambling taxes by the extent of the GST on the gambling industry, then it would be an increase of taxation on the gambling industry.

VICTORIA SQUARE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Heritage, a question about the Victoria Square proposals.

Leave granted.

The Hon. T.G. ROBERTS: I refer to an article in the *Advertiser* today headed 'Get your act together' and a subheading 'Lord Mayor attacks delays in drink problem reports'. The article by Paul Starick suggests that an urgent problem which needs to be addressed—but which has not been addressed—is alcohol abuse and harassment within the Square. All members of this Chamber know that this problem has been developing over a number of years, and many of us have worked on various solutions and made suggestions in various forums.

As the Lord Mayor's comments indicate, a lot of words have been stated but no action has been taken. The proposed recommendation that appears to be formulating is that another report be put together for the Minister for consideration. I am not sure whether that is the real position, so I ask the Minister when the Government will have a proposal to put to the Adelaide City Council for discussion and action on this urgent issue.

The Hon. DIANA LAIDLAW: I have a little advice that I can provide the honourable member at this stage, but I will seek further advice from the Minister and bring that back forthwith. I can alert the honourable member that the Lord Mayor telephoned the Premier last night about the article that she understood was to appear in the *Advertiser*, and she regretted the emphasis that she understood would be placed on the article and on some of the comments that she had made. She also advised that, since the meeting that the *Advertiser* covered, she had learnt that the council itself had not sent through information that had been promised to the Minister. The Lord Mayor therefore made sure that the council, having been remiss in that action, covered itself immediately, and that information was forwarded last night.

I understand that the Minister for Human Services (Hon. Dean Brown) has been on radio today indicating that the Government's actions in this regard have been unfairly reflected on by the Lord Mayor and by the *Advertiser* in its reporting of the Lord Mayor's comments. The Government advanced some very constructive proposals to deal with this issue (I think that was when the Hon. Dr Michael Armitage was the Minister for Aboriginal Affairs). The council rejected those proposals at that time, but I understand that the council is now prepared to consider the same issues that it rejected some three years ago.

It is an unfortunate, very difficult issue all round. I do not want to level blame about the way in which the Lord Mayor responded without knowing that the council had been remiss in actions promised and, given that the council had constructive proposals before it three years ago and did not act and indeed rejected some of those proposals but is now prepared to look at them, I think perhaps we can put on a brave face and move forward in a constructive fashion and, hopefully, we can put behind us the comments by the Lord Mayor and the *Advertiser* in seeking to address this issue. I will bring back further details for the honourable member.

INTOXICATION AND THE CRIMINAL LAW

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General a question on intoxication and the criminal law.

Leave granted.

The Hon. J.F. STEFANI: On Saturday 15 August 1998 the Labor Party letterboxed some of the Federal electorate of Adelaide, including my home, with Party political material authorised by Mr Michael Atkinson, the member for Spence. The material distributed by the Labor Party included a printed response addressed to the Attorney-General through a reply paid permit which was care of Mr Atkinson's electorate office at Allenby Gardens. In the propaganda distributed by the Labor Party, constituents were told to urge the Attorney-General to amend the laws dealing with intoxication as a defence. My questions are:

1. Can the Attorney-General advise what action the Liberal Government has taken on the issue of intoxication and the criminal law?

2. Does the Attorney-General have any comment on the way in which Mr Atkinson is conducting his political agenda?

The Hon. K.T. GRIFFIN: I will answer the second question first because I have seen the brochure. In fact, I saw the pamphlet about two or three months ago when he first started to circulate it around his electorate, because half a dozen people wrote to me with the tear-off slip that was on his brochure. I have written back to them putting to them the Government's position and inviting them to take advantage of the offer of looking at the discussion paper which has been published.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: Let me get to the mailing list in a moment because the brochure is quite blatantly misleading. It is not even clever. It is perhaps cunning, and it would, I suggest, be gutter politics because it is designed to create fear. There is no sense of responsibility on the part of Mr Atkinson. It is crudely designed to create fear, presented as it is with a couple of very ugly photographs of the defendant, really driving home the force of the fear that Mr Atkinson wants to create.

He has not sent it or the replies to me, but has actually written to me with a summary of what he has been doing, and he tells me all his tactics. His letter was received in my office on 10 August. It was not dated, although it has a religious date at the top which signifies the date. I know that it was received on 10 August because it is clearly date stamped on the 10th in my office. He goes on to explain that he issued 82 of his letterboxing volunteers with a leaflet on the question of self-induced intoxication with drink or drugs as an excuse for crime. He states:

> The leaflet included a reply paid card which my constituents could use to indicate their opinion on this matter. 70 of the 82 letterboxing areas in the State District of Spence have now been done, and we have returns from 1 559 people, or 1 268 families, or 1 172 households. I should think the return rate on the leaflet will finish at about 10 per cent of the total number of people enrolled to vote in Spence—

according to Mr Atkinson. He goes on to tell me that all but three of the respondents have signed their name to the reply paid letter. Then he proceeds to give me several excerpts. Can I say that this pamphlet—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: We will worry about that later. This pamphlet makes a number of misleading statements. It states:

> The outcome of the [Nadruku] trial would have been the same in South Australia.

Unless he has some crystal ball that I do not have, I do not believe that he could ever predict that that was the case, particularly in the light of the information provided by the Director of Public Prosecutions, that in the corporate recollection and memory of the office of the Director of Public Prosecutions there has not been a case of this kind in South Australia where the accused, having sought to use the defence, has in fact been able to convince the jury or a magistrate that it is a defence that ought to be given some credence. No-one has been acquitted in this State as they have been in the Australian Capital Territory.

What he does not say about the ACT is that it was just the intervention of the ACT Attorney-General to indicate that he would be seeking to amend the law that ensured that there would not be an appeal in that Territory against the decision of the magistrate. The pamphlet also curiously writes a letter to me, as follows:

> Hon. K.T. Griffin MLC
> Attorney-General
> Parliament House
> Dear Mr Griffin,
> For the safety and protection of all South Australians, I urge you to amend the law so that intoxication cannot be used as an excuse for crime.
> Signed:
> Your Name:
> Your Address:

I do not have any problem with that, because I welcome an opportunity to communicate with people who might have a concern about anything which I or the Government may be doing. If they write to me, they will get a response. But, believe it or not, with taxpayers' money, this goes out, and Mr Atkinson purports to be my agent. What does he do? On the back of that he puts:

> Reply Paid Permit 209
> Michael Atkinson
> Shadow Attorney-General
> 574 Port Road
> Allenby Gardens 5009.

What the people do not seem to realise is that there is quite a difference between the Attorney-General and the shadow Attorney-General, in many respects, including on policy terms.

Members interjecting:

The Hon. K.T. GRIFFIN: No similarity between me and Mr Atkinson—and anybody who suggests that outside this House had better watch themselves for defamation proceedings! What I demand of Mr Atkinson is that he makes available to me all the letters that have gone to him addressed to me. I do not want photocopies or extracts, I want the originals—and I am entitled to have them. It is taxpayers' money. They are addressed to me and I am entitled to know what is in them and to know the names and addresses.

I suspect that Mr Atkinson thought he was being too clever by half by seeking to gain responses. They will go on to his mailing list and he will keep sending them incorrect information about the Government's policy on law and order, crime and punishment and other issues in the hope that he will keep ramping up fear of crime. I suggest that that is a dishonourable approach from a member of Parliament, particularly in the context of the Labor Party's record in relation to this. The Hon. Mr Sumner was always out there trying to be constructive about crime and punishment and law and order. Mr Atkinson has thrown that to the wind and here he is beating up this issue.

I demand of Mr Atkinson, who is using taxpayers' money, to put them in a bundle, the 1 100 of them (or 1 200, however many he has got), and let me have them. I bet you he does not have the guts to do it because he will know that I will follow it up with a constructive response to the people who have written in. He does not want to engage in a constructive discussion about it, he just wants to create fear. On a number of these issues Mr Atkinson does not have a clear policy position and any idea.

The Hon. L.H. Davis: On anything.

The Hon. K.T. GRIFFIN: On anything. He just hops on a bandwagon. What happened with rape counsellors' notes? I indicated last year that that was an issue that we would get on to the agenda of the Model Criminal Code Officers Committee so that it could have public consultation around Australia. I indicated subsequently that following that discussion it was preparing a report, and I also indicated that the Government was prepared to consider the final recom-

mendation for a Bill when it had been received from the Model Criminal Code Officers Committee.

So what does Mr Atkinson do? He pops a Bill into the Lower House which is grossly inadequate. He does not have to worry too much about what the policy implications of it may be, just the one liner, get it in, get a bit of publicity for it and do not worry about the consequences. That is what happened there. With the drunk's defence—this unfortunate case came up in the ACT—he hopped on the bandwagon straightaway. In this leaflet which has gone out to these 1 100 or more households who have responded, plus all the others who have not, what he has not said is that there is a discussion paper out in the public arena with invitations from anybody to gain a copy from my office in particular and to respond constructively by 31 August, and we have had Bills drafted to give those who wish to consider it an opportunity to do so in the light of what could well be the law. He does not say anything about that: let's just play the gutter politics.

Then with victim impact statements: introduce a Bill in the Lower House, do it quickly, do not worry about the broader consequences of that or what the implications are, just introduce it, get your publicity, and let someone else fix it. I indicated back in September last year, when I was addressing the Victim Support Service annual meeting, that we would review all the things that impinge upon victims and victims' rights within the criminal justice system and victim impact statements were one. The Hon. Mr Sumner was in the audience and he acknowledged that it was an appropriate course. I gave him credit for having introduced it and for having introduced into the Parliament the declaration of victims' rights. But what does Mr Atkinson do? He simply discards all that and hops on the quick, short, sharp, shiny, political bandwagon.

It is quite obvious that Mr Atkinson will keep playing the law and order game. It is still 3½ years or more to an election. We were lucky at the last State election that we did not get into this great ramping up and bidding war about crime and punishment and law and order. Maybe he is starting to prepare the ground for the next election. All I can say in relation to that is that that will do a disservice to the broader community and it will simply create fear—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: It was not. Let me talk about self-defence. What did he do with self-defence? He picked up an old report of a select committee—something that had been considered back in 1992—hopped on the bandwagon and introduced it without considering the ramifications of it and everybody indicated in their responses that it was fatally flawed. Again, thank you very much for the very valuable interjection. I keep reminding members opposite, members on this side and members on the cross benches that Mr Atkinson does not have a policy idea in his head. If he is on the bandwagon of ramping up law and order, let him and the Labor Party understand what are the consequences. The consequences are that they will be responsible for creating a higher level of fear of crime in this community and they will have to cop the responsibility for trying to resolve it.

URBAN SPRAWL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Transport and Urban Planning a question on urban sprawl.

Leave granted.

The Hon. M.J. ELLIOTT: I note that the Minister made a ministerial statement today on a subject that is somewhat related, but Standing Orders do not allow me to congratulate her. There is growing concern that the State Government is creating a renewed urban sprawl problem in Adelaide's outer metropolitan areas by failing to implement proper planning guidelines. Urban sprawl has made Adelaide, with a population of about 1 million people, larger than cities such as Rome with 3 million people, Tehran with a population of 5 million and even Calcutta with a population of 14 million, and about the same size as Toronto with a population of 3 million.

In recent times we have seen the emergence of development along our south coast, in the Mount Lofty Ranges and along the South-Eastern Freeway, which is against the State's planning strategy. There is concern that this threatens all previous attempts to retain order in our urban boundaries. Urban sprawl has caused many negative impacts such as encroachment into the hills face zone (but I note the positive statement of the Minister today), new infrastructure costs for the Government and the takeover of prime agricultural land in surrounding areas such as the Barossa Valley, the Southern Vales, the Adelaide Hills and the Virginia area.

Many in the community are now saying that, in a world struggling to feed itself, it is grossly irresponsible of our State to allow fertile agricultural production land to be wasted. They believe it will have a long-term negative impact on the State's total production. I have been contacted by people also raising concerns about the hills face zone, which is continually under threat. One of several proposals now at least has not been granted major project status. Ribbon development increasingly is being allowed along our Fleurieu coast. Golf course subdivisions outside existing township boundaries have been approved in Strathalbyn, Wirrina, Mount Compass and possibly Yankalilla. We have Government departments pursuing the narrowing of our coastal zone within certain parts of the State, with the support of Planning SA, which will encourage ribbon development along the coastal zone. These are just some of a number of examples of continual encroachment on areas surrounding metropolitan Adelaide. My questions to the Minister are:

1. Is the Minister concerned about the level of urban sprawl that is occurring around Adelaide?

2. What actions will the Minister take to address these issues?

The Hon. DIANA LAIDLAW: If the honourable member did not wish to speak in sweeping generalisations but read the planning strategy he would know that since I became planning Minister late last year the planning strategy has been firmed up considerably in terms of urban consolidation issues and what we now call urban regeneration issues for the very reasons the honourable member has outlined, because the Government, too, is interested in maximising investment that has already been made in roads, schools, hospitals and the like along our public transport corridors, rather than seeing the majority of our new capital works in outer suburban areas.

If the honourable member is as concerned as he would have us believe in this place, I would very much like his help in working with Mitcham council because that council has resisted at almost every turn every one of my efforts to have it respect the planning strategy and the urban regeneration initiatives within that strategy. I ask the honourable member to help me.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: You will help me?

The Hon. L.H. Davis: You're against urban consolidation and you attack urban sprawl, don't you?

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: I appreciate the Hon. Michael Elliott's willingness to help me in discussions with Mitcham council to support the statements he made today and, in particular, to support the principles in the planning strategy. I advise, too, that an urban regeneration green paper is being developed. It should go to Cabinet soon before being released for public discussion because there are major issues that we must address as a community if this issue is to be advanced seriously in the community good. There are also urban design issues that must accompany urban regeneration considerations.

I take very brief exception to the statements that we are encouraging development along the South-East Freeway. The honourable member bases that remark on an ill-informed press statement by the Conservation Council in about April this year. I met with the President subsequently and there was a formal apology given to me for misunderstanding the issue. Mr Peter Ward of the *Advertiser* took up the Conservation Council's concern, again without reading or understanding the PAR that had been issued with interim effect. I will provide all that information to the Hon. Mike Elliott because I would not wish him to be misinformed on this issue and I certainly would not want him, now that he knows he has been misinformed, to continue to talk about such issues with any authority, because he would be wrong.

BLANCHETOWN BRIDGE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on the Blanchetown bridge replacement.

Leave granted.

The Hon. J.S.L. DAWKINS: The Blanchetown bridge has been a vital link in the Sturt Highway, connecting Adelaide with the Riverland, Sunraysia and Sydney, since its construction in 1964. I understand that on average 600 commercial and 2 000 domestic vehicles use the bridge each day. In recent times a 42.5 tonne load limit was placed on the bridge due to the accelerated ageing of its main structural components. As a result, heavier vehicles have been forced to detour via Morgan while the condition of the bridge has been monitored closely. Will the Minister inform the Council on the progress to replace the bridge with one that will cater for present day loading and, indeed, loadings predicted for the future?

The Hon. DIANA LAIDLAW: The Blanchetown bridge is a subject in which I am particularly interested. I thank the honourable member for his question because he uses the Sturt Highway regularly in travelling to the Riverland and in dealing with his constituency interests generally. I indicate that by November this year the bridge works will be completed. It is a federally funded project, which will enable heavy commercial vehicles of up to 100 tonnes to use that bridge. The new bridge has been designed to resist the effects of an earthquake. Its bridge piers will be protected against river vessel impact by the installation of fender beams.

The navigation span and roadway lane widths have been increased, which is important in terms of safety. Pedestrian safety also has been improved with the installation of a traffic barrier on the inside of the footpath.

The Hon. T.G. Roberts: Can you fish from it?

The Hon. DIANA LAIDLAW: I do not know about that. I suspect people might but—

The Hon. L.H. Davis: Perhaps Mike Rann could go bungy jumping from it.

The Hon. DIANA LAIDLAW: Bungy jumping might be possible. This is an interesting structure. In fact it is the first time in Australia where bridge lengths and loads in excess of 700 tonnes will be incrementally launched across bridge spans. This bridge has been built in the same style as the Brighton jetty and the Berri bridge, but the engineering capabilities of this bridge are such that it can withstand loads of 700 tonnes, in terms of incremental lengths, and that does make it a remarkable bridge in engineering terms. It is interesting to highlight, too, that, following its completion in November, it will be a real bonus for the region as a whole because, with the old Blanchetown bridge currently limited to loads of 42.5 tonnes, heavy vehicles are using roads through Eudunda, Kapunda and other areas, and I know that the heavier traffic on those roads is not necessarily appreciated. The road surfaces have not necessarily been made for those heavier loads, either, but have had to withstand them as a bypass or deviation while the Blanchetown bridge has been restricted for weight capacity.

GAMBLING, SUPPORT SERVICES AND RESEARCH

In reply to **Hon. NICK XENOPHON** (7 July).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. The 24 hour counselling service for gamblers and those affected by gambling is one of a range of strategic initiatives approved as part of the Gamblers Rehabilitation Program. Officers from the Department of Human Services have been undertaking negotiations with G-line Victoria to operate a six month pilot service for South Australia. G-line Victoria is currently providing this service for Tasmania and New South Wales and, as the pre-eminent 24 hour telephone counselling service for those with gambling problems, is considered the agency best positioned to provide a quality service in South Australia. However, the Government is keen to ensure that good value is received in relation to this contract and negotiations have been undertaken to this end. Although there remain a few contractual matters to be resolved and final details of services in South Australia to be compiled for G-line counsellors, it is anticipated the service will begin operation in September.

2. Consultation with the Break Even network has occurred and will continue in respect to the 24 hour telephone counselling service. These consultations have focused on helping to develop a comprehensive directory of relevant South Australian services, and discussions around how Break Even and other specialist gambling services will link together with G-line in order to ensure that callers to the service receive an optimum service which is professional, immediate and connects them into longer term services and support, as appropriate.

3. As previously stated it is anticipated the service should commence in September pending the finalisation of a contract with G-line in Victoria.

4. An evaluation report into gambling and self-help has been prepared by NCETA (National Centre for Education and Training on Addiction). The report is currently being considered by the Gamblers Rehabilitation Fund Committee. It is expected the report will be forwarded to the Minister for Human Services in the near future after which the time of its release will be considered.

HOUSING TRUST TENANTS

In reply to **Hon. G. WEATHERILL** (7 July).

The Hon. DIANA LAIDLAW: The Minister for Human Services has provided the following information:

1. All tenants will be notified in writing of their Housing Manager's intention to call for the purposes of conducting the housing visit. The letter will ask the tenant to contact the Housing Manager within fourteen days to make a suitable time for the visit.

2. As measured at 30 June 1998, the average length of tenancy in a Trust house was 11 years.

3. Tenants who transfer have an average length of tenancy of 10.25 years.

4. During 1997-98, a total of 9 418 tenants vacated their Trust homes. Of this number, 2 657 or 28.21 per cent transferred directly to another Trust home.

5. The most common reasons for tenants transferring during 1997-98 (not in any particular priority) were:

- escaping domestic violence;
- health and social problems;
- employment;
- family reasons;
- neighbourhood disputes.

6. It is not possible to answer this question, as a tenant who occupied in, say, June 1998, could still be a tenant at the present time, but may vacate in May 1999, and therefore have vacated within 12 months of their occupation.

However, it is possible to indicate the number of tenants who occupied during 1997-98, and then vacated within the financial year. For example, in the year just ended, the Trust allocated a total of 8 685 properties—of this number, 6 028 went to applicants from the waiting list, and 2 657 went to tenants transferring from one property to another.

Of the total number of allocations, 7 599, or 87.5 per cent were still tenants at 30 June 1998.

NORTH TERRACE

In reply to **Hon. G. WEATHERILL** (21 July).

The Hon. DIANA LAIDLAW: A complete re-design of North Terrace including the junction with West Terrace is currently being investigated as part of the Adelaide City Council's (ACC) Traffic Management Study.

There are a number of options being assessed for North Terrace based on the objective to discourage use by traffic travelling through the City, and to improve amenity, safety and ease of use by pedestrians.

It is too early in the process to determine what the layout for North Terrace may be, but the merging problem between the West Terrace junction and the Morphett Street Bridge will be addressed. Under the current timetable, it is expected that the Study will be completed in January 1999.

The ACC has been working with Transport SA to ensure that planning for improvements both within and outside of the ACC boundaries are compatible.

As mentioned, it is the Government's long term plan to continue with the improvements made to Port Road at Thebarton, widen the recently realigned Railway Terrace, and create a new link through to South Road called the Western Bypass. It is intended that this new link would cater for people travelling between the west and north of the City, many of whom currently use roads within the ACC boundaries. From West Terrace alone it is expected that approximately 12 000 vehicles per day would be attracted to the new Western Bypass. Construction of this new link is currently proposed for 2005 in conjunction with the replacement of the Bakewell Bridge, subject to the availability of funding.

RAILWAYS, CROSSINGS

In reply to **Hon. R.R. ROBERTS** (2 July).

The Hon. DIANA LAIDLAW: The practice of sharing the installation and ongoing maintenance costs of railway level crossing safety control devices, between the railway and the road owners, was introduced by Australian National Railways. This only applied outside of the Adelaide metropolitan area and followed the transfer of the State owned railways to the Commonwealth in 1978, by the then Labor Government. No new imposts on Councils in South Australia have arisen as a consequence of the privatisation of Australian National.

The particular crossings which the honourable member has referred to, already comply with the minimum required national standards. Whilst it has been established by the State Level Crossing Safety Committee that these crossings now meet the 'warrant' criteria which suggests a higher level of control treatment is appropriate, this is not a mandatory requirement. The Committee acts purely in an advisory capacity and it rests with the parties directly involved to decide, as part of their risk management strategies if, and when, active control treatment should be provided.

The issues of cost sharing and funding in regard to railway level crossing safety are a historical legacy and have not arisen as a result of any economic policies of this Government, nor have they resulted out of any privatisation of railways. The issues have existed for some considerable time and will not easily be resolved. However, steps are being taken to deal with them as quickly as possible in a way which is equitable to all concerned.

MERYL TANKARD AUSTRALIAN DANCE THEATRE

In reply to **Hon. CAROLYN PICKLES** (2 July).

The Hon. DIANA LAIDLAW: Both the Australia Council and Executive Director of Arts SA have now agreed that their joint letter addressed to Mr Haag, General Manager in relation to the Meryl Tankard Australian Dance Theatre, on 19 June can be incorporated in Hansard, in the public interest.

'Dear Christian

We are writing to you following the recent correspondence and discussions between Meryl Tankard Australian Dance Theatre and each of Arts SA and the Australia Council. We would be grateful if you would arrange to have this information passed on to your Board.

It is understood that the company is currently undertaking a major strategic review of its structure and its operations. It is our view that the company may be assisted in this process by receiving information from us on what the two funding agencies are looking for from the company into the future.

This information represents our view based upon the selection criteria and accountability conditions for our current funding agreements and draft funding agreements as well as discussions with you and your Board. It should not be assumed that each funding authority requires all of the outcomes specified in this letter.

The first point is that both funding authorities agree that it is the company which is being funded. The level of funding provided by each funding agency is substantial and pre-supposes that the company will be producing and presenting work of the highest artistic standards nationally, which is also capable of being highly regarded internationally. Therefore, any structural changes to the company would need to ensure that the standard of the company's work continues to pass this artistic quality threshold test.

In terms of quantity of work, it is expected that the company will produce one or two new works per year and that those works will be toured nationally and possibly internationally. In terms of South Australia, it is expected that at least two works will be presented each year. These may be new works or developed works. If the opportunity arises, it is expected that at least one work will be toured to South Australian regional areas each year.

Irrespective of the mix, both funding agencies would expect that these presentations will be combined with a concerted audience development strategy. In terms of South Australia, there is a particular expectation that the company will work to develop new audiences for contemporary dance within the state. It is also expected that the company will use its best endeavours to engage South Australian dancers and/or provide significant developmental opportunities for South Australian dancers and dance students. It is also expected that the company will endeavour to work collaboratively with other South Australian arts organisations, particularly other performing arts organisations.

