LEGISLATIVE COUNCIL

Tuesday 21 October 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* No. 275.

TEACHER NUMBERS

275. **The Hon. A.J. REDFORD:** Will the Minister for Education and Children's Services reveal the total number of teachers employed in South Australia as at 10 March 2003?

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

I have been advised that the number of teachers employed in South Australian schools as at March 2003 was 17 900 (full-time equivalents).

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2002-03—
- National Wine Centre of Australia
- South Australian Motor Sport Board
- South Australian Museum Board
- Technical Regulator (Gas)
- The Planning Strategy for South Australia

Regulation under the following Acts—
- Listening and Surveillance Devices Act 1972— Records, Warrant Applications

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Reports, 2002-03—
- Actuarial Investigation of the State and Sufficiency of the Construction Industry Fund
- Board of the Botanic Gardens and State Herbarium
- Carrick Hill Trust
- Community Benefit SA— Charitable and Social Welfare Fund
- Construction Industry Long Service Leave Board
- Department for Administrative and Information Services
- Freedom of Information Act 1991
- History Trust of South Australia
- HomeStart Finance
- Local Government Finance Authority of South Australia
- Northern Adelaide and Barossa Catchment Water Management Board
- Office of the Public Advocate
- Onkaparinga Catchment Water Management Board
- Privacy Committee of South Australia
- River Murray Catchment Water Management Board
- South Australian Community Housing Authority
- South Australian Housing Trust
- State Records of South Australia
- State Supply Board
- Supported Residential Facilities Advisory Committee
- The South Australian Aboriginal Housing Authority

Regulations under the following Acts—
- Sewerage Act 1929— Water Conservation
- Waterworks Act 1932— Water Conservation.

OUTLAW BIKIE GANGS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on the subject of outlaw bikie groups made today in another place by the Premier.

QUESTION TIME

AUDITOR-GENERAL'S REPORT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Leader of the Government a question about underspending.

Leave granted.

The Hon. R.I. LUCAS: Mr President, you will recall, as I am sure all members will recall, that, when in opposition, government members, in particular the current Premier, the Treasurer and also the Leader of the Government were often critical of underspending in government programs. I refer members to page 72 of the Auditor-General's Report which highlights that, when looking at the capital works programs, the new government underspent by $145 million last year; and the previous year underspent the capital works program by $155 million. In two years, that is underspending of some $300 million just on the capital works program. Mr President, you will also be aware that the recurrent expenditure was also significantly underspent when the budget papers were brought down in May/June of this year.

I am advised by a source within Treasury that, when the final figures have been audited for the last financial year, as of 30 June there has been a further significant increase in total underspending on both the capital works program and the recurrent program in government departments and agencies. My questions are:

1. For the portfolios and agencies reporting to the Leader of the Government, what has been the extent, if any, of the underspending in both the capital works and recurrent programs within his portfolios?

2. Will he take on notice and refer to the Treasurer what has been the latest estimate of total underspending on both recurrent and capital works programs for all departments and agencies?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I do not have the figures with me. I can certainly say that in some areas, for example the FarmBis program—and I have been asked questions on this in this chamber previously—there have been some issues in relation to that particular program because of the drought and also the investigations that were taking place into the TAFE administration of that program—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: If the honourable member recently had a copy of the Auditor-General's Report, he would know that contains the audited outcomes—

The Hon. R.I. Lucas: It does not have your departments, though.

The Hon. P. HOLLOWAY: It had the audited outcomes for the year 2003. Members will notice that there were some significant differences between those figures and the figures reported at the time of the budget in relation to finalisation because of changes to accounting treatment. I think we need to be careful here, if we are using statistics, exactly what

statistics we are using because there have been changes in the accounting treatment—

The Hon. R.I. Lucas: We are asking you; you're the minister.

The Hon. P. HOLLOWAY: I will provide the information. I do not have those figures with me at the moment, but I will certainly—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: There was a range of areas in relation to programs such as FarmBis where there was some underspending. Some programs go over and many go under.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, I will not give a figure.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, that is right, I am, and I will get the information for the honourable member. I will get the exact figure because, as I said, it varies considerably. If one is using the Auditor-General's audited figures for the end of the year, because there were significant changes over the figures reported at the time of the budget, both expenditure and revenue, some $25 million difference was reported at the end of the year as compared with the start of the year. It was due to a number of factors including changes to accounting treatment, which reflected changes to government departments.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I know exactly what is going on, but I will get the exact figures. The honourable member wants to know the figures. I have explained that there are differences, but I will get the figures on the audited accounts.