The company will be required to provide each Annual Program and Budget in advance for approval by the funding authorities.

Finally, the funding authorities would expect the company to meet their normal financial expectations including avoidance of deficit budgeting, development of a strategy for building an asset base and identification of new and innovative sources of revenue.

We trust that this provides you with sufficient information to facilitate your planning processes. Please let us know if any of the above is unclear.

Yours sincerely,

Tim O'Loughlin	Catherine Brown-Watt
Executive Director	Manager, Major Organisations
Arts SA	Australia Council'

MOVING ON PROGRAM

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Disability Services a question about the post school options Moving On program.

Leave granted.

The Hon. CARMEL ZOLLO: In 1997 a pilot program was introduced for school leavers with disabilities. The

project called 'Moving On' came into operation in January 1998 to provide a variety of recreational, pre-vocational, sporting and other activities. Initially funding was $2.2 million and a further $225 000 was added in this year's budget. The Minister announced that this would be used to enable continuation of the program. My questions to the Minister are:

1. How many people are participating in Moving On under the initial funding, and what is the average number of program hours per participant?

2 How many new places will be provided by the additional funding?

3. How many of the estimated 80 school leavers with disabilities leaving school in December 1998 (or other eligible people) are likely to miss out because of funding shortages?

4. How will IDSC determine which eligible people join the program and which people will miss out?

5 Does the Minister plan to increase funding to ensure all eligible people are able to be placed in the program?

The Hon. R.D. LAWSON: The Moving On program, which was introduced in 1997 with an initial funding of $2.2 million, was the first such program ever introduced by any Government in South Australia. It provides an opportunity for those children with disabilities leaving school to have some post school options for various forms of activities, some of which are educational, developmental, recreational, entertainment, and the like. The program which, as I say, was introduced for the first time was a very innovative program. It does give families of children with disabilities the opportunity to make choices about programs which suit them.

The idea is that families are allocated an amount of funds which they can apply in the acquisition of services and which they believe will be to the best advantage of their child. Children do not have to select one particular program: they can mix and match programs. Some programs are rather more expensive than other programs and families have the opportunity to choose a particular program. They may choose a more expensive program or programs that will allow them to acquire a fewer number of weeks of programs. They may, however, choose a less expensive form of program—and bear in mind that the average cost of these programs is about $20 000 per student—and obtain more weeks of that particular program.

The Moving On program is being evaluated now in the initial pilot stage. This year, when additional funds were available in the disability services budget, I placed a very high priority on the Moving On project and I allocated a further $225 000 (or more than 10 per cent) to the program for next year. At present the IDSC is undertaking evaluation of those who seek entry to the program next year. Some of those children leaving school may well prefer to go on to more educational or developmental programs; some may be assessed for the employment field.

Vacancies exist in some of the operators in this activity in South Australia, namely, Bedford Industries, the Phoenix Society, and a number of others. As I am advised, it is not presently determined exactly how many children or young adults will be seeking entry into the Moving On program next year.

I am not presently aware of the precise criteria adopted by IDSC in making its assessment for this program. However, I will obtain further information in relation to that and bring it back for the benefit of the Council. As I am advised, no new places have been allocated to date. The honourable member asks how many hours, on average, are made available under the Moving On program. It was my understanding that these programs are measured not so much by hours as by weeks, but I will obtain further details in relation to that matter and bring back a further reply, together with any other of the information sought and the questions asked by the honourable member.

STATE CREDIT RATING

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about South Australia's credit rating.

Leave granted.

The Hon. L.H. DAVIS: In today's *Financial Review* (18 August) at page 8 an article by journalist Simon Evans is headed 'S&P Triple A rating within SA's power'. This article discusses the well respected international ratings agency Standard and Poor's assessment of South Australia. It states:

> . . . says a sale of the State's power assets would be a positive for its credit rating.

The article further states:

> In a report released yesterday, S&P reaffirmed SA's AA long-term and A1-plus short-term local and foreign currency ratings, and put the ratings outlook at stable.

Furthermore, S&P is quoted as politely stating in its analysis that the sell-off of ETSA had been 'held up in the political process'. The point of the article is that South Australia has a AA rating, whereas States including Victoria and New South Wales have a AAA rating. Could the Treasurer comment on the importance of the credit rating to South Australia and the implications for the future economic health and direction of this State?

The Hon. R.I. LUCAS: Yesterday, my attention was drawn to the press release issued by Standard and Poor's in relation to the credit rating for South Australia. As I said to the journalist involved with the *Financial Review*, certainly the Government does not see the potential upgrade of the credit rating for the State as the be all and end all of the ETSA and Optima debate, but it is nevertheless an important aspect of it. What South Australia possibly confronts, particularly if Tasmania is able to sell its electricity assets and completely wipe out its debt through that sale, is that potentially all other States in Australia in the not too distant future may well be AAA credit rated States, with South Australia being the only State as a AA dead spot in the national landscape.

Whilst there are some interest rate benefits through the good work of SAFA, we are able to be competitive as a AA credit rated State. That is one aspect of the credit rating issue. The other important aspect is that, in terms of investor and business confidence and investing in a State, the notion that South Australia might be the only AA rated State compared with the AAA rated States is a potentially serious and important one for South Australians. For example, when businesses are looking to establish new investment in a State or Territory in Australia and they are comparing two States, with all other things being equal, they will look at whether a State has its debt under control and is a AAA credit rated State, in which event there would likely be less pressure on taxes and charges for business operators both now and in the future because they had their debt and finances similarly under control; and this would have to be compared with the AA credit rated State which still had significant debt and the

potential overhang of a Government (now or in the future) having to increase the rate of taxes and charges on business to help meet the financial and debt problems confronting that AA credit rated State.

They are the sorts of issues that business investors and others, in terms of their perception of the South Australian economy, will consider when making investment decisions in the future. It might be the sort of thing which people might like to laugh off and which commentators such as Mr John Spoehr and others might well seek to dismiss on the basis of inadequate economic analysis. However, in the real world of business investment and investment decisions, industry, business and investors will take a whole range of factors into account.

Certainly, the Government does not argue that the credit rating of the State is the only issue that is involved. They will take a whole range of factors into account, one of which will be the credit rating of the State and their perception of the impact of that on economic, financial and taxation policies of that State Government now and in the future.

I, too, as with the honourable member, read with some interest the Standard and Poor's press release. It is clear that the essential point it makes is that the only reasonable prospect that South Australia has of seeing an improvement in the credit rating is through the sale of ETSA and Optima. As the Government has already outlined in its May budget, a very stringent and tough financial program balancing our books and cash and eventually, in an accrual sense, a very slow wind down over the long-term in our State debt has been put in place, and the best we are able to get was a stable credit rating at AA in terms of future outlook. It is clear from the rating agencies that we have to do something significant, different from and additional to the four year financial program that the Government has laid down.

LIQUOR LICENSING

In reply to **Hon. R.R. ROBERTS** (23 July).

The Hon. K.T. GRIFFIN: Section 129 of the Liquor Licensing Act 1997 makes it an offence for a person to consume liquor on unlicensed regulated premises. It is also an offence for a person to supply liquor on unlicensed regulated premises.

Regulated premises are defined in the Act to include a public conveyance which is then defined to mean an aeroplane, vessel, bus, train or other vehicle used for public transport or available for hire by members of the public.

Therefore, it is an offence for a person to consume liquor on a hired bus.

People who wish to consume liquor on hired buses can either hire a bus from a bus line which holds a liquor licence or apply for a limited licence for the day. A limited licence will cost the applicant, who can be either the bus line operator or the hirer, $25.00 per limited licence.

An alternative which would be far more cost effective for a bus line which hires buses on a regular basis with consumption of alcohol being permitted would be for the bus company to apply for a special circumstances licence which could authorise both the sale and/or consumption of liquor on any of the company's buses at the discretion of the bus line. The cost of a special circumstances licence is a one off cost of $300.00 plus $41.50 advertising. Under normal circumstances an applicant could represent himself or herself on such an application because there is no longer a requirement to demonstrate need. I stress this is a one off application fee and there is no annual licence fee.

Therefore, if a bus is hired out with the ability for passengers to consume liquor on more than say 15 occasions in the life of the bus company it would be more economical for the company to obtain a special circumstances licence.

The provision requiring a licence if liquor is consumed on buses was introduced because of the considerable problems experienced by the police and the community as a result of the behaviour of people on buses. Unfortunately not all people who hire buses consume liquor responsibly and this causes public and road safety problems and very often problems for those communities or businesses on the receiving end of the bus trip.

If fact, many bus lines resist being licensed because they argue that their drivers are unable to enforce responsible consumption.

POLICE COMMISSIONER

In reply to **Hon. IAN GILFILLAN** (23 July).

The Hon. K.T. GRIFFIN: the Minister for Police, Correctional Services and Emergency Services has been advised that:

Contrary to the Hon. Gilfillan's suggestion, the Minister for Police, indeed the Government, remain committed to sound management principles such as continual improvement and quality service delivery.

1. The Police Commissioner signed a contract on 2 January 1997.

2. The contract includes a clause allowing performance standards to be set from time to time by the Minister.

3. & 4. The Minister for Police has not, at this time, set any performance standards, hence he has not laid any statement or statements of these standards before either House of Parliament.

5. The current Police Act does not require the Minister to set performance standards rather it stipulates that the Commissioner's contract must specify (among other things):

'that the Commissioner is to meet performance standards as set from time to time by the Minister'; and,

'on setting or varying the performance standards to be met by the Commissioner, the Minister must cause a statement or variation to be laid before each House of Parliament'.

The Minister for Police intends, when the Police Bill comes into operation, to set and subsequently table in Parliament the performance standards to be met the Police Commissioner.

6. It is the Government's intention to require the Police Commissioner to ensure that management practices employed in the South Australia Police are directed towards the effective, responsive and efficient delivery of services and, among other things, equitable human resource practices as well as continuous improvement in the delivery of services. To assist the Commissioner, the Police Bill proposes that the Commissioner (not the Minister or the Government) may from time to time set performance standards to be met by a police officer of or above the rank of inspector. The Police Bill also places obligations on the Commissioner to deal with unsatisfactory performance in an equitable and flexible manner.

ADELAIDE, POPULATION

In reply to **Hon. P. HOLLOWAY** (23 July).

The Hon. R.I. LUCAS: The Premier has provided the following information.

The media have focussed on the most negative of the possible scenarios in the ABS projections, and in doing so have showed little understanding of how the projections were made.

In particular, the *Advertiser* of July 15—which contains the article quoted by the honourable member in his question—says, in emphasising the scenario in which Adelaide's population falls to under a million by 2051, 'the ABS figures released yesterday are based on current birth, death, migration, and fertility rates.'

However, the ABS predictions are in fact based on a range of different assumptions about fertility, overseas migration and interstate migration—not simply on current trends. They give a total of 18 possible scenarios, not just the incredible shrinking State scenario fastened on to by the *Advertiser*.

Among the assumptions required to produce the most negative outcome for South Australia are:

- An annual interstate net migration loss of 4 500—it was 3 400, and falling, in the most recent year, 1997.
- A fertility rate of 1.6 births per woman by 2005-06, and maintained at this level thereafter—it is currently just under 1.8 (it should be noted that a fertility rate change of only 0.1 alters the total national population by a million persons in 2051, so this assumption heavily influences the results).
- National net overseas migration running consistently at an annual rate of 70 000 for 55 years—it was 83 700 in 1997, and this was low by historical standards.

The three main ABS scenarios give South Australia a population as high as 1.55 million or as low as 1.20 million by 2051, and Adelaide of up to 1.156 million or down to 0.911 million. This vari-

ation of over 25 per cent shows the considerable effect of using differing assumptions.

Moreover, when one compares the figures upon which the assumptions are based with the current indicators, it is clear that the most pessimistic scenario is unlikely to eventuate. The fact that the net interstate outflow has been consistently falling from the peak of nearly 8 000 in 1993-94—driven by the State Bank disaster and Labor's economic policies generally—to the current level of 3 400 is particularly significant, in that it shows that the Government's policies are working successfully to create an economic environment which will retain population and attract migrants from interstate and overseas.

It should also be noted that South Australia's population rose by 6 700 in 1997—a growth rate of 0.5 per cent (up from 0.3 per cent the previous year). This was the strongest population growth for five years.

Although the population indicators are currently moving in the right direction, the Government is not resting on its laurels. It recognises that there is still some way to go to turn around the net interstate migration loss, and to ensure South Australia attracts its proportionate share of overseas immigrants arriving in Australia. It is also true that South Australia's population trends in the medium to long term will be affected by the fact that its population is aging faster than that of other States. The ABS projections are therefore a timely reminder that the Government must continue to work to retain people in the State and attract migrants.

The chief way through which the State Government can influence population trends is through economic policies which enhance economic and jobs growth, keep the cost of living down, and thereby help to make the State more attractive to both potential migrants and South Australians who might otherwise leave. The Government also needs to ensure that the State's infrastructure will support a growing population.

Current policies, underlined again by the 1998-99 budget, are aimed in these directions. Examples include debt reduction; keeping the tax climate competitive; export strategies; investment attraction strategies; the employment package; infrastructure projects such as the Darwin railway, the airport, and the freeways; and other capital works (particularly hospitals and schools).

The ETSA sale is likewise an integral part of the economic strategy required to ensure economic and population growth—both for what it will do for debt, the tax burden on business and the public, and freeing up funds for infrastructure expenditure; and for what it will do for electricity prices and investment in new generating capacity, which will attract industry and jobs to the State. If the Opposition is worried about what the ABS has released on population projections, it should support the sale.

The Government has also moved to become more proactive in migrant attraction programs. The State currently attracts only 3.9 per cent of the total Australian migrant intake, and bringing this up to a level commensurate with South Australia's proportion of the national population would have a big impact on population growth prospects. The Government is endeavouring to achieve this through initiatives such as:

- Immigration SA, which became operational in July 1997, and involves the targeting of skilled immigrants (through a variety of promotional efforts in overseas markets), as well as practical programs to assist migrants on arrival. As many as 653 migrants used one or more of the Immigration SA settlement services in 1997-98; while the services also fielded 3 790 migration inquiries from 88 countries.
- The Business Migration Program, which targets entrepreneurs and successful businesspersons, who can bring investment and business (particularly export) skills to the State. The tight targeting and criteria for business migrants mean that the numbers of persons involved are lower—36 in the 9 months to March 1998—but each business migrant brings on average $800 000 in investment capital into the State.

CAMPANIA GEMELLAGGIO

In reply to **Hon. CARMEL ZOLLO** (19 July).

The Hon. K.T. GRIFFIN: The Premier and Minister for Multicultural Affairs has provided the following response:

1. The former Premier's two day visit to the Campania Region in September 1996 involved many appointments, and meetings with Prefects and Mayors of the Provincial capitals.

- The Hon. Dean Brown met with The Hon Antonio Rastrelli, President of the Campania Region. Discussions focused on the need to increase social, cultural, tourism and trade links between South Australia, and to examine and open up opportunities to attract manufacturing industry to use South Australia as their base for trade in South East Asia.
- President Rastrelli highlighted in his response and welcome speech that he was extremely pleased with what he felt was a genuine commitment and interest by the Government of South Australia to explore the potential for greater cooperation between the Campania Region and South Australia.
- Since the 1996 visit, letters of invitation have been extended on two occasions to President Rastrelli to head a business delegation to South Australia.
- Unfortunately due to natural disasters in the Region, the President has had to postpone his visit on both occasions.

The honourable member would be aware of the recent disaster which occurred in the Campania Region and of this Government's expression of sympathy to the President and people of the Region. The Premier has received a letter from President Rastrelli, who, on behalf of the Regional Council, the people of the Campania Region and himself has thanked the Premier and the people of South Australia for their heartfelt expression of solidarity.

2. During the former Premier Brown's visit in 1996 discussions concerning a major new link between South Australia's three Universities and the University of Naples was announced. In 1997 the proposed collaborative agreement was signed.

Professor Ian Chubb on behalf of the three universities has invited Professor Fulvio Tessitore of the University of Naples to lead a delegation of his research colleagues to visit South Australia in 1998.

It is understood that such a visit is tentatively scheduled for Spring 1998. A Committee with representation of all three universities has been formed to oversee arrangements and to pursue these collaborative arrangements particularly in the areas of science and technology.

SPEED DETECTION

In reply to **Hon. J.F. STEFANI** (7 July).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Police that:

1. There are procedures and guidelines for the use and placement of speed detection devices.

2. A copy of the guidelines has been provided separately to the honourable member.

3. Contained in the policy document of General Order 8910 is a specific instruction regarding the safety of members of the public when police personnel are positioning speed detection devices (which includes speed cameras) as well as a section on general safety of all road users.

Personnel operating speed cameras use a remote display device which is linked to the speed camera by a cable. When it is necessary to position themselves away from the camera, operators must ensure there is no danger to pedestrian traffic. Sometimes this means placing a rubber mat over the cable, where it is not possible to leave a gap for pedestrians to walk past. However, the safety of all persons using the road, pedestrians and vehicular is paramount with speed camera operators when they are positioning a speed camera at a location.

RURAL BANKING

In reply to **Hon. T.G. ROBERTS** (4 June).

The Hon. K.T. GRIFFIN: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

I thank the honourable member for his question regarding the establishment of regional rural banks, similar to those that exist in Canada and North America.

I support the view that many city people would not realise the impact of closing a major bank centre has on a rural community. However, it would seem to be an occurrence that is not restricted to this State but is happening in all parts of rural Australia. It should, therefore, be an issue that is best addressed on a national basis.

The honourable member may not be aware that the Federal Parliament's House of Representatives Standing Committee on Financial Institutions and Public Administration is due to complete its inquiry into 'alternative means of providing banking and like services in regional and remote Australia to those currently delivered through the traditional banking network', later this calendar year.

The South Australian Government has made a written submission to the inquiry.

It would seem premature for an individual State to proceed to implement programs without first considering the recommendations from this inquiry.

In the interim, the honourable member may also wish to consider the assistance that rural communities can obtain from the Commonwealth's Agriculture—Advancing Australia "CreditCare" program to attract financial institutions to their communities.

CreditCare, to date, has assisted thirty six communities across Australia to establish financial service facilities with another twenty seven communities expected to establish services by the year 2000.

ADELAIDE INSTITUTE OF TAFE

In reply to **Hon. J.F. STEFANI** (22 July).

The Hon. R.I. LUCAS: The Minister for Education, Children's Services and Training has provided the following information.

1. The cost of producing the 1997 Adelaide Institute of TAFE Annual Report on CD-ROM was:

1000 copies ordered (most economical run)	$2351.00
Postage for CD's	$ 380.00
Total	$2731.00

2. The cost of producing the 1996 Adelaide Institute of TAFE Annual Report on paper was:

600 copies ordered (most economical run)
40 pages of content
recycled paper (more expensive)
2 colour with duotones (more expensive)

Provision of photos for illustration	$ 354.00
Printing (including dyeline negatives)	$3670.00
Postage	$ 420.00 (approx)
Total	$4 444.00

FOREIGN DEBT

In reply to **Hon. P. HOLLOWAY** (4 August).

The Hon. R.I. LUCAS: As a precursor to answers to these questions, it would be useful to clarify a few concepts. Net foreign debt is net borrowing by Australians from foreigners. Net foreign debt is a subset of net foreign liabilities, which also includes net foreign equity in Australia. Australia's net foreign liabilities were $323 billion in March 1998; net foreign debt was $225 billion.

Interest rates are determined largely by the rate of inflation particularly views in the market place about future inflation, not foreign debt. A high level of foreign debt could theoretically induce a risk element into Australian interest rates but this is unlikely to be significant, as evidenced by the AAA rating applying to Australian dollar denominated debt of the Australian Government, and AA applying to foreign currency denominated debt (Standard and Poors).

Repatriation of profits does not lead to increasing foreign debt if foreign investment has assisted directly or indirectly in the provision of resources allowing the generation of export income from which profits can be distributed overseas. The financing of investment opportunities greater than can be financed from domestic savings will not proceed unless profits earned can be remitted to overseas capital providers.

It is assumed that the honourable member is referring to the level of foreign liabilities, rather than foreign debt. Should ETSA be sold to a foreign purchaser, and the proceeds used to retire State debt, then South Australia's foreign debt would be reduced directly by the amount of State debt held by foreigners and Australia's foreign debt reduced as a result of portfolio adjustments of Australian and overseas portfolio investors. Australian net foreign liabilities in total are likely to be unaffected.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Local Government, a question about cigarette smoking outside the Women's and Children's Hospital.

Leave granted.

The Hon. SANDRA KANCK: While the smoking of cigarettes is not permitted in our hospitals, there is nothing to stop this occurring outside the hospital and, in the case of the Women's and Children's Hospital, it is quite common to find relatives and even in-patients standing outside the entrance on the Kermode Street footpath and smoking. I am aware of a woman who, as a result of suffering severe asthma, is regularly admitted to the Women's and Children's Hospital. Exposure to cigarette smoke is life threatening to her, and the danger is increased by the fact that she has no sense of smell and cannot immediately detect that she is near a smoker. When she is admitted to Women's and Children's Hospital she therefore has to run the gauntlet of the smokers at the entrance, effectively placing her life in danger.

The presence of cigarette smokers outside the hospital is problematic also for the health of the rest of the hospital in-patients, because I understand that an intake for the air-conditioning system is nearby. However, the hospital administration is powerless to stop this behaviour as the smokers are on a public thoroughfare and only Adelaide City Council can take the appropriate action. I understand that in Toronto, Canada, it is illegal to smoke cigarettes within a 50 metre radius of an entrance to a health facility. Will the Minister discuss this matter with the Adelaide City Council and encourage it to introduce a by-law that will ensure that the various entrances to the hospital and intakes to the hospital's air-conditioning system are smoke free?

The Hon. R.I. LUCAS: I am happy to take up this issue with the Minister and bring back a reply. It may well be that the honourable member is able to provide some more detail about the issue, and if that is possible I am happy to convey that to the Minister. By way of explanation, the honourable member indicated that smoking was not allowed within hospitals. I must admit that on my experience, limited thankfully so far, arrangements appear to be entered into, whether knowingly or unknowingly, which allow smoking within hospitals.

The Hon. A.J. Redford: Not any more. I am speaking from personal experience.

The Hon. R.I. LUCAS: I am not talking about you.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: This was certainly in the nature of longer-term patients—

The Hon. A.J. Redford: They will be outside, Rob, I can tell you.

The Hon. R.I. LUCAS: Will they? Okay. The nature of the question was not what goes on within the hospital but what happens out on the footpath. I am not sure what the legal position is and I will have to take up the issue and get advice from the Minister, who will similarly get advice, and I will bring back a reply as soon I can.

BAROSSA TOURIST RAILWAY

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Transport a question on the subject of railway restoration tendering.

Leave granted.

The Hon. R.R. ROBERTS: I have been advised that the Commonwealth Government, through its Rail Reform Fund, and the State Government, together with local businesses in the Barossa region, are providing the finance necessary to upgrade the Nuriootpa to Angaston rail line to cater for tourists travelling from Adelaide to the Barossa Valley using the *Bluebird* tourist rail service which to date has been highly successful in terms of patronage.

Australian Southern Railways, which now owns the railway line between Nuriootpa and Angaston as a result of

the Howard Government's privatisation of Australian National, has as its sole contractor for railway line maintenance a company called Transfield. I am advised that other contractors who wished to tender for the business have been told by ASR not to bother as Transfield has the sole rights to do the maintenance work, despite the fact that the funds that will be provided for the upgrade will be taxpayers' funds only.

I am also advised that one contractor who wishes to be able to apply for the work in an open tendering process believes that his quote would be tens of thousands of dollars cheaper than the quote that has been put forward by Transfield. Will the Minister therefore intervene with Australian Southern Railway to ensure that there is an open tendering process for the refurbishment of the railway line between Nuriootpa and Angaston, which work will be undertaken at taxpayers' expense, to cater for the tourist railway line coach known as the *Bluebird*.

The Hon. DIANA LAIDLAW: I have not followed this issue for some time, but I was Chair of the Rail Reform Fund when we made a recommendation to the Federal Government for funding assistance to upgrade the Nuriootpa-Angaston line. As I understand it, when a more detailed assessment was made of the work that had to be undertaken, the quoted price was much greater than the Rail Reform Fund had approved in terms of dollars for that project. Therefore, I am interested to note that the project has advanced sufficiently that tenders or a quote have been lodged and work is envisaged.

These are Federal funds and my understanding is that, unless an exemption has been applied for, the Federal Government requires tendering. It may have applied for an exemption and been granted such an exemption, as applies with the standardisation project of the Tailem Bend to Pinnaroo line, where Transfield quoted a very competitive price and the Federal Government agreed, and so then did the State, for the work to be undertaken. There are no State funds in this project, as I understand it. There are certainly no transport funds, but there may be tourism funds in addition to the Federal funds. I would want to see that the best price was gained, and an open process would always be my preferred option, but exemptions may have been applied for and accepted. I will find out.

GAMBLING, BREAK EVEN SERVICE

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question in relation to the Break Even Gambling Service.

Leave granted.

The Hon. NICK XENOPHON: I understand that since about November 1996 agencies of the Break Even Gambling Service have been required to provide quarterly reports with information profiling clients in broad terms on the apparent understanding that this information from all agencies was to be collated by the department and used to increase the effectiveness of research and rehabilitation services for problem gamblers. I understand that no public report on the information provided has been released to date. My questions are as follows:

1. Can the Minister confirm that his department or an agency thereof has requested information from agencies of the Break Even Gambling Service on clients of that service?

2. If he answers 'Yes' to the first question, will the Minister say what information was requested and with what frequency?

3. What information has been provided to the department to date?

4. Has the department collated the information provided and, if so, when and, if not, why not?

5. When will the department release the information provided to it from the Break Even Gambling Service.

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

ELECTRICITY, PRIVATISATION

The Hon. T. CROTHERS: I seek leave to make a precied statement prior to asking the Treasurer and Leader of the Government in this Chamber a question on the proposed sale of the Victorian power distributor, Citipower.

Leave granted.

The Hon. T. CROTHERS: The United States based utility company Entergy Corporation announced on Monday 4 August this year that it would sell Victorian power distributor Citipower within the next 18 months as part of wider plans to divest itself of low-return assets and sharpen the group's growth strategy. This decision comes less than three years after this United States owned group bought Citipower for approximately $1.6 billion. Early indications of this projected sale came to the fore in June this year when the electricity union responsible for the employees of Citipower indicated that the American group was looking to exit the power company. In the light of the impending sale of this former Government entity now in private hands, I direct the following questions to the Minister:

1. Does the Minister believe that, contingent on the purchaser of the business, it could be the beginning of monopoly control of power generation in Australia in the hands of private companies which, unlike Parliaments, are answerable for their actions to no-one, and if not, why not?

2. When the Electrical Trades Union said Entergy planned to exit its investment in Citipower following a management shake-up in June, and Citipower said that the claim was without foundation and totally inaccurate, how can the Australian public trust and believe in a company such as this, which refuses to tell the truth when confronted with it some three months before it made the announcement?

The Hon. R.I. LUCAS: Given that the honourable member had to ask his question quickly because it is the end of Question Time, I could not pick up all the detail of his explanation. I apologise to the honourable member for that and indicate that I will be happy to read his explanation and respond in greater detail.

On the first question about whether I saw the move in Victoria as a move back to monopoly control in the power industry, the answer to that is very strongly 'No'. As to the structure of the national electricity market with the ACCC, including the NCC involvement as well, with all these other regulatory authorities, I can assure the honourable member that whatever problems and issues there might be, there will not be an issue of private sector monopoly control of the electricity market. That is part of the problem that we have at the moment, which is monopoly control by the public sector. Certainly it would be no advantage to move to—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I am saying that it would be of no advantage for us to change that system just to move to a monopoly control of the private sector. The structures are such that whatever your views might be on the national market it would be very hard to mount a credible or rational criticism which said we were moving to a private sector monopoly control situation. I know that Professor Fels and the ACCC would not allow one company to, in effect, take over control of not only one State's system but the whole national system by way of merger and acquisition. That is one of the strengths of the work that has been done by this Government in terms of trying to develop a competitive market.

I hear by way of interjection criticism of the retail industry from, I think, the Hon. Mr Elliott. I do not want to unfairly attribute the interjection to him if it was not him, but I hear criticism of the competitive nature of the retail market and others. That is one of the issues where the Government ought to be given some credit. We are genuinely seeking with the electricity market to, in effect, develop a competitive market rather than where a private sector monopoly situation could eventuate in the electricity market. As I said, I will read very closely the honourable member's explanation and prepare him a considered reply to his questions.

STATUTES AMENDMENT (FINE ENFORCEMENT) BILL

Adjourned debate on second reading.

(Continued from 11 August. Page 1311.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indication of support for this very important piece of legislation. Three members have raised issues which require a response. I have already made available to the honourable members the responses which I propose to make so they could be aware of the nature of the response. I deal first with the questions raised by the Hon. Carolyn Pickles. I will deal with them seriatim.

The first is whether the Penalty Management Unit can sell the principal place of residence of a defaulter. Such a course is not possible. The relevant clause is clause 24, proposed section 70G(3)(c), which provides:

> However, the order. . . does not authorise the sale of land if it constitutes the debtor's principal place of residence.

The second question is: if the Penalty Management Unit enters a defaulter's debt on a certificate of title, can it only sell up on a debt of $10 000 or more? The answer to that question is yes. The $10 000 limit can be found in clause 24, section 70G(3)(b).

The third question is whether the Attorney-General would clarify the power of the Penalty Management Unit to obtain a warrant to seize personal property. I am unsure what clarification is requested. However, I provide some background. The current system of fine enforcement contains a power to seize and/or sell. It is contained in section 62 of the Criminal Law (Sentencing) Act. It provides:

> 1. Where a person has been in default of payment of a pecuniary sum for more than one month the court may, if of the opinion to do so would supply, or substantially reduce, the amount outstanding, order the sale of land or goods owned by the person, and issue a warrant authorising the seizure and sale of that land or those goods.
>
> 2. The power to order the sale of land is not exercisable where the amount outstanding, or the aggregate of the amounts outstanding, is less than—
>
> (a) $10 000; or
>
> (b) if some other amount is prescribed—that amount.
>
> 3. The goods that may be seized pursuant to a warrant under this section are those that could be taken in bankruptcy proceedings.

I will not read the rest of the section because it is not relevant for present purposes. It may be thought that this section is confined to orders of a court, and one has the picture of full and traditional judicial proceedings, but in fact, pursuant to the power of delegation contained in section 72 of the Criminal Law (Sentencing) Act, the powers are exercisable by an 'authorised officer'—in practice, a Court Registrar.

The power to seize and/or sell is contained in the Bill in clause 24, proposed new section 70G. It does not in fact refer to a warrant but merely an order. The Chief Magistrate, who has recently retired, had expressed the view for sometime that the idea of *pro forma* warrants were a thing of the past, and that a significant amount of valuable resources was consumed in what he regarded as the useless task of going through the motions of getting the form right.

The proposed section is arranged in a logical order, beginning with the order, describing the powers which it confers which are necessary for its execution, limiting the powers that may be exercised under the order, allowing for various contingencies that might arise, dealing with sale pursuant to the order once property has been seized, including the preservation of the rights of third parties, and dealing with the proceeds of sale. The proposed section is far more comprehensive, transparent and detailed in its provision than the current section which it replaces. It is in fact based on the provisions dealing with the power to seize and sell property pursuant to a civil judgment contained in the Enforcement of Judgments Act.

The fourth question is whether there is a list quarantining essential items such as baby furniture, beds and so on. The answer is that there is. The relevant provision is to be found in clause 24 (proposed section 70G(3)(a) which provides:

> However, the order—
>
> (a) only authorises the seizure and sale of personal property that could have been taken in proceedings against the debtor under the laws of bankruptcy, as modified by regulation under this Act;

The current bankruptcy regulations exempt a list of things including 'sufficient beds for the members of the household' and 'educational, sporting or recreational items (including books) that are used by the children or students of the household'.

It might be asked why, if the current section refers simply to the bankruptcy rules, the qualification about regulations under this Act was introduced. There are three reasons. First, the rules about what you can and cannot lose when bankrupt are set out in Commonwealth law under section 116(2) of the Bankruptcy Act and regulation 6.03 of the bankruptcy regulations. If the legislation simply referred to the bankruptcy rules, as is now the case, then every time the Commonwealth changes the rules so our rules change as well. However, if we can modify the rules by regulation, South Australia retains control over what it regards as the right rules for its purposes.

Secondly, some of the bankruptcy rules are simply inappropriate for use in this context. For example, section 116(2) of the Bankruptcy Act exempts life assurance policies, endowment assurance policies or the proceeds of those policies received on or after the date of bankruptcy. There might be good reason for allowing a bankrupt to hold on to

such proceeds but there may be good reason why a fine should be paid from such proceeds.

Thirdly, the fundamental purpose of the bankruptcy rules and the rules about fine enforcement are different. The point of the bankruptcy rules is that a person is allowed to clear the slate and start again afresh. It relates to the entire financial situation of the person. By contrast, a fine is just one debt. It cannot and should not form the occasion for an entire reassessment of the financial position of the debtor, including financial transfers which occurred before the debt was incurred as happens with bankruptcy. Since the purposes of the rules are different it is not surprising that some of the rules ought to be different. The question of the precise differences was relegated to be done by the regulations on the advice of Parliamentary Counsel.

The fifth question was whether the legislation includes a provision for the Penalty Management Unit to formally contact the debtor before an order is made about handling the debt. The answer to this question is yes. The default period for payment is 28 days. Proposed section 65 provides that a reminder notice must be sent to the debtor if, at the end of that 28 day period, no payment has been made or no arrangement with the Penalty Management Unit has been entered into. Further, proposed section 66 provides that the Penalty Management Unit may cause a summons to be issued to require the attendance of the debtor for an examination into the means of the debtor to pay the fine.

It is true that proposed section 70A provides that a penalty enforcement order may be made in the absence of and without prior notice to the debtor. It is, however, simply impossible to provide that there must be actual notice to the debtor before any enforcement action can be taken. As the honourable member points out, there are some who make it their business to be elusive, and to so provide would add an extra incentive to avoidance. However, there is little point in taking action randomly against people known not to know about their debt.

The entire reason for the establishment of the Penalty Management Unit and the introduction of this legislation is to get people to pay what they owe and to do so inexpensively without fuss and without causing hardship. The unit will be run on business lines and in particular will employ known experience on the effectiveness of methods used in other places. One such method is the simple use of the telephone. The debtor may well pick up a telephone call and find a mellifluous voice at the other end informing him or her that a fine is outstanding and would they like to do so something about it—such as come in and make an arrangement with the Penalty Management Unit. It is in the interests of the effective management of fine payment that there be payment rather than enforcement. Rules at this level of detail will be contained in rules of court and in business rules governing the day-to-day operation of the unit.

The honourable member also referred to concerns raised by the Law Society. Like the honourable member, I always find contributions by the Law Society interesting and useful even if I do not always agree with them. In this instance, the Law Society is opposed to the 28 day rule for payment to be found in clause 13, proposed to be section 14A of the Criminal Law (Sentencing) Act. This clause prevents the court passing sentence for a fine from making an order about the time or manner of payment of the fine. The default period is always 28 days, subject to arrangements made with the Penalty Management Unit.

The society believes that there are a number of things wrong with that, namely, (a) the Penalty Management Unit has no obligation to enter into an arrangement; (b) the current court process is efficient, cheap and there is no fuss; and (c) the proposal breaches the separation of powers and all that that implies.

In this instance I do not agree with the Law Society. This section was a deliberate part of the measure. The main reason was to funnel all persons who are sentenced to pay a fine to the Penalty Management Unit to be properly assessed and advised. The answers to the criticisms are that: (a) the current process either is cheap, efficient and no fuss and has a meaningless result or is expensive, protracted and has a poor result; (b) experience over a long period has shown that giving time to pay merely postpones the inevitable for many, that it is a poor option compared with other payment arrangements; (c) it is drawing a very long bow to say that the measures breach the separation of powers—it is true to say that the process is in some very few instances being transferred from a judicial officer to an administrative officer but that is simply because the judicial officers cannot deal with the workload involved in a full blown means assessment in open court; and (d) the courts themselves do not object to the general principle.

In addition, I want it to be made clear that rules of court will be made to ensure that the process of means assessment and entering into arrangements with the Penalty Management Unit is not cumbersome, protracted and involved. It is in the interests of no-one that they should be.

The honourable member asked for clarification of the appeals process. It is to be found in clause 24, proposed sections 70M and 70N. There is a comprehensive provision for appeal. Section 70M(1) provides for appeal to a registrar from a decision by an authorised person who is not a registrar. This appeal is by way of review. Section 70N provides for appeals against the decision of a registrar both where the registrar is acting as an authorised officer in the first instance and also where the registrar is acting as a review officer under section 70M. The appeal is to be made to the Magistrates Court but that is where it ends. So, yes, the debtor does that a right of appeal to a magistrate where he or she has a legitimate grievance against the decision of a registrar.

Finally, the honourable member asked about the garnishee provisions, expressing concern. The relevant provision is clause 24, proposed section 70H. I draw the honourable member's attention to 70H(2) which states:

> An order cannot be made under subsection (1) unless—
>
> (a) an investigation into the financial means of the debtor has been carried out under this division; and,
>
> (b) the registrar is satisfied that execution of the order will not cause the debtor or the debtor's dependents to suffer hardship.

The honourable member expressed particular concern about social security payments. It is not possible by Commonwealth law to garnishee Commonwealth social security payments—even if that was possible under the clause, and even if that was thought desirable—a debate I have no need to enter. It necessarily follows that, in any case where social security payments are concerned, any arrangement which involves automatic deductions from such payments has to be voluntary by law.

The idea of the garnishee order in general may be desirable in some cases, be it by agreement or otherwise. It is common for people to make payments by voluntary deductions from their bank accounts and payments, the

reason being that it is a simple and effective way to save or pay a debt, but I repeat that it is not possible by Commonwealth law to garnishee Commonwealth social security payments. I hope this allays the concerns of the honourable member and trust that this explanation addresses the issues raised by her in her second reading contribution.

The Hon. Mr Gilfillan also raised a number of questions and I will answer them as fully as I can. First, the honourable member clearly desires information about the difference between a fine and an expiation fee. There is a significant difference. A fine is a criminal sanction imposed by a court. It is payable as a debt due to the Crown immediately on imposition, absent any other rule of law to the contrary. An expiation fee is not a debt due at all but an invitation to avoid court prosecution for minor offences by paying the relevant authorities a sum of money to forgo their allegations and let the matter drop. A person can always neglect to take up the invitation. That mere fact does not make the expiation fee a fine or a debt due either.

The expiation fee becomes a debt due and a fine when it is processed by the court and converted into a fine by the due process set out in the law—in this case by the Expiation of Offences Act of 1996. When that happens it is a fine imposed by a court in accordance with law and the expiation part of it simply disappears. Of course, if a person does not pay the expiation fee the prosecuting authority can choose not to take the matter to court and in such a case the person owes nothing. An expiation fee is therefore not a debt until it has become a fine. Then it is a fine like any other.

Secondly, the honourable member wanted details about projected outlays and costs. It should be understood at the outset that the Courts Administration Authority has a lot of staff currently employed in the business of fines collection. The new system will replace a large part of the work now being done under existing systems and it is expected that the majority of current staff will be retrained and assigned to positions in the new Penalty Management Unit. There will be a small net increase in staff numbers. As the honourable member noted, there will be savings for police due to the removal of their involvement in fines collection. There will be savings for the Department of Correctional Services as a result of the removal of imprisonment as a sanction and a reduction in the numbers of fine defaulters on the community service scheme. Estimated capital costs are $2.4 million and relate primarily to information technology costs for the Courts Administration Authority and Transport SA and accommodation requirements by way of refurbishment of existing court premises. Our recurrent costs are expected to be approximately $1.7 million a year.

A proposed publicity campaign prior to the implementation of the system will cost in the vicinity of $1 million. A net revenue increase of $78.8 million over the first five years is estimated. I emphasis, however, that these figures are indicative and represent agencies' current estimates. The Department of Treasury and Finance has not independently confirmed their accuracy.

The honourable member asked about estimated collection rates. The current collection rates in South Australia are 51 per cent for fines and 72 per cent for expiation fees. Fines and expiation collection rates in Western Australia and New Zealand, which have fine enforcement systems on which the new model is based, are in the vicinity of 90 per cent. The revenue estimates for this new South Australian system have been based on improving our rate to 85 per cent and are therefore regarded as conservative.

The honourable member asked about staffing plans. It is estimated that there will be 52 staff in the Penalty Management Unit and all will be employed in the city and metropolitan area and located in the existing Magistrates Courts registries. There will be 15 assessors, nine cashiers, 14 telephone call centre operators, five Aboriginal justice officers, three managers, four team leaders and two clerical officers. The three managers will be classified in the administrative services officer range between levels 5 and 7 and the remainder in the range from base grade to level 4. All staff will have skills in financial counselling, cultural awareness, and negotiating and collection techniques. The staff will operate from offices in existing Magistrates Court registries where private interviewing facilities will be provided. In country areas the staff of the Magistrates Court will enter into performance agreements to provide penalty management services.

The honourable member lamented the restriction on access to community service as an alternative means of satisfying the debt. It is true that the proposed system will change the existing situation where stronger limits will be placed on the ability of an offender to work off a fine by way of community service rather than paying it. Although the current legislation limits this option to cases of hardship, there is certainly a public perception that such applications are bound to be granted. That perception is untrue, but the applicable criteria are impossible to articulate and may vary from person to person. They are therefore at least inconsistently applied. The result must be that under the current system an indeterminate number of people who really can pay their debt make use of the community service provisions. This result is not a good thing, however beneficial the outcomes of community service projects may be.

First, a fine is a deliberate sanction. A fine as a sanction and community service as a sanction have discrete and distinct penological aims. A court chooses to impose a fine and the Parliament chooses to legislate for a fine. If either wanted to choose or legislate for community service as a direct sanction they could do so. It is not a good thing that one is substituted for the other as a routine matter. Secondly, it is not so clear that community service is a good thing as a major sanction in the numbers we are seeing. While the honourable member can correctly point to worthwhile projects that have been completed by this method, the completion rates for offenders are controversial and, while the figures are not conclusive, completion rates are nothing to boast about. Thirdly, community service as opposed to fine payment is costly to the Government. First, revenue is forgone and, secondly, community service programs cost money to run and administer.

In the proposed system people who claim they are unable to pay will have their means assessed and, if there claims are genuine, they will be referred to a magistrate who will decide on an alternative to payment. The alternatives may be remission of the fine, a period of community service, or disqualification or cancellation of a driver's licence. Community service will remain an option for those who cannot pay, but it will be imposed judicially.

The honourable member queried the term 'complainant' in the hierarchy of payment of pecuniary sums. The answer is that a number of prosecutions are undertaken by bodies other than the police, for example, local government, fisheries, State taxation and so on. These complainants are required to pay court fees at the time of lodgement whereas the police are not. When moneys are collected in these

matters a priority is given to reimbursing the complainant's costs. This is provided for in the current hierarchy and it was thought expedient to continue specifying these costs.

Lastly, the honourable member queried the conclusion of the second reading speech in which I said that a call for comment would not result in the investigation or re-investigation of particular cases. This is precisely what was meant. My desire for consultation on the nature and quality of the general new scheme proposed did not include any desire to deal with particular arguments about particular cases. All members, I am sure, receive numbers of complaints from members of the public who claim that they have been badly or unlawfully treated in the imposition of fines or, more probably, expiation notices.

The extraction of money from members of the community for the alleged infraction of, in particular, offences dealing with motor vehicles is often a contentious and sometimes bitterly contested affair. There are well established and proper mechanisms for dealing with such complaints. I simply did not want consultation on the review of the legislation governing the system as a whole to give rise to the idea that another avenue of dispute in my office may have been opened for the purpose of dealing with such specific complaints.

The Hon. Angus Redford raised some questions in the course of his interesting and informative contribution to the debate and I would like to answer them as best I can at this stage. First, he canvassed the idea that imprisonment should be regarded as a sanction for fine default in some circumstances. It is certainly the case that a linchpin of this Bill is the elimination of imprisonment as an alternative to fine payment and I would defend that position. The example raised by the honourable member was that of a person who chooses to defy the law and defy the sanction and, instead, decides to serve a period of imprisonment as a kind of protest against either the law concerned or its application to the case. I do not think that in today's society there is some kind of 'constitutional right' to go to gaol.

Some may be of the opinion that there is a sort of constitutional right to put the State to as much trouble as possible but I am not one of them. In this case a great deal of trouble and expense to the community and to employees of the State is involved and it serves no sound community purpose for a correctional facility to be used as a vehicle for public protest; that is to say nothing of the possible risk that such a prisoner may cause to him or herself or to others. On a more theoretical level, the operative principle at work is, as I have said before, that a fine is considered a criminal sanction with a considered penological purpose, and it is for the court to decide what penalty best fits the crime found to have been committed—not the offender.

Secondly, the honourable member expressed the desire that there be no confusion between the sentencing authority and those who must enforce the sentence. I agree with the sentiments that lie behind that remark. Indeed, every attempt has been made in the Bill before the Council to preserve that distinction, but in light of the practical needs of a system which must remain effective to be credible. Under the system which is contemplated by the Bill, a major shift from the present balance, in terms of this particular part of the balance, is that it will be quite clear that the task of means assessment will, in most cases, be done by staff rather than by judicial officers, but that need not always be the case.

Under section 13 of the Criminal Law (Sentencing) Act, the court when setting a fine as a penalty is bound to have regard to the means of the offender when evidence is put before it. That section remains, and it necessarily follows that where an offender offers evidence to the sentencing court that he or she has inadequate means to satisfy a proposed fine the court is obliged to consider it and act accordingly. The honourable member will find that there is some South Australian authority where fines have been overturned on appeal because section 13 has not been observed. This law, as I say, will remain unchanged. The reality is that the vast bulk of fines are imposed in courts of summary jurisdiction, many in the absence of the offender and most without any evidence of means before the court at all. As a matter of practice, court staff are now conducting means assessments in the context of assessing eligibility for community service in relation both to fines and expiation notices. The Bill before the Council recognises the reality of the situation and attempts to regularise it and put it on a principled footing.

This relates to the third matter raised by the honourable member, which is the presumptive 28 day rule found in what is proposed to be section 61, combined with what is proposed to be section 14A, to the effect that a court cannot vary the rule. This is a deliberate and central part of the measure. The main reason was to make sure that all persons who were sentenced to pay a fine or other pecuniary sum either pay the sum quickly or, if they cannot, then they go to the Penalty Management Unit to be assessed and advised. The current practice of some courts in routinely giving additional time to pay is counterproductive. It merely postpones the inevitable for many—it is a poor option compared with others which encourage a regular reminder of responsibility, such as payment by instalments—and, indeed, in the Expiation of Offences Act, the Parliament recognised this by a statutory provision preferring payments by instalments.

It is true that, from one perspective, this is a controversial measure. The Law Society has put it as strongly as a breach of the separation of powers. I do not agree with that assessment. It is true that people who are now in the system are used to courts routinely giving sometimes quite lengthy times to pay. The Bill seeks to ensure not that people are forced to pay before they can but rather that they contact the Penalty Management Unit and make a formal arrangement for the management of their debt in a considered manner. In addition, the unit is then in a position to follow up if there is default for any reason. So, I do not think that there is any danger of involving the Penalty Management Unit when it is not needed. On the contrary, I am of the opinion that there will be a considerable benefit to the efficient running of the judicial arm of the courts.

The fourth matter raised by the honourable member was a request for more details of the contemplated public information campaign. I can inform the honourable member that some preliminary work has been done in looking at similar campaigns which have been used with, it is said, good effect in other places that have adopted a scheme similar to the one before the Council, notably Western Australia and New Zealand, and it is thought, as I have said earlier, that the costs might be of the order of $1 million.