The Hon. R.I. LUCAS: I have a supplementary question. Since the end of the financial year, has the minister received a detailed briefing from his departmental officers as to the extent of underspending within his agencies; if he has not, why has he not received a briefing?

The Hon. P. HOLLOWAY: I have received a briefing on the reconciliation of the final audited accounts as they appear in the Auditor-General's Report, relative to those reported at budget time. In mid November, in accordance with tradition, we will have an additional hour of question time for questions in relation to the Auditor-General's Report. At that time it is my intention to have all the papers in the council so, rather than give approximate information, I will get the details.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Since the honourable member has asked the question I will get the details.

Members interjecting:

The Hon. P. HOLLOWAY: There is a range of information. I have every idea. In fact, the Leader of the Opposition is asking the question because he full well knows the complexity—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: In fact, he does not know.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I have explained some of the reasons in terms of the accounting. I will provide the detailed, specific information for which the honourable member has asked.

The Hon. R.I. LUCAS: I have a supplementary question. Will the minister outline one of the supposed problems in relation to the Auditor-General's treatment of accounts as opposed to his departmental treatment of accounts? Can he outline just one example of the problems?

The Hon. P. HOLLOWAY: I suggest the honourable member read *Hansard* because I gave one.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: Recently, I met a delegation from the Anangu Pitjantjatjara executive board, including its chairman Mr Gary Lewis. That executive board is charged with significant statutory responsibilities in relation to the Anangu Pitjantjatjara lands. As the minister knows, a principal source of funding to the AP executive board is the Aboriginal and Torres Strait Islander Commission (now ATSIS). I was advised by the delegation that ATSIC funding to AP this year will be reduced by $150 000—a significant amount for the board. My questions are:

1. Is the minister aware of this reduction?
2. What steps is he taking to ensure that any funding cut from ATSIC sources is met from state government resources to ensure that essential services are maintained to the people on the lands?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question regarding the changing nature of the priorities of ATSIS and ATSIC in relation to how they spend their funding in the north of this state. The changed funding arrangements with the commonwealth, which we rely on, in partnership with ATSIC, to improve the lives of people in the north-west of this state, have become an issue for us. I have mentioned the difficulties that the small AP executive has had over the years in dealing with the myriad funding bodies and agencies, and at the moment we are in the business of trying to simplify that funding stream so that the AP executive can deal more effectively and efficiently with it. We are also trying to get a change of governance that reflects the responsibilities that were neglected over the past decade as to how the governance should fit the responsibilities that the executive has for the distribution of those funds.

It does not make it easier for state governments, in relation to the decisions made by ATSIS, when its funding priorities change without consultation. If it is a single program cut, it means that state governments have to decide whether the funding gap is filled by our taking up responsibility for that program. If a number of programs have been cut, we have to look at how we can find the funds, generally outside the budget streams, to pick up the priorities that were previously set by ATSIS or ATSIC. I am not aware of the specific program direction in relation to the $150 000 mentioned by the honourable member. We have tried to work out with the current executive a reprioritisation of some of the funding streams, given that human services provision is so sorely stretched in relation to a whole range of issues on the lands, and those discussions are continuing.

One of the reasons that the delegation met with the shadow minister responsible for Aboriginal affairs was that it was a request by me to discuss issues with him so that we

could agree on a bipartisan way to approach the restructuring of the AP governance and bring stability to the lands. An extended period of election—that is, the 12-month and three-years proposal—is currently being discussed, along with a better way of dealing around the table with the funding bodies that have responsibility for putting in place human services in the AP lands, which have sorely failed the test of time since the legislation was first written.

We have indicated to the AP executive that we want to sit down with it to negotiate a change in the nature and direction of that legislation. The select committee is looking at some proposals that have been recommended, so it is not just a matter of what role ATSIC or ATSIS will play in the lands. It is what role the commonwealth, the state, ATSIS, ATSIC and perhaps a proposal for local governance may take in the future to deal with the problems associated with hunger, petrol sniffing, drug and alcohol abuse, education and housing. All those issues need to be put on the agenda to get the change that is required to bring about a different networking service within the lands.

The commonwealth has come into partnership with us in the COAG process. We have improved the tier 1 structure by collapsing tier 2 into tier 1, and it has become a more streamlined way of dealing with issues. Some issues face us with the withdrawal of ATSIC's funds—and the $150 000 may be more over time if ATSIS decides it will become a policy body. We are not sure yet whether it will involve itself in service provision and delivery, because the commonwealth and ATSIC are still in negotiations about the future. We have a good, respectful relationship with ATSIC at the state level, and there has been a shift of power in the way funds have been administered at a regional level, so we have to maintain that relationship as well. We will be talking to ATSIC over time to find out exactly what its budget will be and what deficiencies there will be in its budget.