However, I can give no more detail than that. Clearly, the legislation must proceed through the Parliament before all of the details are known for sure, and so it would be premature to expend resources on any sort of campaign until consultation was complete and the legislation passed and, I might add also, until rules of court and regulations have been prepared.

Lastly, the honourable member raised the question of the current position in relation to the writing off of fines that have been outstanding for many years. The current position is that,

where a fine or other pecuniary sum owing remains unpaid, it is converted into a warrant of commitment, which is an authorisation to gaol the person named in the warrant in default of payment. These warrants are then sent to police for enforcement. For many years the position was that after seven years the unexecuted warrant simply remained with the police on an inactive basis but could be accessed when desired. I am informed that the position now is that after seven years the unexecuted warrants are archived by the Courts Administration Authority but may be accessed and reactivated if necessary at any time, almost invariably by police. Hence, if some person comes to light after, say, 10 years, and the police have reason to believe that a warrant or warrants for unpaid pecuniary sums remain outstanding they can make appropriate inquiries and any outstanding warrants can be reactivated.

As I said, I thank members for their contributions to the second reading debate on this Bill. It is a very important Bill for the State as well as for the community and, in particular, those who may be faced with an expiation fee or a fine. It is a radical change which, in my view, is a significant improvement on what we have at the present time. I look forward to the Bill being passed by both Houses so that we can then proceed to implement it in 1999.

Bill read a second time.

In Committee

Clause 1.

The Hon. CAROLYN PICKLES: The Opposition in the second reading debate raised a number of questions with the Attorney, whom I thank for his expeditious response, enabling me to convey it to my colleague in another place. We have looked at the response from the Attorney, we are satisfied with it and we therefore support the Bill.

The Hon. IAN GILFILLAN: I indicate our support in general for the Bill which I articulated in my second reading contribution. I appreciated the detailed response that the Attorney gave when winding up the debate. It is a constructive new initiative and, because it certainly is new in South Australia, it is important that the review is adequate and timely. Although I understood the Attorney's reluctance to open up his office to a complaint by complaint performance (I think that shows some sensitivity to his staff and maybe pressure on his telephone exchange), I still remain mildly curious how a comprehensive, sensitive review can be done without referral at least to a series of specific cases as reflecting the generality. I suppose that is repeating the basis of my original question.

I need no more than an assurance from the Attorney of the scope of the matter and the nature by which he feels the review will be compiled. I do not want to open up the discussion whether it should be that sort of target for the individual complaints of everyone who has a grievance.

The Hon. K.T. GRIFFIN: I expect that we will gather data from the Penalty Management Unit about the way in which defendants are responding to the system. We have not yet made any decision about perhaps some survey which will provide feedback, but it may be that in the course of the first year's work there will be an attempt not only to collect statistics but also to try to collect some information about the range of circumstances in which people find themselves, as a result of which some special provision may need to be made to meet their circumstances. It may be that at the end of the 12 month period whoever is appointed to undertake the review will want to interview officers working in the Penalty Management Unit—a number of complaints may have already been received over a period.

The undertaking I give to the honourable member is this: that the results of the review will be made public. I hope that the review will demonstrate sufficient independence from the day to day activities of the Penalty Management Unit and the operation of the scheme to reassure members and the public that it is a proper review, and I would expect that, because I have given the undertaking, we will endeavour to identify the means by which the review is undertaken and, in a sense, the terms of reference before the whole scheme starts so that we do not say in 12 months' time after it has been operating, 'I wish we had done this' or 'I wish we had done that.' We will try to set out a framework so that, if there is information to be collected, it can be collected from the start rather than as an afterthought at the end.

I regret that I cannot take it any further than that. I hope that I have been able to set the mood of what the review might do, but I genuinely want to evaluate it and to ensure that it is doing the job that we all believe it should be doing and can do and that, on the other side, it is dealing with defendants in a way which enables them best to meet their obligations to the State and, where sensitivity to hardship is required, that is being recognised.

Clause passed.

Remaining clauses (2 to 44), schedule and title passed.

Bill read a third time and passed.

RETAIL AND COMMERCIAL LEASES (TERM OF LEASE AND RENEWAL) AMENDMENT BILL

In Committee.

(Continued from 12 August. Page 1347.)

New Clause 2E.

The Hon. IAN GILFILLAN: When we were last in Committee the Hon. Carmel Zollo raised a matter regarding some confusion regarding the exclusionary clause. We had an informal discussion about it and I trust that it was clarified for her. For the benefit of *Hansard* and others who are following it, the actual exclusionary clause as far as the ability for a lessee to forgo the renewal right at the end of the five years does not exist in the series of amendments. In fact, the result of one of my amendments is to remove that. However, there is provision for an exclusionary clause to be filled in if a lessee wishes to take up a term of tenure less than five years, and that is the effect of new clause 2E. Its effect is to confine certified exclusionary clauses to the term of lease, that is, a lease for less than five years is permissible if a lawyer signs a certificate certifying the matters set out in section 20K(3). However, I repeat that a lessee is not able to contract out of a right of renewal.

The Hon. K.T. GRIFFIN: The amendment is opposed. I addressed some remarks to the principle earlier, but on the basis that we are starting a new day I will address some remarks to this particular new clause. The objection to this is that the amendments remove the provision for the contracting out of the right of preference at the end of a lease. That is presently part of the Act; that was negotiated in the package of amendments that we dealt with last year; and the honourable member has not yet provided any substantive reason for our moving to support this exclusion of the right to contract out.

The honourable member appears to suggest that the contracting out can occur merely by the lessee signing a form. That is not the case. A lawyer is required to certify that the lessee is not acting under coercion or influence. The problem

with the honourable member's amendment, which will only allow exclusion of the five year term but not the right of preference, is that it is inconsistent to allow parties to agree to have a lease for a shorter term than five years but at the same time say that the lessee retains a right of preference at the end of the lease. It is a logical inconsistency, if that makes sense, or an illogical inconsistency, however one addresses it.

It was certainly the intention of all the industry parties that the primary circumstance in which the right of preference at the end of a lease would be removed would be when the right to a five year term was also being waived. It was considered to be inconsistent to have an agreement for a term of less than five years but to have the statutory right of preference at the end of that term. While the Act allows for the contracting out of the right of preference in other circumstances, it must also be said that it is difficult to imagine an independent lawyer being able to sign a certificate that the prospective lessee was not acting under coercion or undue influence in agreeing to a lease provision that they did not want or agree to.

The Property Council said that the effect of the amendment is that, although it will be possible to contract out of the statutory five year term provision, it will not be possible to contract out of the preferential rights. It was agreed by the Retail Shop Leases Advisory Committee that, if a lease was for less than five years and the lease had an exclusionary clause, the term of the lease would be limited to the agreed term. If it was for more than five years, the preferential right should apply. It is a ridiculous result not to be able to contract out of the preferential right where the lease is to be for an agreed period shorter than five years.

The Retail Traders Association believes that, if a lease is for less than five years but more than six months, one should be able to exclude the preferential right. The Newsagents Association is of the view that if a lessee wants a shorter time than five years and completes the certified exclusionary clause that lessee should forgo the preferential right at the end of the term.

The Hon. CARMEL ZOLLO: I thank the Hon. Ian Gilfillan for his explanation. The Opposition supports this new clause.

New clause inserted.

New clause 2F.

The Hon. IAN GILFILLAN: I move:

After new clause 2E—Insert the following new clause:

2F. Section 20L of the principal Act is amended—

(a) by inserting in subsection (3)(b) 'in respect of a period not exceeding four weeks' after 'advance';

(b) by striking out paragraph (c) of subsection (3) and substituting the following paragraph:

(c) securing performance of the lessee's obligations under the renewed or extended lease by requiring a security bond; or.

The Hon. K.T. GRIFFIN: The amendment is opposed. Section 20L prohibits a lessor or person acting on behalf of a lessor from requiring the payment of a premium for the renewal or extension of a lease. This section was designed to prohibit the payment of what is colloquially called key money. What the honourable member seeks to do is limit the rent in advance to eight weeks' rent, and section 20L(3)(c) currently provides that the ban on accepting or demanding a premium does not prevent the lessor from requiring reasonable security from a lessor or another person to secure the performance of the lessee's obligations under the renewed or extended lease.

The honourable member proposes that the subsection be reworded to provide that the lessee's obligations under the renewed or extended lease may only be secured by requiring a security bond. Clearly, these amendments limit the options available to a lessor and a lessee. In a high rent tenancy, a lot of dead money can be tied up in a bond, and I will give the Committee an example. The Act applies to tenancies with a rental of up to $250 000 per year. On a weekly basis, these tenants pay $4 800. A four week bond would be nearly $20 000. That money is paid as bond money, and it is tied up and not available to the lessee. As I understand it, one of the prime reasons for a preference for bank guarantees rather than bond money is that a guarantee or other security does not unnecessarily tie up valuable capital.

The honourable member's amendment has the effect of forcing (and I stress 'forcing') the payment of bond money and denying any more practical method of securing the performance of the lessee's obligations under the lease. For those reasons, I vigorously oppose the amendment. As I indicated on the last occasion that we dealt with the Bill, while I oppose all the amendments I will divide on only a few so that the principle is established. The fact that I will not divide on this if I lose on the voices should not be construed as any lack of resolve to oppose the Bill.

The Hon. IAN GILFILLAN: I apologise for having got so carried away with the rewording of the amendment that I did not adequately explain it to the Committee. As the Attorney in his opposition to the amendment really outlined the purpose of it, I must indicate that paragraph (b) provides:

by striking out paragraph (c) of subsection (3) and substituting the following paragraph:

(c) securing performance of the lessee's obligations under the renewed or extended lease by requiring a security bond; or.

Both these measures are consequential on the major matter of limiting security to just a single security bond, which is up to four weeks' rent in advance, and that would therefore prohibit bank guarantees, which in earlier comments I have been informed are quite often supposedly or allegedly abused. They have become quite an imposition on the lessee. However, I think I did pick up in what the Attorney said that the four weeks rent in some circumstances could be an appreciable amount of money. That may well be so.

I do not understand the legislation to make it mandatory, that if there is an understanding between the lessor and that lessee that it could be a lesser amount, I have not discovered any reason why that could not be legally entered into as a modification of it. However, I indicated earlier that the revenue of the department administered by the Attorney would be quite generous if we did introduce this and people did comply with the security bond which then constitutes a fund to cover the cost of administration of the legislation.

The Hon. CARMEL ZOLLO: The Opposition did pick up that typographical error and also the inconsistency in relation to the eight weeks in advance. We agree that it should be four weeks. In relation to clause 20L(c), the Labor Opposition agrees that when a security is required—I understand it is not mandatory—it should be in the form of a security bond rather than a bank guarantee. Given that I understand that the intent of the principal Act was that the security bonds be used to administer the Retail and Shop Leases Fund, this amendment should really strengthen this fund and its intention to be used for purposes including mediating disputes and educating lessors and lessees about their rights and obligations. We support this amendment.

The Hon. K.T. GRIFFIN: We are not in the business of strengthening the fund at the expense of tenants in particular. I suppose you cannot look a gift horse in the mouth but, on the other hand, we are interested in getting a system which works satisfactory. We believe that we have that at the moment, with the least amount of bureaucracy required and with the least amount of imposts on tenants and landlords. To propose this amendment under the guise of strengthening the fund actually has the effect of undermining the capacity of the tenant to effectively make the best use of his or her capital.

The Hon. CARMEL ZOLLO: Am I correct in my understanding that the amount of the security is not mandatory?

The Hon. K.T. GRIFFIN: It may not be mandatory, but it sets the standard. Most property owners who rent retail premises as I understand it require some form of security. In one way or another, I think it will create some difficulties.

New clause inserted.

New clause 2G.

The Hon. IAN GILFILLAN: I move:

After new clause 2F—Insert the following new clause:

2G. Section 57 of the principal Act is amended—

(a) by inserting after paragraph (b) the following paragraph:

(ba) the lettable area of the alternative shop must be, within a tolerance of ± 10 per cent, the same as the lettable area of the shop occupied by the lessee; and;

(b) by striking out paragraph (f) and substituting the following paragraph:

(f) the lessee is entitled to payment by the lessor of—

(i) the lessee's reasonable costs of the relocation, including legal costs; and

(ii) reasonable compensation for loss of trade and loss of profits arising as a result of the relocation.[2]

This amendment sets a limit on the lettable area of an alternative shop to which a lessor may be required to relocate. A similar limit applied before the 1995 Act. It is a measure which avoids the inconvenience of a lessee who is being relocated against his or her desires, probably on some agreement, but they cannot be put into premises which are grossly too large or grossly too small. Hence the amendment restricts it to a tolerance of plus or minus 10 per cent of the floor space which applies in the shop or premises that they currently lease.

The Hon. K.T. GRIFFIN: The amendments are very narrow and very restrictive, and the Government opposes them. As the honourable member says, the provisions relating to relocation are modified to limit the type of premises to which the lessee can be relocated to premises which are within a tolerance of plus or minus 10 per cent of the lettable area of the existing premises. The manner in which the provision is worded appears to make it mandatory for the new premises to be within that ratio. As the Act overrides any provision of a lease or a collateral agreement which is inconsistent with the Act—and that is referred to in section (5)—it would not be possible to agree to relocate to premises outside the ratio, even if they are in a better location or even if they are in the interests of the tenant.

What troubles me about this and the other amendments is that this Bill, whilst purporting to give some benefits, is actually restricting more the rights of tenants and is putting the Parliament in the position of enacting a law where it seeks to indicate what it knows best for tenants rather than subject to the safeguards of the legislation allowing tenants and landlords to make their own agreements within the framework of the legislation. So, this provision is of particular concern because of the way in which it is framed and the mandatory nature of it. In fact, it does not take into account all the variables which frequently may be taken into account when dealing with the issue of relocation.

The Hon. IAN GILFILLAN: I must again apologise. I did not refer to the other part of the amendment dealing with the actual reimbursement of reasonable costs of relocation and compensation for loss of trade and loss of profits involved in a relocation. I hope it is not the case, but my intention with the amendments was that if a mutual agreement were reached between the lessor and lessee regards relocation circumstances, there may be some boundaries which may be more or less than the 10 per cent.

This legislation is really to protect what we see as the weaker of the two in negotiations. If a lessee is compelled to relocate, they cannot arbitrarily be put in premises which are totally inappropriate for their particular business. If they are put to particular cost or lose substantial business, then it is reasonable, with this unwilling move on their part compelled on them by the lessor, that they are compensated. That is the purpose of the amendment.

The Hon. K.T. GRIFFIN: Section 5 provides:

(1) This Act operates despite the provisions of a lease.

(2) A provision of a lease or a collateral agreement is void to the extent that the provision is inconsistent with this Act.

The honourable member is saying that you cannot be shifted to alternative premises within the centre unless you are shifted to an alternative shop where the lettable area is within a tolerance of plus or minus 10 per cent, the same as the lettable area of the shop occupied by the lessee. So there is no flexibility. This becomes mandatory and you cannot have a mutual agreement that overrides it.

In relation to the first part of the amendment—that is the issue of the tolerance—the Property Council says that the proposed provision would only be workable if it expressly acknowledged that the landlord and tenant could otherwise agree. The Property Council is of the view that the size of the alternative premises is not a significant issue. The retail traders prefer the reference to be to premises of the same commercial value.

The Newsagents Association believes that this amendment ties lessors and lessees to offering a shop with a 10 per cent size tolerance. It says that the size of the shop may be of less concern than the profits which might be derived, which goes back to the point I made earlier that the location of the shop in a shopping centre, regardless of the size, may be of more importance. Is it in a place where there is a significant traffic flow or are there some other criteria such as being near another shop or business which attracts a large deal of custom and therefore a bit of custom rubs off on them? The Newsagents Association also says that it agrees that compensation should be paid for loss of trade or profits.

We deal with the issue of relocation compensation. It is acknowledged that tenant groups are very much in favour of relocation compensation. The amendments provide for the payment of reasonable compensation for loss of trade and profits arising from a relocation. Compensation is a matter which will ultimately be for the courts to determine. The provisions put forward by the honourable member are very broad and there is no time limit within which the application must be made. It leaves open the possibility that the landlord could be perpetually responsible for loss of trade or profits. So, it is very much open-ended. It seems to me that what this does is hand it to the courts to make the ultimate decision.

The Property Council—and one would expect the Property Council to have a very keen position on this—opposes the provision relating to compensation. It says that it would be difficult to determine whether loss resulted from relocation or a variety of other factors—and that is something I did not pick up but it is a quite legitimate observation. The wording appears to permit the tenants to seek compensation some years after a relocation for the whole period since relocation.

The Retail Traders Association support the provisions. It would like to see the cost of a refit specifically mentioned as part of the cost of relocation. The Newsagents Association, as I said earlier, agrees that provision should be made within the Act for reasonable compensation to be paid by the lessor to the lessee for loss of trade and profits arising as a result of a relocation. We did discuss this in the negotiations last year but there was no agreement on it because it was too difficult an issue to resolve—there were very diverse views—and because of the lack of certainty that this sort of provision provides for property owners in particular and for the prospect of quite significant levels of litigation which might flow from a relocation process. So, the amendment is opposed.

The Hon. CARMEL ZOLLO: The Opposition supports the amendment because, as we understand the Act at the moment, there is no requirement that the lessor provide a site of comparable area and they are not compensated for a potential loss of trade or the costs of removal, which can be quite considerable, especially in shopping centres.

The Hon. IAN GILFILLAN: I understand that paragraph (f), which I have moved to amend, still has a footnote which provides:

> This section does not prevent the parties negotiating a new lease for the purpose of relocating the lessee. Paragraph (f) only specifies the minimum entitlements that the lessee can insist on and the parties can come to some other arrangement for the payment or sharing of the lessee's relocation costs when the details of a relocation are being negotiated.

I understand that this footnote opens up the possibility for flexibility in the arrangement.

The Hon. K.T. Griffin: That only relates to a new lease.

The Hon. IAN GILFILLAN: Well, it is relocation. How can that be?

Members interjecting:

The Hon. K.T. GRIFFIN: I will not pursue that further, I have given my view on it. All I wanted to do was to respond to the Hon. Carmel Zollo that there are already fairly clear provisions in section 57 about relocation. The issue of compensation is a vexed question which in my view is not capable of easy resolution and is an issue the Government opposes in the context of this amendment.

New clause inserted.

New clause 2H.

The Hon. IAN GILFILLAN: I move:

> After new clause 2G insert the following new clause:
>
> 2H. Section 68 of the principal Act is amended by inserting after paragraph (e) of subsection (2) the following paragraph:
>
> (ea) reduce or set aside a charge for outgoings made under a retail shop lease on the ground of unreasonableness; or.

That confers jurisdiction on the Magistrates Court to deal with unreasonable outgoings, which is in addition to the current legislation.

The Hon. K.T. GRIFFIN: The amendment is opposed. It seeks to broaden the jurisdiction of the Magistrates Court to allow it to reduce or set aside charges for outgoings on the grounds of unreasonableness. It should be pointed out that the outgoings of the lessor are required to be audited annually and that the Act makes provisions for an adjustment of outgoings based on actual expenditure properly and reasonably incurred by the lessor in the payment of outgoings (section 33(b)).

There is already jurisdiction in the Magistrates Court to enforce the provisions of section 33, that is, to enforce the adjustment. To do so the court relies upon the provision in section 68(2)(b), which enables it to require a person to comply with an obligation under the Act. There is no need for a general power to set aside outgoings on grounds of unreasonableness. The Property Council opposes the amendment saying that the Act obliges the lessor to notify in the disclosure statement the nature of the outgoings, whether there is a profit element and how the tenant's contribution will be calculated.

The Act also provides that non-specific outgoings can only be passed on on an area basis. In view of the disclosure and protective mechanisms in place, the Property Council opposes the review on grounds of reasonableness. The Retail Traders Association considers that the matter is already covered by other provisions in the section, but if not so covered supports the amendment.

All I can say in relation to this is that it puts the court in the position of making a decision about what is or is not reasonable in the circumstances so that, rather than the parties entering into an agreement with some degree of certainty, both for the landlord and the tenant, this provision would open up the opportunity for yet further challenge to particular provisions either of an agreement or the way in which it was administered. That is not satisfactory and for that reason indicate opposition to the amendment.

The Hon. CARMEL ZOLLO: I indicate that the Opposition agrees with this increased jurisdiction of the Magistrates Court to deal with what may be unreasonable outgoings.

New clause inserted.

Clause 3 passed.

Title passed.

The Hon. IAN GILFILLAN: I move:

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN (Attorney-General): I wish to make a brief observation. As everybody can observe from my responses to the amendments on this Bill as well as to clause 2, the Government does not support the Bill. It is premature to be passing this Bill so soon after a very comprehensive set of amendments were made to the Retail and Commercial Leases Act last year by agreement with all parties. These amendments do not have the support of all parties. In some instances all parties—that is, all landlord, tenant and property owner parties—oppose them. Quite obviously a number of the amendments will impose additional bureaucratic burdens not only on property owners and landlords but also on tenants. All in all the Bill will not in my view facilitate good relations between landlords and tenants as well as property owners.

It was interesting that last year at the meeting that the Federal Minister, the Hon. Peter Reith, called in Melbourne to deal with leasing issues, all Ministers of all political persuasions agreed that what happens at the end of a lease should be an issue resolved by negotiation between the parties, that is, a framework within which this could be achieved should be negotiated by the peak bodies. We did that in South Australia. We led the way and led the way in

relation to retail shopping centres where this issue was of primary concern and certainly formed the area brought to the Government's attention and raised from time to time in the Parliament.

The extension of the legislation to all leases whenever entered into, whether or not in a retail shopping centre, is a radical change to the law relating to landlords and tenants and the application of the legislation, even though enacted last year, to all leases presently in existence whenever entered into is fundamentally a denial of the principle that we have always generally applied in the Parliament. I thought the Labor Opposition had agreed to that in the past also, namely, that Parliament does not legislate to change the rules under which commercial agreements have already been entered into or change the terms of commercial arrangements entered into in good faith without the consent of all parties to such commercial arrangements.

It is for that reason that the Government fundamentally opposes this. I am amazed that the Opposition should seek to support the Bill. I am equally amazed that the Hon. Mr Xenophon should support it. I would have thought that, as a member of the legal profession with a keen eye on issues of retrospectivity and Parliament's seeking to override commercial arrangements, and the fundamental objection which the legal profession has to that, he too would be opposing this Bill. I suppose that we will now put that to the test because I intend to divide on the third reading.

The Hon. CARMEL ZOLLO: The Opposition supports this Bill because we believe that it addresses many of the inequities in the relationship between lessees and lessors. Offering the protection of the existing law in relation to the first right of refusal to existing lessees is very important because we believe that it recognises the need to offer fairness in such transactions. The Opposition is of the opinion that this particular amendment Bill is in the very best interests of our small business community.

The Hon. IAN GILFILLAN: I am pleased that the Legislative Council has supported the Bill thus far and I thank it for its patience in dealing with an extensive series of amendments. I am disappointed that the Attorney has not seen any value in any of the amendments at this stage but, of course, everyone is open to persuasion. As members would know, I have not concocted these amendments, nor the initiative for review and amendment of the legislation, off my own bat. It became apparent to me, to the Democrats and to the Opposition only through consultation with and information from people who are involved in the retail area particularly as a result of a series of problems that have emerged since last year's amending legislation.

I am also disappointed that the Attorney appears to be reluctant to look at amendment because it is so short a period after the amending legislation last year. I think that, in essence, wherever it is seen that something is not working properly or it could be made to work better, the time for reform is when that can be done: we do not have to wait for a mandatory period of time to review. It is interesting to note that the previous legislation with which we dealt, the Statutes Amendment (Fine Enforcement) Bill, will require review and possible alteration if it is to work properly. I believe that the same principle should apply to this Bill.

I put forward the legislation to the Council and to the Parliament. I believe that, if it is successful in its passage through the Parliament and proclamation, all parties will win; there will be a more confident and profitable lessee sector in the retail and commercial area in South Australia. I am sure that the lessors will benefit both from the ability of those lessees to pay their rents—not to go into default—and to encourage good business in the premises that they own. I thank members thus far for their interest and support in the Bill and I urge support for the third reading.

The Council divided on the third reading:

AYES (12)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Holloway, P.	Kanck, S. M.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Xenophon, N.	Zollo, C.

NOES (9)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T. (teller)	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

Majority of 3 for the Ayes.

Third reading thus carried.

Bill passed.

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

Adjourned debate on second reading.

(Continued from 11 August. Page 1321.)

The Hon. R.D. LAWSON (Minister for Disability Services): I support the second reading of this Bill, which alters the standard of proof in relation to charges in respect of breach of discipline from beyond reasonable doubt, which is the present standard, to the balance of probabilities. The different standards of proof are, on the one hand, beyond reasonable doubt, the criminal standard of proof which presently applies to disciplinary charges against police, and the civil standard, on the balance of probabilities.

South Australia, of all Australian jurisdictions, was alone in requiring charges of breach of discipline to be proved beyond reasonable doubt. That is a very high standard of proof, and by the amendment contained in this Bill we are now bringing the standard to the less onerous or civil standard, namely, on the balance of probabilities.

A great deal has been said about the matter and I do not propose to add much to it. However, I would say that police disciplinary matters and complaints against the police are an extraordinarily complex area. The legislation relating to this subject is quite extensive and has been amended on a number of occasions, and it has given rise to some disquiet not only in the community but also amongst the police fraternity.

Complaints against the police are an unusual species of complaint in many respects. A lot of complaints are made against police by those who are levelling their complaints for the purpose of deflecting attention from their own behaviour. Many complaints are made by those who are themselves the subject of investigation by police, and a complaint is often seen as one way of deflecting an investigation or deterring further pursuit by a police officer of particular individuals, whether it be the complainant, a member of the complainant's family or an associate of the complainant. It is a difficult area

and, over the years, a number of matters have, quite rightly, given rise to justified concern.

Mrs Iris Stevens was appointed to conduct a review of operations under the Police (Complaints and Disciplinary Proceedings) Act. That report has only recently been tabled in this place. However, the issue with which we are dealing does not concern Mrs Stevens's complaint: it is quite a discrete issue. Other than to say that I support the lowering of the standard of proof to bring South Australia into line with all other jurisdictions, I will mention only a couple of matters which arose as a result of the contribution of the Hon. Angus Redford whilst I happened to be in the Chamber.

In his contribution the Hon. Angus Redford suggested that it is common for there to be anonymous complaints against police officers, very often, according to him, made by other police officers. He spoke quite eloquently of the injustice which can arise where an anonymous complaint is made and the person complained about has difficulty in defending himself or herself because of the anonymity of the complaint.

The honourable member also suggested that on occasion—and I gathered from my hearing of him on quite a number of occasions—complaints are made some considerable time—I think he said up to years—after the conduct complained of occurred. Once again, the honourable member emphasised the unfairness of a system which permits late complaints to be made and which requires police officers to justify their behaviour years after the event. When that is coupled with the anonymity of the complaint, one can see that any system which allowed such a state of affairs to continue would be one in which one would not think the rules of justice were being observed.

I certainly was concerned when I heard the honourable member speaking of that, but I notice that section 21 of the Act, as it presently stands, provides that complaints should not be investigated or further investigated if, according to subsection (1a):

> . . . the complaint was made more than six months after the complainant or person on whose behalf the complaint was made became aware of the conduct complained of.

Although the Act goes on to say that in special circumstances such a complaint can be investigated it was reassuring to note that the existing legislation does not appear to endorse the sort of complaint about which the honourable member was speaking. Similarly, in subsection (1)(c) the Police Complaints Authority is enjoined from investigating anything:

> if the complainant was made without disclosure of the identity of the complainant and there are not, in the opinion of the authority, any special reasons for justifying investigation of the complaint.

I thought it worthy of note that that particular protection also exists in the existing legislation against anonymous complaints being pursued, save where special circumstances exist. One can imagine that there might be special circumstances, for example, undercover operations or the like, where disclosure of the identity of the complainant is not appropriate.

Accordingly, I do not believe that some of the concerns arising from the Hon. Angus Redford are really justified. although, if there were particular instances of which he could give the Council details, I should have thought that that would be a matter which ought be the subject of further investigation. I might say that I looked at the report of Mrs Stevens and I did not find therein any suggestion or case examples to support the widespread occurrence of either anonymous or stale complaints.

The only other matter which the Hon. Angus Redford raised and which I thought perhaps could be commented on was his reference to the test in the High Court case of *Briginshaw and Briginshaw* and his suggestion that there were certain legal difficulties arising in the application of that principle. Personally, I am unaware of those difficulties. I would have thought that the principle in *Briginshaw and Briginshaw* ought be widely accepted because it is a principle of commonsense. I might explain the background for members of the Chamber who are not lawyers.

I mentioned the civil standard of proof as being on the balance of probabilities and the criminal standard and the higher standard being beyond reasonable doubt, and I think both those standards are relatively well understood in the community. However, the situation quite often arises when a case is not necessarily a civil or a criminal case. For example, disciplinary proceedings in relation to any form of professional discipline, and also in some civil cases where one of the issues that arises in the civil case is whether or not someone involved in the case was guilty of criminal behaviour, the issue becomes whether in that civil case where the lower standard of proof applies in relation to that particular issue of whether or not a criminal offence was committed it ought to be proved on the higher standard.

There was also the issue in divorce cases, for example, where allegations of adultery were made. One does not have that sort of thing in divorce cases these days, but it was certainly a big issue in many cases before the Family Law Act came into force. An issue there was what was the standard of proof required: was it simply on the balance of probabilities, the ordinary civil standard, or was it a somewhat higher standard, having regard to the gravity of the allegation made?

In *Briginshaw and Briginshaw*, Sir Owen Dixon laid down a dictum which was much cited and adopted in subsequent cases. At that time, 1938, Sir Owen Dixon was still an Associate Justice of the High Court. He subsequently became Chief Justice, and his statement of the principle was:

> At common law. . . it is enough that the affirmation of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequences of the fact or facts to be proved. The seriousness of the allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal.

Sir Owen Dixon was there talking about the reasonable satisfaction of the tribunal. This is a very important principle, and it arose in many cases where professional misconduct was alleged against a medical practitioner or a legal practitioner and the finding against such a practitioner of dishonourable or unprofessional conduct had very serious consequences for the reputation of the individual involved. If such a finding could be made by a tribunal on the low standard of proof of the balance of probabilities, serious jeopardy and harm could come to the practitioner concerned. That reasonable satisfaction test was developed in many disciplinary and quasi-disciplinary type proceedings.

However, the two standards—beyond reasonable doubt and on the balance of probabilities—are now widely recognised as the appropriate standards to be applied in relation to disciplinary and complaints matters, and it is appropriate that we adopt one standard or the other. The Government has decided, and I think rightly, to bring the South Australian

police force into line with standards applying elsewhere. I can think of no good reason why police officers in South Australia should be subject to any different regime than those applying either to the Federal police or to police officers in any other force in this country. In saying that, I intend absolutely no adverse reflection on the integrity or competence of South Australian officers. It is simply a matter of fairness to the community as a whole and adopting standards which are widely recognised as appropriate. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contributions to this debate. Both the Hon. Mr Holloway and the Hon. Mr Gilfillan have foreshadowed amendments to the burden of proof provision. The Hon. Mr Holloway foreshadows an amendment to restore the burden of proof in disciplinary proceedings to proof beyond reasonable doubt in cases where an appointment is terminated. The honourable member quotes from *Howard's Criminal Law*. In the passage quoted, Howard draws the distinction between criminal trials and civil trials. There can be no doubt that dismissal for misconduct is a severe consequence. However, as Fitzgerald recognised, dismissal is short of criminal conviction and is not to be equated with that. There is a reference to that at page 296 of the Fitzgerald report.

Disciplinary proceedings serve a different purpose from criminal proceedings. There is a substantial public interest in having a police force which the community can trust. The system must be such that criminal or corrupt officers who no longer deserve to remain members can be removed. When criminal or corrupt officers are not removed, public confidence in the police is lessened. The effect on honest members of the police when they see criminal or corrupt members remaining in the force is incalculable.

The honourable member rightly says that police officers are set apart from the community in the work that they do. From this he concludes that they deserve special consideration. I agree that police officers are set apart from the community in the work that they do. They have powers which are given to no other section of the community, powers to enter our homes and powers to deprive us of our liberty. The extraordinary powers given to the police lead to the conclusion that they of any members of the community must not only be seen not to be criminal or corrupt but must also be beyond suspicion of being criminal or corrupt.

The honourable member's amendment will also require the Commissioner to indicate to the tribunal at the commencement of the proceedings the punishment the Commissioner considers would be appropriate if the tribunal finds the member guilty of the breach of discipline. The Hon. Mr Gilfillan's foreshadowed amendment will apparently be a variation of this. I have difficulty with both of these, and I will indicate the reasons for that when we discuss the amendments in the Committee stage.

The Hon. Angus Redford asked for details of subpoenas directed to the Police Complaints Authority which could be regarded as fishing expeditions. The authority is currently considering a request for all complaints against four named officers which involves 54 files. There have been about 12 subpoenas in the last 12 months directed at obtaining information about all complaints against named officers. One of these involved about 20 files. Some 12 months ago there was one that involved 30-odd files.

The Hon. Mr Lawson has addressed some remarks to the Briginshaw principle in particular. I referred at length to this during the debate on the Bill as well as in the second reading report. If we need to explore the Briginshaw principle further, I will do that during the Committee consideration of the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. P. HOLLOWAY: I move:

Page 1, lines 21 and 22—Leave out 'amended by striking out from subsection (3) "beyond"' and all words in line 22 and insert:

amended—

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

(2a) The Commissioner or person representing the Commissioner in proceedings before the Tribunal must, at the commencement of the proceedings, indicate to the Tribunal the punishment that the Commissioner considers would be appropriate if the Tribunal finds the member guilty of the breach of discipline.;

(b) by striking out from subsection (3) 'beyond reasonable doubt';

(c) by inserting after subsection (3) the following subsection:

(3a) The Tribunal must, when remitting proceedings to the Commissioner under subsection (3), indicate to the Commissioner whether or not the Tribunal was satisfied beyond reasonable doubt that the member committed the breach of discipline.;

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

(5) When proceedings are remitted to the Commissioner under subsection (3), the Commissioner may not as punishment of the member terminate the member's appointment unless the Tribunal indicated that it was satisfied beyond reasonable doubt that the member committed the breach of discipline.

The purpose of this clause is to change the burden of proof in police disciplinary proceedings from beyond reasonable doubt to the balance of probabilities. The reason given in the explanation to this Bill is as follows:

The change. . . is necessary to ensure that the disciplinary process is not thwarted because something cannot be proved beyond reasonable doubt. It is acknowledged that the outcome of disciplinary proceedings can be very serious for an officer but it is also a very serious matter for officers who should be disciplined, or even dismissed, to avoid any penalty because a matter cannot be proved beyond reasonable doubt.

The explanation goes on to talk about the Briginshaw case to which the Attorney has just referred. It is the view of the Opposition that we have been well enough served by the current provision which requires that, for any police officer to be disciplined, it has to be proved beyond reasonable doubt they have committed an offence. However, the thrust of our amendment would be to change the burden of proof in minor disciplinary matters to the balance of probabilities. The result of our amendment, if it were to pass, would mean that an officer could be dismissed only on the grounds that the charge against that officer had been proved beyond reasonable doubt. The Opposition believes that that should be a reasonable compromise in this matter.

I know that it will be argued by the Attorney-General that the Briginshaw test, and this is referred to in the second reading speech, is such that the more serious the issue of discipline involved, the more demanding the process by which reasonable satisfaction is attained, as it is worded in the Bill. I suggest that the amendment, rather than leaving it to some principles set out in a High Court decision, simply establish that in law. When the most serious penalty is being considered by the Commissioner—that is the dismissal of a police officer—the case against that officer should be proved beyond reasonable doubt.

By way of analogy, I ask what members of Parliament would think if they could lose a seat based on a conviction for an offence that was based on the balance of probabilities. I would think that most members of Parliament would argue that that would be an extremely unfair penalty. I make the point that the dismissal of a police officer based just on the balance of probability is an unduly harsh penalty. For those reasons, I ask the Committee to support this amendment.

The Hon. IAN GILFILLAN: I move:

Page 1, line 21—After 'amended' insert:

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

(2a) The Commissioner or person representing the Commissioner in proceedings before the Tribunal must, at the commencement of the proceedings, indicate to the Tribunal which of the following categories of punishment the Commissioner considers would be appropriate if the Tribunal finds the member guilty of the breach of discipline:

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

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

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

The amendments are different. The Democrats support the Government's move to have the balance of probabilities as the criterion which determines the result of hearings before the tribunal so, in that respect, there is no variation in our attitude and that of the Government. I spoke to that in my second reading speech and do not intend to go over that again. Suffice to say, we believe, as we have said several times, that the police is a unique area of service. There has to be, as far as one can get it, impeccable trust by fellow officers and the public of those serving as police officers.

With that background, we are persuaded by the importance of the fact that the measure in the Bill is maintained and that it be decided on the balance of probabilities, and that should cover all likely punishments, including that of termination of employment. Whilst our amendment reflects the Briginshaw case, in that the tribunal will naturally exercise some sensitivity to the seriousness or gravity of the offence, and the likely consequences, it states in categories (a), (b) and (c) the actual possible penalties indicated to the tribunal from the charges laid by the Commissioner or the person representing the Commissioner.

The Hon. K.T. GRIFFIN: Both amendments are opposed. If either of them is to be preferred, in a rather cautionary sense, I guess the Government would prefer to see the Hon. Mr Gilfillan's amendment rather than the Hon. Mr Holloway's amendment. However, as I say, we would prefer to see neither. I would hope in the course of consideration of the amendments, whether now or later, we would be able to demonstrate that the way in which the Hon. Mr Gilfillan wishes to go is quite impractical and unworkable.

Both members are moving to insert a new subsection (2a). Both new subsections (2a) require the Commissioner to indicate to the tribunal, at the commencement of the proceedings, the punishment the Commissioner considers would be appropriate if the tribunal finds the member guilty of the breach of discipline. The Hon. Mr Gilfillan's amendment requires the Commissioner to indicate one of three categories of punishment. The Government has several problems with these amendments. It may be that what emerges at the hearing shows that the breach was more serious than the Commissioner thought. Is the Commissioner to be bound by his indicated punishment? If the Commissioner could not impose a higher penalty than the penalty he or she had indicated, serious misconduct could go inadequately punished.

To allow the Commissioner to impose a higher penalty than the one indicated could be regarded as unjust and leave his or her decision open to challenge. Any penalty imposed for a breach of discipline should be based on all the facts, including information provided by the person charged in mitigation.

The Hon. Paul Holloway's amendments also amend section (3) and adds a new section (3a) and (5). The effect of these amendments is to prevent the Commissioner from terminating a member's appointment unless the tribunal had indicated that it was satisfied beyond reasonable doubt that the member committed the breach of discipline. Subclause (5) could have the effect of the tribunal finding on the balance of probabilities that a member was corrupt or criminal, yet the Commissioner would not be able to dismiss the member unless the tribunal indicated that it was satisfied beyond reasonable doubt. This is a solution that would leave most people full of disquiet and ignores the substantial public interest in having a police organisation which the community can trust. The effect on honest members of the police when they see criminal or corrupt members able to resist their removal through legal reasons also needs to be recognised.

I have acknowledged that there can be no doubt that dismissal for misconduct is a severe consequence. However, the effect on the individual officer is not the only consideration; the substantial public interest in having a police organisation which the community can trust also needs to be recognised, as does the effect on honest members of the public when they see criminal or corrupt members able to resist their removal.

I make one further observation in respect of the position of the tribunal. When the tribunal makes its finding it has to be aware of the consequences that may flow from its decision—that is, it will be aware of them in a broad sense when it will, in accordance with Briginshaw, have to take the consequences into account when deciding the strength of the evidence necessary to establish the fact or facts on the balance of probabilities. In my view and in my submission it does not matter that the tribunal does not know the exact consequences which may flow from its determination. It is aware of the range of consequences and will have reached its own conclusions on the seriousness of the breach of discipline.

One other point I want to make is that the Commissioner, in opposing his or her punishment, cannot act capriciously. The Commissioner has 'the obligation of any sentencing court to make the punishment fit the offence and the circumstances of the offence as nearly as possible'. That was a decision of the South Australian Full Court in the *Whickham v. Commissioner of Police* case back on 6 May 1998. The judges were Matheson, Prior and Debelle. So there are powerful reasons for rejecting both amendments, which the Government now does.

The Hon. P. HOLLOWAY: I am realistic enough to read the numbers in this place. If there are two competing amendments and only one can get up, the numbers are such that it will not be the amendment moved by the Opposition. I am disappointed about that. I think that police officers deserve the protection of the Parliament. It has been conceded by most people in this Council that police officers can be subject to malicious and vexatious complaints—all sorts of complaints—all the time. Given that, if you are deciding

things on the balance of probability sooner or later an honest policeman will be dismissed by virtue of there being sufficient malicious complaints made against him or her.

I am disappointed that the Opposition's amendment will not get up, but I guess that is the way the numbers fall. I will not divide on the amendment, but that should be taken in no way as a reflection on the Opposition's strength of view on this matter. We see the Gilfillan amendment as being the very minimum in relation to the protection that police officers deserve. If the Gilfillan amendment is carried any police officer facing charges will have some indication about the seriousness of the implications of the charge and can therefore, I guess, vote their case accordingly. At least it gives them a fighting chance, if I can put it that way, in terms of any disciplinary proceedings. Although we are disappointed that our amendment will not get up I indicate that we will be supporting, as a fall-back position, the Gilfillan amendment.

The Hon. K.T. GRIFFIN: No-one denies that police officers need to be protected from malicious complaints. It is not the Government's intention to deny that position. On the other hand, we have to ensure that there is a process in place according to the appropriate principles to ensure that if there are corrupt officers or those who have committed other criminal offences they do not remain a part of SA Police. I make the point that in no other jurisdiction is there proof beyond reasonable doubt required of the matters for which we now seek to amend the burden of proof. There do not appear to have been significant, if any, problems with the application of that in those jurisdictions. That gives the Government some comfort that this will not prove to be a source of alarm and concern to serving police officers who always act properly and in the interests of the public. The cause for concern created particularly by the Police Association I believe in the longer term will prove to be unfounded.

The Hon. P. HOLLOWAY: I wish to make one final point. The Attorney-General says that in other States there is no concern about the way the clause operates. Perhaps we should ask whether there has been any concern about the way the existing provision has operated in South Australia. Does the Government or the Police Commissioner believe that the current provision, which requires proof beyond reasonable doubt, has failed in any particular cases?

The Hon. K.T. GRIFFIN: The answer is 'Yes.'

The Hon. P. Holloway's amendment negatived; the Hon. I. Gilfillan's amendment carried; clause as amended passed.

New clause 4A.

The Hon. K.T. GRIFFIN: I move:

Page 1, after line 22—Insert the following new clause:

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

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

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

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

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

(9) In this section—

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

This amends section 46 to bring appeals from the Police Disciplinary Tribunal into line with the appeal provisions against dismissal for unsatisfactory performance in the Police Bill 1998. In that Bill the appeal will be from a tribunal constituted by a magistrate to the Administrative and Disciplinary Division of the District Court. Under the Police Complaints and Disciplinary Proceedings Act disciplinary charges are heard by the Police Disciplinary Tribunal constituted by a magistrate, and there is an appeal to the Supreme Court. This is not something that should go to the Supreme Court. The appeal to the Supreme Court was appropriate before the Administrative and Disciplinary Division of the District Court was created. Now that we have that division, it is the appropriate body to hear disciplinary appeals.

The Hon. P. HOLLOWAY: The Opposition does not oppose the amendment.

New clause inserted.

Clause 5 and title passed.

Bill read a third time and passed.

ELECTORAL (ABOLITION OF COMPULSORY VOTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 August. Page 1312.)

The Hon. L.H. DAVIS: The history of voluntary voting in the Liberal Party goes back over 11 years to a commitment by the then Leader of the Opposition, John Olsen, to voluntary voting. I have in my file on voluntary voting a media release dated 2 July 1987 no less, with the headline 'Olsen calls for voluntary voting'. In this media release the then Liberal Leader, John Olsen, raised the prospect of a Federal election approaching and said:

Why then, in a supposedly democratic society, are Australians being compelled to vote?

He made the point that:

Freedom of choice is an important principle that should be extended to the freedom to choose whether or not to attend a polling booth and vote. Australia and its States are among only a handful of democracies that have compulsory voting.

Mr Olsen noted:

Larger nations such as the United Kingdom, the United States, West Germany and France all have voluntary voting and the turn out figures on election day are high. In the recent UK election the turnout of voters was 75.4 per cent, while in Italy last month the turnout figure was over 88 per cent for both houses.

He noted that New Zealand also had voluntary voting. So, 11 years ago the Liberal Party through its Leader at the State level made the point that it was committed to voluntary voting. We went to the 1989 State election, which was lost narrowly. Although we obtained 52 per cent of the vote to only 48 per cent by the Labor Party, the Liberal Party remained in Opposition, but in 1989 we were committed to voluntary voting.

Then again in 1993 the Liberal Party in its policy speech made specific reference to voluntary voting. The then Leader of the Liberal Party, Dean Brown, said specifically in a policy speech:

But we will keep laws out of your life when they are not necessary. A Liberal Government will scrap compulsory voting. December 11 will be the last time you will be forced to vote at a State election. This way political Parties will be forced to do much more to earn your support, which is how it should be.

That was the 1993 State election. That policy was reinforced in a release in June 1993 prior to the election where, under the heading 'Freedom to choose', the Liberal Party said:

Each and every South Australian should have the right to decide whether to vote at a State election, whether to belong to a union or employer association. A Liberal Party will restore these freedoms.

A Liberal Government will abolish compulsory voting at State elections. A Liberal Government will abolish compulsory membership of unions and employer bodies.

That was 1993.

In 1997 that policy again was reemphasised at the election. So, for a third State election in a row the Liberal Party went into the election with a policy to support voluntary voting. That policy was given publicity in the lead up to the election and during the course of the election campaign.

In March 1994, when we introduced the Electoral (Abolition of Compulsory Voting) Amendment Bill in another place, the then Leader of the Opposition (Hon. Lynn Arnold) in opposing the measure, for which the Liberal Party at that time had had a mandate for two elections, said:

I make another point, namely, that the Parliament is made up of two Houses and both Houses have been elected by the popular will of the people of South Australia. In the case of this House, that is, the House of Assembly, members were elected on 11 December and it is well known the Government of the day won a large majority in this place and my Party was removed from Government.

That probably fairly succinctly states the position.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: As the Hon. Terry Roberts says bravely across the Chamber, that was an understatement. The number won for the Liberal Party was a record breaking 37 seats. There was a by-election shortly afterwards in Torrens that reduced the margin to 36 votes to 11. So the Hon. Lynn Arnold sought, through an intellectual approach to this, to redefine the use of the term 'mandate'. He said in his contribution:

I accept you have a mandate in the House of Assembly.

However, he went on to say:

In the other House the will of the people was expressed on two occasions—

here he is referring to the Legislative Council—

in November 1989 and, secondly, on 11 December, 1993. On each occasion half the members of the Upper House were elected to that place. That method of voting was designed to give all people in South Australia the opportunity to have their will reflected in the Legislature. The Upper House is just as democratic as this House and just as much reflects the will of the people.

In that way he was seeking to try to suggest that in the Lower House it was all right for him to oppose this Bill because in the other House the Labor Party could oppose it because the Liberal Party—the Government—did not have a mandate. It was a strange argument when you think about it. The Labor Party in the Lower House was denying the reality of the mandate, which was overwhelming for the Liberal Party—36 to 11 and 37 to 10 initially—and was seeking to attempt to say that it was all right to oppose it in the Upper House because, of course, the Government did not have control, although it had half the seats—11 out of the 22 seats, but did not have a majority on the floor because we provided the President.