We had difficulty in the lead-up to the Christmas period where funding was withdrawn—or not applied, depending on how you put it—for essential services such as water. We had to talk to ATSIC about that. We have joint partnerships in power and other infrastructure services. The ongoing discussions with ATSIC will involve a whole range of questions, and we certainly do not want to be put in the position where any of the commonwealth, state or non-profit funding agencies start making promises that are either changed or broken. So, we want to sit around the table to make sure there are no surprises when we are dealing with the myriad questions that need to be solved, not only in the lands but also in the remote regions in the west and north-east.

It is a difficult area; we are trying to bring about change. Reforms are taking place in ATSIC and ATSIS in relation to how they see themselves in dealing with commonwealth instructions, and we as a state have to fall in line or talk to the new minister. At the moment I am making an appointment to see the new Minister for Aboriginal Affairs to talk about many of these issues, in particular the ones the honourable member raises, with the changed responsibility of commonwealth funds, ATSIS funds, state funds and any other funds that come from any other non-profit organisations.

The Hon. R.D. LAWSON: As a supplementary question: given that ATSIC's changed priorities have operated to the disadvantage of already the most disadvantaged people in the state, will the minister consider altering the priorities in his own department to redress that disadvantage?

The Hon. T.G. ROBERTS: I thank the honourable member for his supplementary question. Meetings are taking place.

Members interjecting:

The Hon. T.G. ROBERTS: We have discussed ways of changing the direction of rebadging funds which have already been earmarked or for which we have to find new funds. We do not want to rebadge funds, because that would probably take away from other areas. Whatever money we redirected away from currently run programs would, in many cases, make those programs more ineffective than they are already. So, we would be saying that, if ATSIC and ATSIS were to change their direction in relation to their own priorities, we would be trying to fill that service gap if it is of an emergency nature. During the term of this government we have tried to make human services a higher priority than, say, infrastructure. That is, where hospitals, health, drug and alcohol abuse and petrol sniffing need funding, we try to give those issues priority over infrastructure, such as roads. There is always time to get around to roads.

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: It is not a matter of those roads being life threatening. At the correct speeds and with safe vehicles they are not dangerous at all.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Yes, I have been on them quite regularly. Some of those roads are horrific.

The Hon. R.D. Lawson: You can find the money for the Police Association quick as a flash!

The Hon. T.G. ROBERTS: The Police Association has a separate budget line. As the former treasurer would know, to get money transferred from one agency to another is difficult. But we have cross-agency meetings (which the previous government did not), and we have tier 1, which is sitting down trying to work our way through those programs. The removal of the $150 000 program is not what we consider a major priority because of the amount of funding that ATSIC can have made available to it if its commonwealth funding streams work cooperatively with us.

So, what we are trying to do is administer those funds in partnership, which we started earlier in our time of government, and draw up a partnership with ATSIC so that we can look at each other's priorities and ensure that we do not have funding streams crossing over each other. So, rather than a whole range of small amounts of funding which appear to evaporate from time to time in a lot of areas, we can aggregate those funding regimes to make a real difference.

The strategy that we have developed with APY (and we have explained all this to it) is that we would like to sit down and cooperate with it in relation to an aggregation of funds, so that all health funding—that is, the funding that goes into Anangu health and into our own health regimes—can be aggregated.

Housing can be aggregated. We have cooperation from the police in relation to getting some buildings up there, and PIRSA is cooperating. In fact, I think it is in the lands either this week or next week to look at the way in which its funding streams can be augmented for some of those particular programs. So, there is a new regime which, I have explained to the council on other occasions, is presenting difficulties for local governance in relation to Aboriginal governance itself. There is not the expertise that is required (the same as would be required in any other local government area) to be able to manage those funds in such a way as to get the best returns. We are looking at governance. We are

looking at cross-agency cooperation. We are looking at some relief with COAG, with ATSIC becoming a key player and a partner. We want to engage all those aspects to get that aggregated funding that I was talking about earlier.

NATIVE VEGETATION HERITAGE AGREEMENTS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about breach of government protocol.

Leave granted.