We can roll forward to the debate on another Bill in this place—the ETSA Bill—where the argument has been that, because we did not have a mandate for it, because we went to the people saying that we did not support the privatisation of ETSA, certain parties in this place could never bring themselves to vote in favour of the ETSA Bill, never mind whether there is an economic rationale for it. The Australian Democrats in particular relied heavily on the mandate argument, saying that we did not seek a mandate for it, we denied that we would sell it and therefore they would not support the legislation. If members read their speeches in this place they will see that argument dominates.

So, one would have thought that there might be some consistency from the Democrats given that, apart from the Hon. Robin Millhouse who was a Democrat in the Lower House for a period of time and Heather Southcott who succeeded him for an even briefer time in the seat of Mitcham, their representation in the Parliament has always been in the Upper House. So, it is interesting and perhaps surprising to note what the Democrats' position has been on voluntary voting in this place.

In an article appearing in the *News* dated 23 November 1989, the Opposition Leader pledged to introduce legislation abolishing compulsory voting and scrapping compulsory unionism if he became Premier. It is on the record; I have already established that. The Liberal Party had put that as its position as early as 1987, reinforced it in the two years leading up to the 1989 campaign and actually raised the issue publicly in the weeks leading up to the 1989 State election. Robbie Brechin, a colourful journalist with the *News* who, I think, was quite keen to write about jazz and restaurants—he was quite a versatile journalist with a bit of style and flair, which is not a characteristic of many journalists these days—wrote an article which stated:

The push for voluntary voting in State elections by the Liberals would not be supported by the Australian Democrats, who will hold the balance of power in the Upper House after Saturday's poll.

This article appeared days before the 1989 election, which John Olsen lost by a whisker, even though he won it everywhere except in the number of seats that were won by the Liberal Party. The article continues:

The Democrats' Mr Mike Elliott said today there was 'no way in the wide, wide world' his Party would support the idea of voluntary voting, and he knew the Labor Party felt the same way.

According to Mr Brechin's article, the then Democrat State Leader, Mr Gilfillan—of course, the Hon. Mr Gilfillan is now relegated to a backbench, literally; he is the only member of the Democrats who does not have a guernsey; the Party has a Leader and a Deputy Leader, and Mr Gilfillan is the lone backbencher which belies, of course, his ability and intellect—was quoted as saying:

The proposed Liberal legislation was a bit of a furphy.

He is referring to compulsory unionism because there was no legal structure which enforced compulsory unionism in South Australia in the first place.

There we have it: the Leader of the Democrats, Mr Mike Elliott, saying publicly that even if the Liberal Party wins this election, even though it has taken the issue to the people and talked about it publicly for two years, the Democrats will ignore the mandate the Government has for this issue. One must wrinkle one's legislative eyebrows and say, 'Well, what is Mr Elliott on about?'

Here he is saying, 'I do not care what the South Australian people decide at the 1989 election'—and one might say for the 1993 and 1997 elections—'I am against voluntary voting. The Democrats are against voluntary voting. We do not care what mandate the people give the Liberal Party Government, we will not support it.' Square the logic of that argument off with what the Democrats have said about ETSA and you are left with their facing a very stiff breeze indeed. There is no logic; there is no justification at all for the Democrats arguing over a mandate for ETSA when they have, with respect to voluntary voting, ignored a mandate for three successive elections.

'Three strikes and you're out' is a very good argument for the Democrats. In fact, as I warm to this notion, it is well worth remembering that the Democrats, when they were first formed by a former Liberal, and a colourful one at that, Mr Don Chip, based their rationale, their reason to be, their *raison d'etre*, on keeping the bastards honest. That was their slogan. We remember that: keeping the bastards honest. Now, what is the Democrats' role? Let us develop that point of keeping the bastards honest. What does keeping the bastards honest mean? It means that they will ensure the Government keeps the promises that it made to the people at election time. That is what 'keeping the bastards honest' means.

[Sitting suspended from 6 to 7.45 p.m.]

The Hon. L.H. DAVIS: As we went to tea, we were reflecting on the meaning of the phrase 'Keep the bastards honest.' That phrase has passed into history as the slogan for the Australian Democrats. I was explaining to attentive members before dinner that this phrase, on any reasonable construction, meant that the Australian Democrats in the Senate in Canberra, or in the Legislative Council in Adelaide, would keep the Government of the day honest; that is, they would require the Government of the day to fulfil its election promises. So, that is what they were claiming they would do. But now it appears, in the face of the Liberal Party for the third election in a row going to the people with a policy of voluntary voting, that the bastards try hard to be honest but they get into trouble; they are not allowed to be honest because the Democrats have forsaken their slogan.

It is not surprising, as the Hon. Ian Gilfillan will observe, that they have recently dropped their slogan 'Keep the bastards honest,' because they do not any more. We are trying to stay honest to our commitment of introducing voluntary voting, and the Democrats will not keep the bastards honest. No, they voted against it.

In his remarkable contribution on 9 July, the Hon. Michael Elliott wrote himself into political history books when he said:

> Mandates are something that each member of Parliament holds both individually as well as being collectively held within the Parliament.

Just think about that. He continued:

> The Government does have a mandate. Its members have a mandate to support this Bill.

I am not referring to *The Bill* that we have just been watching on television, but this Bill, this voluntary voting Bill. The Hon. Michael Elliott has put an extraordinary proposition. He says that the Government has a mandate but he then goes on to say (and I quote him faithfully because the Hon. Michael Elliott has to be quoted faithfully; otherwise you would not believe it):

> If we voted for this Bill, then we would be voting against what we told the electors we supported, and that would be dishonest.

Let us think about that. What the Hon. Michael Elliott is now saying is that Governments have mandates but the Democrats have a mandate that they have to fulfil, and never mind about keeping the bastards—that is, the Government—honest: we have to keep ourselves honest first. What he is saying is that the phrase 'Let's keep the bastards honest' is something that they just made up, they do not really believe in it, and they do not really enforce it if it does not suit them. So, who keeps the bastards honest? It is certainly not the Australian Democrats. What he is saying is that every member of Parliament holds a mandate, individually and collectively, and, in the Democrats' case, because they did not support voluntary voting and even though the Government had a mandate for it and was elected with this policy, not once, not twice but three times, and introduced legislation for the fourth time on this, they are not going to take any notice of it. This is pretty amazing stuff. If we went to the founder of the Democrats, Mr Don Chipp, and put this proposition to him, he would say, 'I do not think that is what I meant when I said we will keep bastards honest.' There was Mr Elliott justifying his stand.

In relation to the issue of voluntary voting, the Hon. Michael Elliott told the Council on Thursday 9 July that the Democrat policy was quite clear. He went on and argued that compulsory voting in South Australia ensures that all South Australians participate in the election of the Government. He said:

> This not only fully legitimises the election mandate of the Government but also ensures that the ballot box has told the Government just where voter sentiment lies.

Just think about that.

The Hon. T.G. Cameron: It doesn't ensure that at all.

The Hon. L.H. DAVIS: Exactly! He said, 'This not only fully legitimises the election and mandate of a Government. . . '. So compulsory voting, which we had in 1997 at the last State election, legitimises the mandate of a Government. What the Hon. Michael Elliott has said, in black and white, straight up and down, on page 1005 of *Hansard* on 9 July, is that compulsory voting has legitimised the mandate of the Government.

We have a mandate for voluntary voting, introduced firstly and publicly in 1987 by the Leader of the Opposition, John Olsen, who went to the polls in 1989 with that. Again, in 1993 the Liberal Party went to the polls with that and won; and the Attorney-General introduced legislation in March 1994 to give effect to that policy promise. Again, we are introducing it now in 1998 for the fourth time. So, that is what a mandate is. If you cannot say that voluntary voting gives us a mandate, what can you say is a mandate? So, that is the extraordinary position of the Australian Democrats.

Let us look also at the extraordinary contributions of a series of speakers from the other side on this subject. It is interesting and not insignificant to note that, in all the contributions from the Hon. Trevor Crothers, the Hon. Ron Roberts, the Hon. Terry Roberts and all those Opposition members who spoke eloquently and passionately on this subject, not one of them dared raise the subject of the mandate. Not one of them said, 'I recognise that this Government has been to the people not once, not twice but three times with voluntary voting in their policy speech, and that they do have a mandate for this, whatever way you look at it,' and then attempted to justify why the Labor Party voted against it. Not one of the speakers opposite had the guts, decency or the intellect to address the mandate issue.

Yet in their contributions on the Electricity Trust debate, which as members might recognise is another Bill before this Council, most of the Labor Opposition contributions are dominated by the argument that, because we did not go to the people and say that we were going to attempt to privatise ETSA, we stand condemned, the inference being that if we had gone to the people—

Members interjecting:

The Hon. L.H. DAVIS: Well, they might well scream, because they are caught in a logic trap. The Hon. Ron Roberts, who is running on empty on the best of days, is screaming and hollering—as well he might, because the logic

of the argument they put forward is that if the Liberal Party had gone to the people at the election in 1997 and said, 'We want to privatise ETSA,' or 'We are looking at the option of privatising ETSA,' they would have come into this Council and supported the privatisation of ETSA. Is that what they are saying? That is the logic of what they are saying. This is what the Hon. Trevor Crothers said in his mercifully brief contribution on this voluntary voting issue. He said:

> . . . I congratulate the Attorney, a favourite of mine, on his intestinal fortitude in presenting this time after time. . . It seems to me that it is a hardy annual. . .

When I interjected on the Hon. Trevor Crothers, which is a fairly easy thing to do, by saying, 'And we have a mandate for this,' the Hon. Trevor Crothers said (page 1312 of *Hansard*):

> I don't know; I take it that you will be supporting voluntary voting, and I am afraid I have to say to you, Mr Davis, that your concept and mine of what constitutes a democratic mandate are horses with two different heads.

So, there we have it. The Hon. Trevor Crothers is saying that he does not accept that the Liberal Party, having gone not once, not twice but three times to the people, has a mandate. It is extraordinary stuff, but it is not surprising.

Then we come to the Hon. Terry Roberts who, of course, is one of those soft cuddly lefties, which is so unfashionable these days. The honourable member says:

> It is one of those cyclical Bills that comes into the Council, if not every 12 months, every two years. The Government gives it a bit of a try, rolls it on, goes away with a blood nose, and then we will see it back in about another 18 months or two years.

That is Terry Roberts's colourful contribution. It was obviously not a prepared speech, as one can see, but colourful nevertheless. He is saying, 'We know that you are committed to voluntary voting. You might have a mandate, but I do not give twopence for that. I am not going to support it. I'm against it.' He makes it quite clear that he is not at all interested in the mandate argument. He does not refer to it in any way.

We then have a contribution from the Hon. Ron Roberts, Terry's namesake, who comes from the right of the Party, although I am not sure where he thinks he is at the moment. I think basically he is left right out. The Hon. Ron Roberts says, and I quote from his opening remarks:

> I oppose this measure, which has once again has been proposed by the Hon. Mr Griffin on behalf of the Government. I do not know whether this is a well held Liberal Party philosophy or whether it is just something the Attorney has a particular interest in.

Of course, that reveals everything about the Hon. Ron Roberts, including his deep appreciation of research and his great knowledge of a subject, totally oblivious to the fact that we have gone to the people not once, not twice, but three times with this, and he is saying, 'I'm not sure whether it is a well held Liberal Party philosophy.' I always suspected that some of the members in the Labor Party might not necessarily read but I never thought—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —that it would be revealed so obviously as in this contribution from the Hon. Ron Roberts. Then we have this colourful expression that the Attorney-General 'keeps trying to recycle a proposal'. Suddenly the Hon. Ron Roberts remembers that, yes, we do actually feel something about this because we keep introducing it. The Hon. Trevor Griffin has kept recycling it, as he says, and he claims, 'The Attorney-General reminds me of the ant trying to pull down the rubber tree plant.' I am not sure how the ant and the rubber tree plant got involved in voluntary voting. I think that was the Hon. Ron Roberts clutching at straws. It was a fairly remarkable effort. The Hon. Ron Roberts goes on in this extraordinary effort and says:

> The truth is that this Government has been elected for the next four years.

He is always profound! He continues:

> Unless it does something reprehensible and is thrown out of office—and that is a possibility—the most likely outcome is that it will be there for the next four years, so it is imperative that this Government focuses on the issues that affect South Australians and not tinker with the political system.

Again, the Hon. Ron Roberts is denying completely the fact that we have a mandate for this. We have gone to the people three times and we are entitled to introduce this legislation. I just find it extraordinary that he does not recognise that point. He concludes his remarks by saying:

> I am sick and tired of listening to this misguided debate and these assertions that we have compulsory voting in South Australia when that is clearly not the case. I am sick of it and the people are sick of it. This motion ought to be dispatched as quickly as possible. I hope that in one sense mine is the last contribution before we dispatch this off to the rubbish bin.

That underlines the Hon. Ron Roberts' great sense of democracy. Here we are, a Government with a mandate to introduce voluntary voting, and he says that this is a worthless argument and we should ignore it.

Then the Hon. Carmel Zollo made her debut on this subject. Unlike the Hon. Ron Roberts she had done her homework. She recognised that this matter had appeared before Parliament. On page 1001 of *Hansard*, she said:

> For the fourth time since 1993, the Attorney-General has introduced a Bill to abolish compulsory voting in South Australia. Along with the rest of my colleagues on this side of the Chamber, I will oppose the legislation, because I believe it invariably ensures that only people interested in the political process or cajoled by political Parties would turn up to vote.

So there we have it. The fourth leg of the Labor quadrella, the Hon. Carmel Zollo, fresh into the ring but obviously unaware of what 'mandate' means or without giving any lip service to the mandate, says, 'I know you've proposed it four times, but I'm against it.'

So, what does 'mandate' mean? What is it all about? It is absolutely extraordinary that the Liberal Party's policy is not paid lip service to when it comes to being serious about this important matter.

I refer lastly to the Hon. Nick Xenophon's contribution on this subject on 22 July 1998. In respect of this matter, he was honest. He said that basically he had been in favour of this idea until he went to America. The clincher—or 'the Clinton'—was: when he went to America. The system of voluntary voting in America had resulted in less than a 50 per cent voter turnout for the presidential elections. This worried him a bit.

Notwithstanding the remarkable events of today in the United States, this should not mask the fact that the United States' economy, despite all the projections of the old soft lefties like the Hon. Terry Roberts over the past decade, is by far the best performed economy in the world. Its unemployment rate is 4 to 4.5 per cent; its inflation rate is almost next to zero; and its economy is booming, despite the forecast that the Japanese economy would overtake it by the year 2000. The Japanese economy has fallen and is struggling and America is travelling comfortably and easily, and that is notwithstanding the fact that it has a voluntary voting system.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: It is the 'Monica' factor—I'll put on my 'Monica' and look at that. The Hon. Nick Xenophon in his contribution on voluntary voting, which was brief, said that on balance he was against voluntary voting. He said:

> Recent years have seen an increase in voter disenchantment with the political process, and this has resulted in volatility in electoral preferences and a degree of instability in government.

Then he said something which I think is quite germane to other matters with which we are dealing in this Chamber, as follows:

> A Bill must be judged on both its intent and its likely outcome. In the present political climate, to remove compulsory voting is to invite citizens to distance themselves even further from the political process.

He goes on to conclude that he will not support the legislation. But, what is, I think, very germane is that he said:

> A Bill must be judged on both its intent and its likely outcome.

It would be nice to think about that phrase and apply it to other legislation which is before the Chamber at the moment. What was the intent, for instance, of the ETSA legislation and what was the likely outcome of that legislation in terms of the economic benefits for the community? Of course, if that is the overriding concern, rather than using the mandate as an argument to drive through legislation, then we may well have a different outcome on some of the issues which are faced by this Chamber.

But, the Hon. Nick Xenophon in talking about the ETSA legislation expressed concern about the moral aspects of the Government which had gone to the people and said it would not sell it back in August, September and October, and then subsequently in December 1997 said that it believed it is in the best interests of South Australians to privatise ETSA. The Hon. Nick Xenophon makes the point (on page 1296 of *Hansard*):

> It goes without saying that the voters of South Australia were entitled to rely upon those promises.

That is, the promise of not selling ETSA. If one takes the logic of that argument, that it goes without saying that the voters of South Australia are entitled to rely upon those promises, then one can extend that argument and say that the voters were entitled to rely upon the promise of the Liberal Party to introduce legislation for voluntary voting.

The Hon. R.R. Roberts: Which you have done.

The Hon. L.H. DAVIS: That is right; we have done it, indeed.

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: And then, we are entitled to take that a step further. If the Hon. Ron Roberts can follow the logic, and I am talking as slowly as I dare for his benefit, one can say that the voters are entitled not only to rely upon those promises, as the Hon. Nick Xenophon has stated, but also to expect that there might be some support for it, given that this policy of voluntary voting had been flagged not once in 1989, as indeed it was, not twice, as indeed it was again in 1993, but yet again at the 1997 election. This was a policy which had been flagged and publicised and which was well-known to anyone in the political process for a period of 11 years or 12 years. This was Liberal Party policy in this State, unequivocal and unadorned. This was a commitment, and on each occasion the legislation was introduced and knocked out by the Australian Democrats and the Labor Party, notwithstanding the mandate which existed for this legislation.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I raise that because the Labor Party, which is without a wing and a prayer when it comes to policy on serious economic matters in South Australia, has used the mandate argument to knock out important legislation or to violently and vehemently oppose important legislation, such as ETSA privatisation, using the mandate argument.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: But, when it comes to an issue such as this where there is a mandate, one does not hear the word pass their lips. Finally, in addressing this important matter of voluntary voting I want to make some reference to the comments of the well-respected political commentator, Dean Jaensch, of Flinders University in his book *Election: How and Why Australia Votes* published by Allen & Unwin. On page 19 of this book, the Hon. Dean Jaensch makes the point, which has already been alluded to by some members in debate, and I quote:

> Compulsory voting is, in fact, a misnomer. The Australian electoral Acts enforce compulsory attendance, with names checked on the electoral roll. No electoral law, in a democracy, can enforce a compulsory vote, for any such attempt would breach the overriding principle of the secret ballot.

For simplicity, however, he uses the term 'compulsory voting'. Then he makes the following observation on page 21:

> The Liberal and National Parties with their rhetorical commitment to 'individual rights and freedoms' should be opposed to compulsory voting, and in favour of voluntary voting. . .

In 1988, the South Australian division changed its policy to voluntary voting. He then goes on to say—and the Australian Democrats should take particular note:

> The Australian Democrats have the biggest problem in justifying their stand in favour of compulsory voting. The commitment rests uneasily with a Party emphasising rights, freedoms and politics by rational means. But the Democrats need every vote they can get, especially in terms of their aim of retaining a balance of power in some of the Upper Houses. Hence they've attempted to obtain the benefit of compulsory voting while maintaining their basic principle. They publicise a stand emphasising that, while people are forced to attend, they are not forced to mark the ballot paper.

That is an acute and accurate observation that the Australian Democrats are schizophrenic. They are long on talking about freedoms, but when it comes to voluntary voting that is not a freedom they embrace.

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: That is something I am not sure about. The Hon. Terry Cameron makes a perspicacious observation: 'Is that all of them?' In the past the Australian Democrats have often made much of the fact that they do not votes in blocks, but my observation is that they certainly play with blocks and certainly vote with them in this day and age.

In the book by Dean Jaensch, *How and Why Australia Votes*, on page 24, responds to the paranoid argument advanced by the Labor Party that really the Liberals want voluntary voting because it will give them a perceived advantage and will disadvantage the Labor Party—that is the cry from the Opposition benches, that there is a trick afoot here, that it is designed to get an advantage by stealth, that it is larceny by a trick; that is the basis of the argument from the Opposition—

The Hon. T.G. Roberts: We are opposing the measure to save you from total disaster.

The Hon. L.H. DAVIS: The Hon. Terry Roberts says they are opposing the measure to save us from total disaster. The United States is really battling with this disaster.

Voluntary voting is strangling the economy there—it is destroying them. In Britain Tony Blair got swept to power with voluntary voting: how tragic for the Labor Party.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Exactly, but you are not prepared to recognise that. It shows you as an old Lefty that it is time to catch up. The Hon. Terry Roberts, who is an amateur psephologist in his own way, would know the name David Butler. He is a well respected psephologist in England who often came here to Australia as a guest commentator at Federal elections in particular. Dean Jaensch discusses David Butler's view on whether compulsory voting benefits any one Party. Jaensch makes the observation, at page 24:

> Certainly, Labor believes that voluntary voting would be a detriment to its electoral chances.

He then goes on to say that David Butler's points (in a book by David Butler) merit consideration and quotes him as saying:

> Well informed Australians often cherish the illusion that British elections are largely determined by selective abstention and that, if Britain had compulsory voting, the Labor Party would fare much better. The evidence simply does not support this view. There is no reason to suppose that if everyone had voted in recent British general elections the outcome would have been significantly different. . . but the evidence is frail and the difference in turnout by Party is trifling. British experience offers no *prima facie* reason to believe that if compulsory voting were abandoned the outcome of Australian elections would be very different.

That is an interesting point put by David Butler, who is, I would have thought, respected by both sides of politics.

Finally, I return to what the Attorney-General has said about this matter. He has had the passage of this legislation and has grown weary in delivering it, knowing, I would suspect, second reading speeches off by heart as he has delivered them so often.

The Hon. K.T. Griffin: There's always a bit of variety.

The Hon. L.H. DAVIS: There is a bit of variety, that is true. He made the point that 42 000 South Australians did not vote at the last State election. As a result of the electoral legislation, they received a notice inviting them to explain why they did not go to the poll. If they do not provide a good and sufficient reason, they will be penalised.

The Attorney made the point that we tried three times to get rid of compulsory voting and, of course, it has been knocked out three times.

In 1993, the electoral office spent nearly $300 000 following up non-voters after that election. The Opposition is supposed to be concerned about money—although it was good at blowing it while in government—but in 1993 it cost $300 000 to pursue non-voters.

On 5 June 1998, in a further press release, the Hon. Trevor Griffin, with the updated information from the 1997 election, said this:

> The estimate of the cost for the 1997 election—

of following up people who failed to vote—

> is $155 000, not including Crown Law or court costs. The total cost of pursuing non-voters in the 1993 State election was estimated at the time to be $500 000. Of the 43 000 South Australians who failed to vote at the 1997 State election, about 13 500 expiation fines, each worth $17, were sent out. Since February, only 2 000 people have paid their fine.

For the benefit of the Council, and given that some members opposite, in view of the forceful arguments that have been delivered in this debate, might like to reconsider their position, I ask the Attorney to update the information on the cost of following up those people who failed to vote at the last election. On my calculation, the 43 000 electors who failed to vote represents about 4.3 per cent of the total number on the roll.

The argument for voluntary voting is persuasive. The majority of countries by far around the world have voluntary voting. There are very few major countries that have compulsory voting. This Government has had a mandate—whatever that may mean for the Opposition—to introduce voluntary voting since 1987, and that has been put before the people on three occasions. I believe that this Bill deserves to pass.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

EMERGENCY SERVICES FUNDING BILL

Adjourned debate on second reading.

(Continued from 12 August. Page 1368.)

The Hon. P. HOLLOWAY: The Emergency Services Funding Bill is part of this Government's budget package and, as such, the Opposition will not oppose it. However, the reality is that this levy is simply a new tax on property, with the potential to greatly expand the Government's revenue take as the years go on. I well recall the water rates debate in this Parliament back in the early 1990s. Ever since last century, water rates in this State had been based on property values, and in the early 1990s the then Bannon Government decided that it would look at changing the way in which we charged for water.

The irony of this was that that Government was seeking to move from a purely property component to a part property, part user-pays system. I can well remember at that time the massive opposition from members opposite, particularly the Hon. Julian Stefani and others, who campaigned vigorously against that Government, accusing it of imposing wealth taxes and so on, in spite of the fact that water rates had been charged in this way ever since the nineteenth century. So, it comes as somewhat of a surprise that suddenly this Government should revive for itself what it found so abhorrent just five or six years ago.

This Bill is being sold as a reform of the funding arrangements for emergency services. The justification for this is that a large proportion of emergency services funding comes from a levy on insurance premiums, and it is argued that the 31 per cent of property owners who are not insured are therefore freeloading on the system. So, the idea is that at the moment, when a large proportion—something over half of the cost of emergency services—is funded from levies on insurance premiums, there is substantial under insurance. The argument goes that we need to stop these freeloaders and spread the burden so that everyone pays through a levy on property, so that the burden is not borne by only those who do the right thing and insure and therefore pay their fair share.

However, the Government's discussion paper (which proposed this scheme) has referred to this change as 'a significant marketing challenge'. That is on page 45 of the report of the review committee that was set up to consider changes to the current system. I believe that the committee is dead right in that the Government will have a significant marketing challenge in defending this.

Emergency services, as they are defined in this new system, comprise the Metropolitan Fire Service, the Country Fire Service and the State Emergency Service. There is also

some provision for marine rescue and other emergency services which, certainly in terms of their financial implication, are relatively small, even if they are not small in terms of their value to the community. Of course, with those we have a professional Metropolitan Fire Service that is largely Adelaide-based but which also operates in some of the larger regional cities of this State. We have the Country Fire Service, which largely comprises volunteers and which is particularly concentrated in the Adelaide Hills but which also operates in other areas of the State; and, likewise, the State Emergency Service has volunteers based throughout the State.

At present, these services require about $80 million a year in funding. The State Government's direct contribution (so the report tells us) is about $14.3 million of this total; local government contributes about $11.6 million; and the insurance industry contributes $48.5 million through levies on premiums. The remainder of the funding is raised by the services themselves and by other indirect contributions.

Earlier this year the Government established a steering committee to undertake what I have described as a rather quick and dirty job on new funding proposals. I say that because the committee, as well as its report, were fairly hastily drawn together. I believe that a number of issues have not been finalised by the report and, indeed, are not finalised in this legislation, but that is something I will come to in a moment. The report recommended that the Government impose a levy to fund emergency services; that that levy raise approximately 85 per cent from properties; and that the remaining 15 per cent be raised through a levy on mobile property—a rather interesting new euphemism for a tax on cars, trailers, caravans, and the like.

This Bill passes those recommendations into legislation. Clause 5 of this Bill, entitled 'Basis of the levy', simply translates the options that were given to the Government by the committee into options that the Government can take up in the future. These measures, as a result of the Bill, remain unknown, but the Government can either impose a percentage of capital value, a flat fee or some combination of the two. So, the nature of the levy itself has not been determined by this legislation. The Government has simply translated the options that were suggested by the committee into options it can decide on in the future.

Once the nature of the levy is decided, it will then be based on, as I say, a percentage of the capital value of property, with a factor to allow for the weighting of the area. While the report makes some suggestions with respect to particular area weightings, again that is left up to the Government. The third factor is land use weighting, and again that factor is left up to the Government. Even if this Bill is to pass into practice, much is still to be determined as to exactly what this new levy will comprise.

As I said, the justification for the new Emergency Services funding tax is that it will replace the levy on insurance premiums which currently fund the MFS. It is argued that because approximately 31 per cent of properties are either not insured or under-insured then those who are insured and paying the levy must therefore subsidise those who are not. Unfortunately, one question that is left a little open is what the committee means by 'under-insured'. The report at page 34 says that estimates of under-insurance vary and that previous reports have identified that between 20 per cent and 50 per cent of properties are either under-insured or not insured at all. However, it is clear that those who fully insure are subsidising those who choose not to fully insure.

A table then summarises the insurance industry figures on the levels of 'under' or 'non-insurance'. Of course, part of the difficulty is determining what 'under-insurance' really means. Anyone who has had experience with insurance companies or had to make claims on property would know that the term 'under-insurance' means something different to an insurance company from what it probably does to most policyholders. I am just a little sceptical about the extent of 'under-insurance' as presented by the insurance industry. That is the first issue we must query.

In its place this Bill proposes that a new levy on property, including mobile property, commence on 1 July 1999. In relation to real property, the levy charged depends on the capital value of a property as well as its area weighting or land use weighting. 'Area weighting' is based on the range of services and the cost of those services available to all property in a particular area.

Similarly, land use weighting is to be based on the range of services and the cost of those services available to land uses within a particular area. Currently, the Government pays some $14 million to the funding of Emergency Services. This calculation includes the funding for police attendance, which comes from consolidated revenue. Under this Bill the most the Government will be required to pay from consolidated revenue is 10 per cent. I indicate that I will be moving amendments to that in the Committee stage.

The Hon. A.J. Redford: Are they on file?

The Hon. P. HOLLOWAY: Not yet. They were moved in another place.

The Hon. A.J. Redford: I didn't think amendments were moved in the other place.

The Hon. P. HOLLOWAY: Yes, some were moved. I refer to pages 68 and 69 of the working party report and the result of the budget impact. Called 'Results, Budget Impact, Financial and Economic Analyses' it highlights the impact of this levy and what it will mean for South Australians. Basically, the bottom line is that, from the Government's point of view, in 1996-97 the State Government contributed $14.3 million to the MFS, CFS and SES. Under this new scenario proposed by the Bill, if it comes into force, payments from consolidated revenue will be reduced by about $5 million to $7 million, although given the loss of stamp duty on insurance premiums of 8 per cent—it was a $45 million premium in 1997-98—it equates to $3.7 million in duty and a net reduction to budget of the order of $2 million to $3 million.

This report was brought out just before the budget, and what we now know is that this Government has increased the stamp duty on insurance. One of the main justifications that the Government used for this Bill is that those people who were under-insured or non-insured will now have to pay the levy. Similarly, those people who have previously done the right thing and insured will no longer have to pay the levy on their insurance premium. However, the Government has got in first and jacked up the stamp duty from 8 per cent to 11 per cent. In fact, not only will householders in this State not get such a big benefit from the reduction in their fire levy, but the Government has already eaten a fair whack of it back with the budget papers indicating that in a full year it will recover an extra $30 million from the increase in premiums.

On the one hand, $45 million in fire insurance levy will no longer be raised from property owners but, on the other hand, at the same time the Government has just jacked $30 million of that back in one hit in the last budget. In fact, the only saving to property owners who were fully insured

will be a total of $15 million. This all means that, when the new property tax comes into effect on 1 July next year, it is going to be a huge whack because that is only half of it. That is the impact on real property. If we look at what has happened with motor vehicles we can see much the same thing: the Government has also increased stamp duties in relation to registration and compulsory third party insurance. There will be a massive increase in premiums for the owners of mobile property in addition to this tax when it takes effect on 1 July next year.

To return to the estimated budget impact, what will happen as a result of the introduction of this Bill according to the Government's own working party is that it will have a net reduction on budget of the order of $2 million to $3 million. That was based on an 8 per cent stamp duty on insurance premiums. Of course, if we jack it up to 11 per cent it will be considerably more than that and it will be $3 million, $4 million or even $5 million that the Government will gain from the introduction of this property tax. What we can say is that the net effect of the introduction of the emergency services funding levy will mean quite large increases for the great majority of South Australians, but some groups of South Australians, in particular, will be savagely hit.

I have talked about the budget impact for this Government. As a result of the introduction of this levy, the Government saves money; its budget position is increased by a few million dollars. Local government contributed $11.6 million to emergency services. It is estimated that local government will benefit by about $9 million to $10 million as a result of its no longer having to make those contributions to emergency services. So, local government and this Government do very nicely. Of course, the only people who do not do very nicely are the taxpayers of this State, because not only will they have to make up the difference but also they will have to increase their proportion to pay for emergency services—but more of that in a moment.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am simply pointing out what this scheme means for the people of South Australia. The Opposition is not opposed to the principle of removing the insurance levy and making it fair, but what the public need to be aware of is that, through taking away the benefit that property owners will get by jacking up the stamp duty on premiums, there will be no benefits left. All that will be left for the people of South Australia is a large increase in tax. Under this Bill, the most the Government has to pay is 10 per cent. Of course, that is why its contribution decreases while the contribution of the taxpayer will have to increase. At this point I pay tribute to the many volunteers, particularly those in the Country Fire Service, who give up a lot of their time to contribute to emergency services.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The whole point is that the Government is cutting its take. This scheme is not revenue neutral. It is portrayed as being somehow or other revenue neutral and somehow or other we will now get the money back from those people who were under-insured or not insured. But that is the con job. The Government and local government pay less. What will happen is that the taxpayers, property owners and vehicle owners will have to pay more for a zero sum gain, just to put as much money into emergency services as was being paid in the past. If we want to upgrade their equipment and do more, the rate of this property tax will have to be considerably higher.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford says that it is not true, but perhaps he can say where the money is coming from. The Treasurer talks about a magic pudding. I would say that, if ever there was a magic pudding, this is it. This is the magic pudding that the Government has come up with—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —because the Government's contribution actually falls. If the honourable member looks at page 69 of the report, it says that. After the adjustments, the Government saves about $4 million or $5 million and local government saves $11 million. So where does the rest come from? I was in the process of paying tribute to the many volunteers of the Country Fire Service who give up a lot of their time and often put themselves at risk to protect our property and, indeed—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: If the honourable member looks at what has happened since the first Ash Wednesday, he will see that under the previous Labor Government a substantial upgrading of that equipment occurred. Part of the problem as I see it—and I think it is conceded in this report—is that much of that upgraded equipment is getting old and is due for replacement, and that is why there is a need in the future for capital investment. However, that is another issue.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Hon. Angus Redford is carrying on, but what he does not like is the basic point: that is, the Government is paying less for emergency services. I think that many volunteers who are strongly in favour of this system have not yet twigged to the fact that this Government is opting out. It is saying that there will be more money for emergency services but the Government itself and local government will be putting in less: the only people putting in more will be they themselves. One of the amazing things about this Bill is that the Government cannot say how much the levy will raise. If you look at the debates in the other House, you see that the Minister for Emergency Services was very evasive on that point. The report mentions a notional figure of $70 million being raised. That is based on the fact that, when the Government throws in its share of 10 per cent of about $7 million or $8 million, it comes up with the $80 million it now costs to fund the MFS, the CFS and the State Emergency Services. So, that is the zero sum position, if I can call it that.

The report raised another scenario and considered the possibility of raising $100 million. But most of that is based on the fact that it would cost an extra $30 million for the Government's deal with Motorola to upgrade the radio network and the CAD.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The Treasurer asked whether I support the Motorola deal; well, I have some grave reservations about it. I would hope that at some stage in the future this Parliament can get to the bottom of that Motorola deal. I do not think anyone would oppose an upgrading of the radio network, but with this upgrade we are talking about a $200 million radio system. It must be a beauty. There are countries with much larger populations than ours which spend far less than the $200 million that we are spending.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Perhaps the Treasurer can tell us about Tallahassee. I am more interested in South Australia, and $200 million is an enormously large cost. That is another matter; I do not wish to pass judgment on that here. I certainly have some—

The Hon. A.J. Redford: Because you don't have any ideas.

The Hon. P. HOLLOWAY: I do not think anyone has any idea, apart from perhaps the Premier, about what deal was done with Motorola, but that matter should be explored at another time. Even if the levy raises $100 million, which involves a substantial increase in payment from ordinary South Australians, that will simply provide the sorts of things that South Australians have had in the past. It will not provide any money for extra upgrades above what is normal for the CFS.

The Hon. A.J. Redford: Rubbish!

The Hon. P. HOLLOWAY: I am sorry, but it is not. What is amazing is that the Government cannot say how much the levy will raise. We have also not been told how the levy will be collected or how it will be spent. The review does not indicate any justification for this measure, except in the most general terms.

Another interesting thing about this Bill is that the cross subsidies are also hidden. One of the reasons that we are supposed to be going to this new system is to remove the system of cross subsidies, but let us see what page 8 of the report states. It states that, in general under revised funding arrangements, the rural areas of this State would be better off financially, even if these investments on the Government radio network and the computer aided dispatch (CAD) were funded through the levy. So, I guess the reverse implication is that property holders and motorists in the city will be considerably worse off. That is the only conclusion one can draw.

I mentioned the Motorola deal that the Government has struck to establish the Government radio network. Some $30 million per annum will be required to fund the computer aided dispatch (CAD), the SAPOL and the emergency services component of the Government network. I think it is with that deal we can find the real purpose of this Bill—the need for the Government to raise money to fund this project. What we have seen is a blow-out on this deal to establish a radio network, and now we are hearing how concerned the Government is about emergency services funding.

What does this new funding scheme mean for the average householder? The review states that the models indicate that significant savings are likely to accrue to property owners outside the greater Adelaide area. Further, the review considers that 'there is in certain circumstances justification for people who are fully insured paying more than they currently contribute through their insurance.' Again in the fine print we see the Government giving away the details. This is about raising more money; it is not about redistribution or about equity. Rather, it is about getting more money. The people who will be hit hardest by this new tax will be property owners in suburban Adelaide, and many of them will be people who are least able to afford to pay it.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Opposition will move some amendments to this Bill but, in the long run, because this Bill is so wide open it will be left to a future Labor Government to try to put some equity into the system. Under this Bill, everybody wins other than the taxpayers of Adelaide and vehicle owners. There are a few other issues that I would like to address in relation to this Bill.

The Hon. A.J. Redford: Are you opposing the Bill?

The Hon. P. HOLLOWAY: No, we are not opposing the Bill. If one has to raise taxation, this is probably as good or as equitable a way that it can be done, given how most other State taxes are very regressive.

An honourable member interjecting:

The Hon. P. HOLLOWAY: All we want to do is expose the Government's hypocrisy. It is nothing to do with equity or funding emergency services: it is about getting more money. There are some other issues that I would like to raise.

When I was a member of another place, I had the pleasure to serve on a select committee that reported on bushfire protection and suppression measures. The emergency services that we are talking about are largely those involved with fire. It was a very useful select committee, but one of the things that we discovered was how much this State spends on fire suppression. Not all of it deals with the direct costs of emergency services such as the MFS, the CFS and the SES. A lot of money is spent within agencies such as the National Parks and Wildlife Service and Forests SA, both of which have considerable investment in fire protection.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: They have a lot more than that. Forests SA has some in the South-East, as I am sure the Hon. Angus Redford would appreciate. It has some of the most sophisticated firefighting vehicles, as one would expect, given the nature of the industry. The question is whether, when we are looking at funding for emergency services, the Government contribution in relation to the internal fire-fighting costs counts as part of the Government contribution. If we are looking at the equity of this scheme (and that is why the Government claims that it is being introduced), we need to look at the entire Government effort in fire prevention and suppression, and perhaps also look at these costs, many of which are outside the city area, as to how they should be taken into account.

This report is now five years old, but there are just a couple of comments that I would like to make on it. In the Ferries-McDonald Conservation Park, it was noted that the cost to bulldoze and maintain a fire access track on the reserve would be $40 000. That was five years ago. The report goes on to talk about the cost of actually having fire access within some of our national parks. These are the sort of costs that actually come outside the direct CFS and MFS costs, but nonetheless they are an integral part of our firefighting services.

There is also the question of prescription burns, an issue which the select committee dealt with at the time. One of the most contentious issues before that select committee was that of having prescription burns, or prescribed burns, to try to reduce the fire risk. The report states:

> The Woods and Forests Department estimates it costs $40 per hectare for them to undertake prescription burning in the Adelaide Hills and less in the South-East. National Parks estimated the cost to be between $14 to $70 per hectare, depending on the location. Evidence was received that Victoria burns about 200 000 hectares per year at a cost of between $500 000 and $750 000 . . . To reduce the costs and yet have effective burns will require better utilisation of CFS volunteers and weather data in South Australia. However, it needs to be noted that of the CFS fire attendances in the last 10 years—

remember, this was to 1993—

> 3 199 fires (12.8 per cent) were for burning off, both to help undertake burns and to put them out.

In relation to fire, which is what this emergency services levy is really about, there is a lot more that one needs to take into account if one is looking at the true cost to the Government and how it should be equitably shared. Obviously, considerable costs to the taxpayer are involved in some of these activities that come from agency budgets. Indeed, when this select committee tried to quantify some of those, it found a great difficulty in getting that information. One of the committee's recommendations was that there should be some consistency in the methodology of cost sharing between the department and the CFS. So, one of the questions I would like the Government to answer in relation to this Bill is, first, whether the substantial costs involved in firefighting within Government agencies are included and, if so, at what point?

The Hon. T.G. Roberts: And will they continue to fund them?

The Hon. P. HOLLOWAY: Exactly. One of the issues about which the Opposition is concerned in relation to this Bill is the impact that it will have on those on low incomes, particularly pensioners. One question we would like answered is whether some concession will be granted to pensioners. Certainly, that is an issue which we will take up during the Committee stages. If we look at this Bill and at the report of the working party established by the Government, in some of the tables there are some likely impacts in terms of the sorts of rises that the taxpayers of South Australia can expect.

As I mentioned earlier, some of these impacts will be greater than were envisaged here, because the Government has subsequently increased stamp duties and other taxes on mobile property and fixed property. The impact will be much greater than the Government has indicated, but some people could have to pay quite sizeable levies, in some cases anything up to several hundred dollars on an ordinary property, if they are in the areas that are worst affected. It will come as a huge shock to many South Australians when this emergency services funding levy comes into place next year.

During the Committee stages I will be moving several amendments, one of which will seek to ensure that the Government makes a fair contribution to the cost of emergency services, a contribution that is more commensurate with what State Governments have paid in the past towards emergency services.

The Opposition will also be moving amendments in relation to concessions for pensioners and the protection of low income earners, as well as attempting to put some sort of protective measures on the Government's right to jack up this levy to pay for various capital expenditure. In fact, my proposal will be that where capital works above $5 million are proposed by the Government that should be done by regulation so that the Parliament and the public of this State will be able to have some say in that.

That is the main thrust of the Opposition's amendments to this legislation. As I said earlier, no State taxes are pleasant, but a tax on property is probably about as fair as any State Government can impose, given the limitations under the Commonwealth Constitution relating to the State's financial powers. This measure was put in the Government's budget so we do not oppose it. However, we do have some great concerns, when the details finally come out, about how this legislation will affect many South Australians. While the Opposition supports the Bill in principle, when it comes to the detail, we will have much more to say.

The Hon. J.F. STEFANI secured the adjournment of the debate.

CITY OF ADELAIDE BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1254.)

The Hon. IAN GILFILLAN: The Democrats will support the second reading of this Bill, although we have on file quite substantial amendments which I hope will be successful. It is unfortunate that, at a time when there is a massive reformation of the whole arena of local government legislation, we are having it in bits and pieces. I would have much preferred to have the discussion on an Adelaide City Council Bill in the context of the major local government reform Bill, and that same comment applies to a bits and pieces local government Bill which is on the Notice Paper and with which we will deal later. However, it is before us and it therefore must be dealt with as a separate piece of legislation.

There is serious concern that debate and decisions made in this legislation will act as a very strong precedent for what should be promoted and supported in the substantial reform Bill dealing with the tier of local government right across South Australia. I am certainly not taking it in that light. I think it may well be that decisions made in relation to this Bill have consequential effect on the substantial debate later down the track, but I preface my remarks by indicating that this is a separate piece of legislation and the decisions made in it will not necessarily indicate the way that the Democrats will deal with similar matters in subsequent legislation.

The most substantial incentive of this Bill, in our view, is the attempt to set up a Capital City Committee, a move that we view with great suspicion. My amendments seek to erase entirely any mention of the Capital City Committee in this legislation. We believe it would be profitable to both the State and the Adelaide City Council if there were regularly organised cooperative consultation between the State Government and the City Council. However, in no way would that authorise this sort of a political Trojan horse that would enable a State Government virtually to establish a stranglehold on the substantial decisions that would be made year by year by the Adelaide City Council. The argument that it would not have any legislative power does not hold water. The fact is that decisions made by a Capital City Committee comprising the top level decision makers in both the State Government and the council would be virtually irrefutable, certainly by the Adelaide City Council.

We will vigorously promote our amendments to remove this aspect of the Bill, yet at the same time—and I do not believe for one moment that this is in conflict—encourage the ongoing dialogue which has proved so successful between the current incumbents, Jane Lomax-Smith as Lord Mayor and John Olsen as Premier—and I congratulate them for it. That contrasts dramatically with the previous regime of Dean Brown as Premier and Henry Ninio as Lord Mayor. It would not have mattered what sort of legislative structure was in place: to mix together that particular batch of human chemicals would not have been productive and would not have enhanced relations between either group. In my view, if they had had to comply with regular meetings, it would have finished up with just a persistence of constantly exacerbating ill will between both bodies.

I conclude the argument on our attitude with this: we encourage the continuing dialogue between the Government and the Adelaide City Council, and we believe that informal structures can easily and simply be put in place with as much

benefit in the long run as anything that could be imposed by legislation. So, we strongly oppose any legislative moves to set up a Capital City Committee.

One of the things for which we will look, as local government slowly and painfully emerges into its rightful place in the tiers of government, is the shaking off of the shackles of control particularly by the Minister or the Government of the day in the decision making that a council in its own sovereignty should be entitled to make. Under this Bill, the Minister virtually has control of any changes to the composition of the council. It may well be that the Minister of the day should sensibly be involved in discussions, but again we will move to remove this legislative fiat—this legislative control—of one tier of government over another where we feel it is inappropriate.

It is a sad reflection that local government has not been recognised in our Constitution. Because of the failure of tripartisan campaigning—the Liberals backed out of campaigning for local government to be acceded credibility and recognition in the Constitution in an earlier referendum—local government is still suffering. As far as we are concerned, we intend to use whatever measure we can to develop the capacity of local government to fulfil its potential. One such way is to empower it to make its own decisions and for it to live with the blessings or the curses that may flow on to it if it does well or makes mistakes.

Unless they have the power to do that, then they will always remain a sort of foster child of the State Government. I do not intend to discuss in detail the benefit of the residential rebate from a similar philosophical view. It appears to us inappropriate that this Parliament should be dictating to the Adelaide City Council what it should or should not do with residential rebate. That is the basic reason why I will be moving an amendment to take that particular aspect out of the Bill, so that it reflects at least the Democrats view that the council is an old enough, mature enough and grown up enough creature whose experience over the years has probably provided it with enough wisdom to determine the level and the duration of residential rebate. That is the basis upon which I will be moving the amendment, but it is interesting to look at some comparative figures of rates which have been made to available to me by the Adelaide City Council administration and which reflect the comparative rates between Prospect, Burnside, Unley, Kensington, Norwood, Walkerville and Adelaide City Council with various rates of residential rebate.

I would not be surprised if all members have that, and I do not intend to include this in *Hansard*. The figures do put a little more balance on some of the hysteria that has gone with the strident calls to remove the residential rebate and to reflect, again, that everyone has recognised that the city itself has benefited from an increased residential population and a turning of the tide, when residents were virtually pouring out of the city. That has been stemmed and there is a return to residing in the city, and I think the city is the richer for it.

I welcome the fact that the other place amended the Bill so that we do not, in fact, need to amend it to abolish the wards. I am convinced that we will have a better, more democratic representation of the electors of the Adelaide City Council by an election at large. I have had approaches by various people from various parts of the city who are nervous that their particular interests will not be represented if we abolish the wards. That has come from people who live in North Adelaide, people who live in the south-east of the city, and people who have social welfare organisations and who are concerned that someone sympathetic to their philosophy will not be elected if they do not have wards.

It is clearly demonstrated that the proportional representation formula with an election at large gives minority groups, if indeed they are minority groups, a much better chance of having councillors elected to represent and stand up for their interests and their causes than if it is either a two person or three person ward where the chance of having someone elected to represent them is much slimmer. I feel that their fear is misplaced and I look forward, in fact, to the result of an election at large where I would feel that many more people of the city, both commercial interests and residents, will feel that they are adequately represented.

The final and quite substantial amendment is to bring the voting system for local government in line with that applying to the election of a State Parliament. It is, as I refer to it, an obligatory voting system. It does have the same qualifications that the State system now has, where there is no obligation to fill in the voting paper but there is an obligation—the same as it is to fulfil other public requirements and public obligations—to indicate that the person who is on the roll is taking part in the voting process. I will not go into the detail of that, but it is quite clearly a position which indicates how high a status the Democrats put on local government and a recognition that, whatever is the satisfactory and desirable voting system for the other two tiers of Parliaments, the same should apply to local government.