The Hon. CAROLINE SCHAEFER: Last week, I indicated that I had been told that there was a breach of procedure in the consultation process between the Department of Water, Land and Biodiversity Conservation and PIRSA with regard to the introduction of changed regulations to the Native Vegetation Heritage Agreements. The minister rightly replied that such changes should have been subject to cabinet approval. Therefore, any lack of proper consultation would be a serious breach, not just of protocol but of cabinet procedure. The minister said that he would investigate the matter. I have since had reaffirmed that the proper process did not, in fact, take place. I therefore assume that the proper cabinet approval also did not take place. My questions are:

1. Can the minister confirm or deny that this breach of cabinet procedure happened?
2. Has he investigated the matter, as he promised?
3. What information was he given?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will be providing a more detailed response later, but I have made some preliminary investigations into the matter. In fact, as is the usual protocol, the proposed regulations were circulated to my department. Unfortunately, at the time, there was an acting director, who considered those regulations in relation to the petroleum branch but, as I understand it (and, as I said, I have had only a verbal explanation at this stage), they were overlooked in relation to the minerals branch. So, it was essentially a problem that occurred because one of the senior staff members had been away at that time and the acting staff member had not realised that they had to go to the other section as well.

In fact, those regulations were considered by my department, but not by all sections. I have taken steps to ensure that that is addressed in the future. My department is conducting fruitful discussions with the Department of Water, Land and Biodiversity Conservation in order to address those matters. I will give the honourable member a full answer when I have the information.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Did the change in the regulations go to cabinet?

The Hon. P. HOLLOWAY: As I said, they have been to the department and my department has given its comments. The comments came from only one section of the department. Changes were made as result of those representations. I do not prefer to divulge—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, of course they do.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am not going to discuss—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: There were comments from my department on the bill and I checked—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I have just explained it. If the Leader of the Opposition does not listen to what I say, I do not know what I can do. I have explained as much as I can and will provide a fuller response later. In relation to the supplementary question asked by the honourable member, if I can recall what it was, yes, the regulations did go to cabinet and there were comments from my department but internally, apparently, one section of it was not consulted.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Is the minister in the habit of presenting papers to cabinet with his seal of approval and which have not been presented to all sections of his department? If he read the cabinet briefing paper, was he not disturbed by the direction which those regulations were taking?

The Hon. P. HOLLOWAY: I have answered the honourable member's question. There were appropriate discussions by the department. There are hundreds of regulations that go through the government every year. Obviously, when those regulations come in, I make sure that before those matters are considered in cabinet they have been considered and noted, as was the case on this particular occasion, by the department. So, in fact, what the honourable member is suggesting—

Members interjecting:

The Hon. P. HOLLOWAY: Well, if the mineral and petroleum energy section of the department gives a comment—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, well, it gave the comments. What I am saying is that it was a subsection in relation to that. I am not going to make any more comments at this stage. I will provide the details—

An honourable member: You could at least read the briefings.

The Hon. P. HOLLOWAY: I did read the briefings.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. If the minister read the briefings, why did he not object to something that will effectively take a huge slice of mineral and petroleum exploration out of the state mining map?

The Hon. P. HOLLOWAY: When I get to summaries, obviously when complex legislation of many pages comes through, I expect the department to read those in detail. I asked questions on that matter and received some response from the department. Unfortunately, it appears—and I will provide this information—that one of the other officers in the department was not consulted on those, but there were changes made, and negotiations will take place to ensure that changes will be made—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Don't talk rubbish. The suggestions of the honourable member are ridiculous. I should be pleased that, after 18 months, all I get in the parliament is a question that involves some minor technicality in a regulation. This is the leader, the man who did so much in terms of electricity. Boy, did he stuff it up! He was the one who made a calculation that would have cost $10 million or $11 million in relation to the ETSA sale. Because somebody in my department forgot to check with one of his colleagues

in a different section and wrote off and said, 'Okay, it's all fine,' that is the best question I have been asked. I should be flattered.

The Hon. J.F. STEFANI: By way of further supplementary question, the Auditor-General comments in this year's report, as follows:

> The department's ledger and reporting processes—

this is referring to the Department of Water, Land and Biodiversity Conservation—

> were somewhat disintegrated, reflecting the arrangement with DAIS and PIRSA leading to difficulties in reporting and monitoring.

Can the minister advise whether those matters have been corrected?

The Hon. P. HOLLOWAY: That is scarcely a supplementary question to the matters that were being asked. If the honourable member gives me the page reference, I will provide him with an explanation.

Members interjecting:

The PRESIDENT: Order! There has been quite a lot of interjection today. The Leader of the Opposition is well versed in the process and the rules of the parliament, as he has been here longer than most. The minister should realise that interjections are out of order. It would be much more profitable to the whole parliament if the interjections were to stop. I encourage the minister to ignore most of them, anyhow.

SMOKING BANS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement in relation to AHA comments on smoking bans made by the Treasurer in another place.

ROCK LOBSTERS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the rock lobster industry and regional economies.

Leave granted.