The matter that has received some notoriety concerns the amendments to the opening and closing of roads, which may impact on to other council areas adjacent to the city. I have not had a chance to look in detail at what I have been advised the Hon. Nick Xenophon will be moving as an amendment, but it appears to be an attempt to revive the Barton Road issue. I do not believe that it is appropriate for this Parliament to be making determinations on behalf of the Adelaide City Council as to what is quite clearly its own business. The legislation may be improved by the amendment proposed, which would mean that the adjacent local council in any road closure proposal should be consulted. The issue of how far that consultation should go—whether it should be empowered to prohibit the closure—is something I would like more time to consider. If these amendments are moved by the Hon. Nick Xenophon we will have opportunity to discuss them in Committee.

The Hon. Diana Laidlaw interjecting:

The Hon. IAN GILFILLAN: I do not think so. The question is whether he has put them on file. I do not believe he has put the ones relating to road closure of Barton Road on file yet, but he has passed them around. In conclusion, I am sympathetic to looking at an amendment that may deal with the opening and closing of roads in general terms, but indicate that I do not believe it is the business—

The Hon. Diana Laidlaw interjecting:

The Hon. IAN GILFILLAN: Obviously this Chamber is not riveted with the Barton Road issue. In case there is any confusion about it, I indicate that I do not think that it is the business of this Parliament to be dealing with the issue of Barton Road, whereas in general terms it may well be that it is worthwhile looking at the best legislation in relation to any opening or road closures. It should be not only for this council, as I stated in my earlier remarks: it is unreasonable to be looking at legislation that will be peculiar to the Adelaide City Council. It is impossible for it to not have some bearing on future legislation. I am not sympathetic to this Parliament's having the arrogance, as I consider it to be,

to instruct another council on what it should do with a particular road. I support the second reading of the Bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

LOCAL GOVERNMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 August. Page 1262.)

The Hon. IAN GILFILLAN: As I mentioned in my contribution on the previous local government Bill, I regret that we are dealing with these bits and pieces when there is a major game in train to do a massive review of the whole of the local government political arena. However, it is before us and I cannot find anything of particular concern to the Democrats in the bulk of the Bill and therefore indicate that we will certainly support the second reading. However, I am concerned with the approach of dealing with the European wasp problem. It seems to us that the European wasp eradication program is really a community program. It borders on being the same style of threat to the community as fruit fly. It has the potential to proliferate and become quite a substantial social community threat. Measures to get householder cooperation should be user-friendly and not threatening. The Local Government Association advises that the State Government has provided approximately $500 000 to fund the wasp eradication program. Certainly, in the near future, maybe within the next three years, there will be no pressure for councils to recoup the costs for the charge to property owners for the removal of European wasp nests when they are discovered.

It is a moot point whether we empower councils to forcibly enter, inspect and then remove wasp colonies that may be discovered, and then, of course, whether we give them that authority. In terms of the legislation, they would be able to charge the householder for the cost. That is where I depart from what appears to be the intention of the legislation and, I must say, the wishes of the Local Government Association. If councils are given the authority to charge property owners for the council's service of eradicating wasps, many property owners will either not report the nests or attempt to eradicate the pests themselves, with potentially dangerous and maybe even fatal consequences.

We must consider the situation of a pensioner who is hard pressed for cash who discovers a wasp nest on their property or has a neighbour who reports this fact to the local council, and subsequently an order from the council is received, 'Destroy the nest yourself or we will do it and send you the bill.' It is not hard to imagine this person, thinking that they can save money, attempting to deal with a swarm of angry insects, each of which can sting repeatedly, and there could be very serious repercussions.

There are obviously emotive reasons to say, 'Well, the householder who can't be bothered or is just mingy in not paying the cost of getting these pests removed from the household should be pressured into taking action and paying for it.' I repeat: I believe that that will be counterproductive. If our aim is to rid Adelaide and as much of South Australia as is still possible of European wasps—or even keep them under control—we must have a cooperative public involved in the campaign.

It is my intention to amend the Bill so that a council retains the authority to inspect a property where it has reasonable suspicion that there is a nest and to undertake the removal, but I will be seeking to ensure that no cost is imposed on the property owner. With that aspect dealt with, I indicate support for the second reading of the Bill.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

WHEAT MARKETING (GRAIN DEDUCTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 August. Page 1371.)

The Hon. IAN GILFILLAN: This is an unexceptional Bill which has the full support of the Democrats. The levy has vital purposes for which it is collected—a research fund, the Grain Industry Trust Fund and the Grains Council of the South Australian Farmers Federation. The beauty of this levy is that it is voluntary and that growers, if they so wish, can object by notifying the Minister in writing, and they will get the levy refunded. It is not often that one sees that sort of generosity in legislation or in industry. I hope that those growers who are not in dire stress continue to pay the levy because, obviously, the proceeds are put to a very worthwhile cause. I commend the Bill and indicate support for the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their contribution so far on this Bill and for their indications of support for it.

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

LIQUOR LICENSING (LICENCE FEES) AMENDMENT BILL

Received from the House of Assembly with amendments.

VALUATION OF LAND (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

POLICE BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

SOUTHERN STATE SUPERANNUATION (MERGER OF SCHEMES) AMENDMENT BILL

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

The Hon. R.I. LUCAS (Treasurer): 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.

This Bill seeks to merge the non-contributory scheme established under the *Superannuation (Benefit Scheme) Act 1992*, with the contributory scheme established under the *Southern State Superannuation Act 1994*.

Currently, if public sector employees wish to contribute towards their future retirement income, they must cease membership of the non-contributory scheme and join the contributory scheme. This creates unnecessary and additional administrative work, and confusion amongst employees of the Government and agencies. This Bill will establish a single accumulation scheme available to all public sector employees who are not active members of one of the closed contributory schemes.

The revised scheme will be available to employees irrespective of whether or not they wish to contribute toward their future retirement income. The non-contributory members of the merged scheme will be those who prefer to receive only the Superannuation Guarantee benefit paid for by the State.

This Bill will have no impact on those Government employees who are members of one of the closed contributory schemes.

The provisions of the Bill provide that members of the revised Triple S scheme will obtain a rate of return based on the actual investment earnings achieved by FundsSA. As a consequence, former members of the non-contributory State Superannuation Benefit Scheme can expect to receive enhanced earnings on their accounts under the merged arrangements as the interest paid on member account balances in that scheme is currently based solely on the South Australian Government Financing Authority long term bond rate.

In addition, the Bill provides for the introduction of choice by members of an investment strategy that best suits their needs and investment expectations. Based on actual investment experience over the last 15 years, members who chose a more diversified growth portfolio than the typical balanced portfolio could have accrued a 50 per cent higher return on invested funds. Under the proposed investment choice option to be made available in the Triple S scheme, members will have the opportunity to elect to have their funds invested in more diversified growth portfolios. They will also have the opportunity, to choose a lower risk portfolio or to switch from one to the other. I should make it clear however, that there is no plan to provide inappropriate high risk options to members of the Triple S scheme. Furthermore, for those members who do not wish to choose their own investment strategy, the rate of return on their funds will be based on a traditional balanced portfolio.

In an environment where members have the ability to choose the investment strategy that best suits their personal circumstances and preferences it is unnecessary for the Government to continue to offer also a guaranteed investment return as was previously available in the Triple S scheme.

The Bill provides for the introduction of a temporary disability benefit for members who have elected to contribute toward their future retirement income. The benefit will provide an income benefit of two-thirds of a member's salary, where through sickness or injury before age 55, the member is unable to work for an extended period of time, and is not receiving or entitled to receive weekly workers' compensation payments. The benefit may be payable for a period of up to eighteen months.

The provisions of the Bill also provide for a common level of insurance benefit on invalidity or death irrespective of whether a member contributes. Members will also have the ability to purchase additional levels of insurance cover, subject to prescribed limits. The amount of insurance available to members will be prescribed in regulations and will be in line with that currently available to members of the Triple S scheme. The insurance arrangements will however be revamped so that they are easier for employees to understand. In general terms the death and invalidity insurance cover will be based on specific dollar amounts, with limits related to age and salary.

The Bill also provides a facility that at some future time, the Superannuation Board may in conjunction with FundsSA, offer to invest lump sums on behalf of persons who have received a benefit from the Triple S scheme or one of the other superannuation schemes established and maintained by the Government. Such a facility will primarily assist beneficiaries of State Government superannuation schemes in managing their finances in retirement.

Certain transitional provisions which are considered necessary as a consequence of the merger are also incorporated in the Bill. One of these provides that for a period of one year, members will not receive a lesser benefit on invalidity or death, than the benefit which they would have received on death or invalidity had the Superannuation (Benefits Scheme) Act 1992 not been repealed on 1 July 1998, and this legislation not come into operation from that date. This transitional provision is considered appropriate to ensure that no person is disadvantaged as a result of the merger. It is considered most unlikely that any person will be disadvantaged by the merger provided they take up an equivalent level of supplementary insurance cover under the new arrangements. The office of the Superannuation Board will assist members to move over to the new arrangements by ensuring that they are adequately advised of the proposed new insurance arrangements.

The majority of the provisions of this Bill are of an administrative nature to ensure that the provisions of the Superannuation (Benefit Scheme) Act 1992, which will be repealed upon the merger, are adequately and efficiently accommodated under the Triple S scheme.

The Superannuation Board and the unions have been fully consulted in relation to the proposed merger of the two schemes. The unions have indicated their support for the Bill, which represents a move to simplify and improve our current superannuation arrangements.

Explanation of Clauses

The provisions of the Bill are as follows:

Clauses 1 and 2

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause makes amendments to the definitions of terms in the principal Act that are consequential on, or related to, the merger of the two schemes. New subsection (6) removes from the ambit of subsection (5) (dealing with casual work) work where the periods to be worked in the future are predetermined pursuant to an arrangement between the parties. New subsection (7) is designed to make the operation of subsection (5) more flexible.

Clause 4: Amendment of s. 4—The Fund

This clause amends section 4 of the principal Act to make specific provision for the rollover of money to the Triple S scheme.

Clause 5: Amendment of heading

This clause amends the heading to Division 2 of Part 2 to include reference to rollover accounts.

Clause 6: Amendment of s. 7—Members' contribution accounts and rollover accounts

This clause amends section 7 of the principal Act to provide for rollover accounts to be maintained in the names of members.

Clause 7: Insertion of ss. 7A and 7B

This clause inserts new sections 7A and 7B. Section 7A replaces subsections (4), (5), (6) and (7) of section 7 and adds provision for members to select the class of investment in which they want their contributions and rollover money to be invested (subsection (3)). New section 7B provides for rolled over money to be paid to the Treasurer.

Clause 8: Amendment of s. 9—The Southern State Superannuation (Employers) Fund

This clause is consequential on clause 4 of new Schedule 3.

Clause 9: Amendment of s. 11-Determination of rate of return

This clause makes consequential amendments to section 11.

Clause 10: Amendment of s. 12—Payment of benefit

This clause is consequential.

Clause 11: Insertion of s. 13A

This clause inserts new section 13A which requires the Minister to obtain a report every three years on the cost of future service benefits under the scheme.

Clause 12: Substitution of Division 1 of Part 3

This clause replaces the provisions dealing with membership of the scheme. The membership provisions of the Benefit Scheme are much wider than those of the Triple S scheme and consequently, on merger of the two schemes, the new membership provisions of the Triple S scheme must become those of the Benefit Scheme.

Clause 13: Amendment of s. 22—Acceptance as a supplementary future service benefit member

This clause amends section 22 of the principal Act which deals with acceptance as a supplementary future service benefit member. New subsection (1a) restricts access of casual employees to supplementary future service benefit membership. New subsection (1b) prevents access of section 14 (4), (5) and (6) members to supplementary future service benefits. New subsection (8) entitles a member who has moved across from the scheme under the *Superannuation Act 1988* to acceptance as a supplementary future service member without the need to establish the member's health status.

Clause 14: Amendment of s. 23—Variation of benefits

Clause 14 makes an amendment to section 23 of the principal Act to provide that a variation in the level of supplementary future service benefits must operate from the commencement of a financial year.

Clause 15: Amendment of s. 25—Contributions
This clause makes consequential amendments to the section of the principal Act dealing with contributions.

Clause 16: Insertion of new section
This clause inserts a provision that will enable contributors to make additional contributions. The amount of each additional contribution must be at least the amount prescribed by regulation.

Clause 17: Substitution of s. 27
This clause replaces section 27 of the principal Act. This is a much simpler provision made possible by the new approach which is to provide that a member's employer account is equivalent to the amount paid or payable by the member's employer to the Treasurer under section 26.

Clause 18: Repeal of s. 28
This clause repeals section 28 of the principal Act.

Clause 19: Substitution of s. 30
This clause replaces section 30 of the principal Act with a new definition section. The new definitions of 'employee component' and 'employer component' leave out that part of the former definitions that guaranteed a rate of return on members' contribution accounts and employer contribution accounts of the Consumer Price Index plus 4 per cent.

Clause 20: Amendment of s. 31—Retirement
This clause makes consequential amendments to section 31 of the principal Act.

Clause 21: Amendment of s. 32—Resignation
This clause makes amendments to section 32 of the principal Act that are consequential on the inclusion of rollover components in benefits. In addition paragraphs *(a)*, *(b)* and *(c)* remove the requirement to comply with criteria prescribed by regulation when carrying over components to other schemes. This requirement is no longer required because of Commonwealth legislation. Paragraph *(d)* reduces the maximum amount that can be paid out immediately on resignation (see subsection (3)*(a)* of the principal Act) to $200 for consistency with Commonwealth requirements. Paragraph *(g)* replaces subsection (6)*(b)* with a provision that defines more accurately what degree of incapacity is required before benefits are paid. New subsection (6a) recognises that the payment of a rollover component, or part of a rollover component, may be affected by requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Clause 22: Amendment of s. 33—Retrenchment
This clause makes consequential changes to section 33 of the principal Act.

Clause 23: Insertion of s. 33A
This clause inserts new section 33A into the principal Act. This section provides for the payment of a disability pension in certain circumstances. It is similar to section 30 of the *Superannuation Act 1988*.

Clause 24: Amendment of s. 34—Termination of employment on invalidity
This clause makes amendments to section 34 of the principal Act consequential on the inclusion of rollover components in benefits. New subsections (2) to (3b) include some of the provisions of existing subsections (2) and (3) and provide for the value of basic and supplementary future service benefits and the value of the future service benefit factor to be provided for by regulation. New subsection (5) provides that section 14 (4), (5) and (6) members are not entitled to future service benefits. New subsection (5a) ensures that a former member whose employment terminated on the ground of invalidity and who received a future service benefit cannot receive such a benefit again if he or she subsequently returns to the public sector work force.

Clause 25: Amendment of s. 35—Death of member
This clause makes amendments to section 35 of the principal Act that are similar to those made by clause 24 to section 34 of the Act.

Clause 26: Substitution of s. 36
This clause replaces section 36 of the principal Act with a provision that is relevant to the merged scheme.

Clause 27: Amendment of s. 38—Exclusion of benefits under awards, etc.
This clause removes a definition which has been inserted in section 3 of the principal Act.

Clause 28: Amendment of s. 40—Review of the Board's decision
This clause amends section 40 of the principal Act to provide that the District Court and not the Supreme Court will in future review the Board's decisions.

Clause 29: Amendment of s. 41—Power to obtain information
This clause replaces the old divisional penalty in section 41 of the principal Act.

Clause 30: Insertion of ss. 47A, 47B and 47C
This clause inserts new sections 47A, 47B and 47C. Sections 47A and 47C are similar to sections 55 and 52 respectively of the *Superannuation Act 1988*. Section 47B is designed to enable a public sector superannuation beneficiary to invest in the Superannuation Funds Management Corporation of South Australia. The money that may be invested is not limited to money received from a public sector superannuation scheme.

Clause 31: Amendment of s. 49—Regulations
This clause replaces the divisional penalty in section 49 of the principal Act.

Clause 32: Insertion of schedule
This clause inserts a schedule of transitional provisions required on the repeal of the *Superannuation (Benefit Scheme) Act 1992* and the merger of the two schemes.

Clause 33: Amendment of Superannuation Funds Management Corporation of South Australia Act 1995
This clause makes a consequential change to the *Superannuation Funds Management Corporation of South Australia Act 1995*.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

NATIONAL PARKS AND WILDLIFE (BOOKMARK BIOSPHERE TRUST) AMENDMENT BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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.

The Bookmark Biosphere Trust is a development trust established under the *National Parks and Wildlife Act 1972*. It is also part of a network of over 320 Biosphere Reserves throughout the world, of which 12 are located in Australia.

Biosphere Reserves are established under the 'Man and the Biosphere' program, an initiative of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) dating from 1971.

The 'biosphere reserve' is about a concept rather than a place. The concept of the biosphere reserve is to recognise the pragmatic interrelationship between humans and the natural world, and to foster an environment in which this relationship can thrive. The program aims to ensure:

- that the success and future of the biosphere reserve are in the hands of the local people;
- that there is a commitment to management for long term goals;
- that there will be 'inter-generational equity', namely, that the next generation will not pay the debts of the present generation.

The program's objectives promote international networking, conservation of species, environmental and social research and monitoring, sustainable land use, landscape planning, community involvement, education and training and improved management.

One of the identified strengths of the biosphere reserve concept is that it allows for the conservation of core areas, yet at the same time allows for human exploitation of surrounding areas to varying degrees. The Australian National Committee for UNESCO released a brochure in 1992 which describes biosphere reserves as comprising the following components:

core area—wholly natural and little affected by man's activities;
buffer area—a largely natural area with some economic use;
transition zone—the main economically productive area;
environmental research zone—where we focus our attempts to learn from the interaction of the elements that make up the biosphere; and
research training facilities—the back-up centres for the study of the biosphere.

The Bookmark Biosphere Trust was created in November 1996, replacing the Murraylands Conservation Trust. The Bookmark

Biosphere Trust was given responsibility over management of the same reserves as the former Murraylands Trust.

The duties assigned to the Bookmark Biosphere Trust under the Act included, in a broad sense:

- advising on the management of the reserves for which the Trust was established under the Act;
- the achievement of the objectives of the Man and the Biosphere Program in relation to those reserves; and, more generally;
- coordinating and developing the Bookmark Man and the Biosphere program.

The Bookmark Biosphere presently comprises 21 areas of reserves under the *National Parks and Wildlife Act*, pastoral leases, National Trust land, local government reserves and private land adjacent to and throughout the Riverland area, and is approximately 6 060 square kilometres in area.

Of this area, there are land use types which encompass each of those envisaged by the Biosphere program. 'Core' conservation areas are included in parts of the various reserves established under the *National Parks and Wildlife Act*, as well as in some of the land owned by other 'partners' in the program, such as Gluepot Station, a property recently purchased by Birds Australia, which plays an integral part in the recovery program for the endangered Black-eared Miner.

Much of the land in the other categories included in the Bookmark Biosphere Reserve is owned by private citizens and public organisations including the Commonwealth (Calperum Station), local councils, and philanthropic organisations such as the Chicago Zoological Society and Australian Landscape Trust.

The Bookmark Biosphere Trust has gained considerable support for its activities from State, Commonwealth and local governments, and from private persons and philanthropic organisations, not only by way of land-owner partnerships. This support has included funding support, and the Bookmark Biosphere Trust has now gathered sufficient funds to build and operate an Environment Centre near Renmark. This Centre will be used to inform, engage and empower the community of the Bookmark Biosphere Reserve to undertake sustainable land uses and conservation of natural resources through:

general education—by delivering relevant information using interactive media to educate, entertain and engage visitors;

accessible tools—by developing a 'user-friendly' Geographical Information System (GIS) and other data bases; and

a wet laboratory—by providing facilities for freshwater studies by community, student and professional researchers contributing to the management of natural resources.

Apart from the proposal to develop the Environment Centre, the Trust also undertakes other activities related to the Man and the Biosphere program. These include bidding for and utilising Natural Heritage Trust funding in various projects within the Bookmark Biosphere Reserve, including, for example, the recovery of the endangered Blackeared Miner. The Trust also provides assistance to private landowners who are partners in the Biosphere Reserve to achieve their land management aspirations or address other matters of significance.

The Government fully supports the role of the Bookmark Biosphere Trust in coordinating the Man and the Biosphere program in and around the Riverland area.

Specifically, the Government supports the Trust's proposal to operate an Environment Centre in relation to the Biosphere Reserve as a whole, and to carry out the numerous other activities associated with the Bookmark Biosphere Reserve program. These sorts of activities are entirely consistent with the objects of the United Nations Man and the Biosphere program.

The Bookmark Biosphere Trust is a body corporate under the existing provisions of the *National Parks and Wildlife Act*, and already has the power to own land in its own name. However, the Trust is constrained by the current provisions of the Act to deal only with the reserves for which it is responsible under that Act, rather than the Bookmark Biosphere as a whole. For example, the Trust could own land in Renmark that was intended as a shop-front for the various reserves in the region, but not if it included activities or objectives relating to private or other landholder partners in the Biosphere Reserve.

As I have said, the Trust has a much broader role than advising on management of the reserves that are situated within the Bookmark Biosphere Reserve. The Trust advises on and facilitates management of a range of different parcels of land, many of them privately owned. The Trust is also engaged in activities which raise public awareness about sustainable development and the environment generally. The Bill now before the House will remedy the current shortfallings of the Act which prevent the Trust from carrying out many of these activities.

The proposed amendments broaden the potential scope of the Bookmark Biosphere Trust's functions through amending section 45F of the Act. The amendments will operate to ensure that the Trust can exercise its powers in relation to land ownership and other activities, where those functions relate to the Bookmark Biosphere Reserve as a part of the Man and the Biosphere program, or where they otherwise benefit plants, animals or ecosystems that are outside of the Trust's reserves as established under the *National Parks and Wildlife Act*. This will enable the Trust to, for example, provide assistance to landowners or others who are presently not partners of the Bookmark Biosphere Reserve program.

The ability of the Trust to exercise these powers will depend on the Minister having first assigned them to the Trust. This safeguard will complement other measures already contained in the Act which ensure that Trusts are subject to an appropriate level of Ministerial control.

The other amendment contained in this Bill has been included to clarify an issue relating to the manner in which the Trust can acquire land. Obviously the preferable way to acquire land in any circumstances is to do so by agreement with the landowner. It had previously been assumed that the Trust would naturally have this ability. However, in the past, Courts have thrown some doubt on that. The amendment makes it quite clear that a Trust may purchase land through a normal agreement with the landowner.

Bookmark Biosphere Reserve receives national and international attention as one of the most significant Biosphere Reserves operating in Australia, and it has been extremely successful in attracting investment, both public and private, and in engaging in partnerships with local landholders. The success of the Bookmark Biosphere Reserve is an important demonstration of South Australia's commitment to the Man and the Biosphere program. The Trust's activities have beneficial social and environmental impacts through the Trust's focus on community partnerships and education in ecologically sustainable development.

The Bookmark Biosphere Reserve deserves the strong and continuing support of this Parliament. I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of s. 45A—Interpretation

Clause 2 adds two new definitions to section 45A of the principal Act for the purposes of the Bill.

Clause 3: Amendment of s. 45F—Functions of a Trust

Clause 3 amends section 45F of the principal Act by inserting a new subsection (1a) which enables the Minister to assign duties to the Bookmark Biosphere Trust related to the Trust's participation in the Man and the Biosphere Program or that will benefit any plant, animal or ecosystem.

Clause 4: Substitution of s. 45I

Clause 4 replaces section 45I of the principal Act. The principal reason is to ensure that land can be acquired by a Trust for the purposes of carrying out its functions and is not limited to purposes of, or to enlarge, a reserve. The opportunity is also taken in the new provisions to make it clear that land can be acquired through private negotiation as well as under the Land Acquisition Act 1969.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

PRIMARY INDUSTRIES FUNDING SCHEMES BILL

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

ADJOURNMENT

At 9.32 p.m. the Council adjourned until Wednesday 19 August at 2.15 p.m.