The Hon. CARMEL ZOLLO: The rock lobster industry provides numerous jobs in regional areas. The southern zone season has already commenced, and the northern zone season starts on 1 November. Can the minister advise what are the effects of the rock lobster industry on regional economies?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her interest in this matter. A newly formed peak body for the industry, the Southern Rock Lobster Council, recently commissioned an economic analysis of the industry across the three states in which southern rock lobsters are caught, that is, South Australia, Tasmania and Victoria. The analysis was for the 2001-02 season and the results are published in the Australian Southern Rock Lobster Industry News. Across Australia the industry generates 3 400 full-time job equivalents. South Australia's share of this is 1 616 fulltime equivalents. Most of these jobs are directly involved in catching, processing and exporting rock lobsters. However, there are flow-on jobs in the rest of the community in such sectors as transport, finance and repairs.

The economic output was estimated at $241.5 million for South Australia and $478.8 million across the three states. This money is going into regional economies. The total catch for South Australia in 2001-02 was 2 392 tonnes, with an estimated landed value of $91 million. The total amount of rock lobster exported from South Australia was 2 153 tonnes, with these exports having an estimated value of $102.4 million.

It is easy to see from these figures that the southern rock lobster is a significant seafood export industry. The government believes that the southern zones move to quota has been successful and anticipates that this will be the case for the northern zone, which we will be moving to quota this season, further developing the contribution of this industry to the state's economy. I am very pleased to see these figures which indicate the strength of the industry both nationally and in this state, and one can hope that prices will recover so that this industry can have a safe and prosperous season.

The Hon. T.G. CAMERON: I have a supplementary question. Notwithstanding the minister's comments about the recent price falls, can the minister do anything about reducing the price further so that South Australians can afford to eat a lobster occasionally?

TRADE AGREEMENT

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question about the free trade agreement with the United States.

Leave granted.

The Hon. IAN GILFILLAN: This morning I attended a lecture at Flinders University by Mr Ralph F. Ives, who is assistant US trade representative and chief US negotiator for the Australia-USA free trade agreement. It was an extremely interesting and revealing lecture at which several questions were asked, and I was able to ask questions relating to two matters which I will raise in a moment. Members will remember that I also attended a lecture by Mr Stephen Deady, who is the lead Australian negotiator in the free trade agreement. It was of interest that the answers I had to two particular questions did not synchronise between the Australian negotiator and the American negotiator. I am asking the minister because these questions and a couple of the statements are directly related to his portfolio.

He was asked about negotiations regarding agricultural products and he said—and this is a pretty rough quote—

> Agriculture is going to be tough. US domestic subsidies will not be affected by the free trade agreement. They can only be dealt with by a WTO (World Trade Organisation) initiative and the politics are just not there.

I found this to be a rather alarming statement and I think others who were interested in that issue found that to be the case as well. Afterwards I had a chance to ask Mr Ives about GMO free zones and, if members will recall, I also asked Mr Deady what the state of play was with GMO free zones. Mr Deady's answer was that the Americans have no objection to genetically modified free zones in Australia, but Mr Ives said that he had never heard of GMO free zones. What is more, he was extremely concerned that Tasmania had a statewide moratorium on genetically modified organisms.

I then asked him about single desks, because members may recall that I had asked Mr Deady about the likely survival of single desks for barley and wheat. Mr Deady said:

> They will survive. The Americans do not have a problem with the single desk but they do have concern about the corporate structure of the Australian Wheat Board.

Mr Ives said, 'We have serious concern about single desks: we oppose them as being anti-competitive.' I must say that the comment about the domestic subsidies not being affected means that beef producers can look forward to very little joy. It looks as if the grain producers will find that single desks will be severely attacked, and areas of Australia wanting to remain GM free may not be able to do so if the American lead negotiator has his way in what is the final draft of the FTA. My questions are:

1. Has the minister been briefed on the current details of the interface of negotiation on these areas between the American and Australian negotiators?

2. Does he share with me serious concern that the American position will be far from friendly and supportive to the Australian agricultural industries?

The PRESIDENT: Hon. Mr Gilfillan, I know you are passionate about the subject, and many of the things you say I agree with, but that is not the point. The explanation is not meant to be a 'he said' 'we said' thing, and I ask you to confine your remarks to the normal standards of an explanation. The minister can answer in whatever manner he wants.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): In relation to the first question, at the recent Primary Industries Ministerial Council the commonwealth minister Mr Warren Truss did provide ministers with a briefing about agricultural trade issues. Of course, documents were circulated in relation to that matter. The information that was supplied to ministers was not that much more informative, I guess, than what has been available in the financial press to those who read those matters. The communique from the council states:

> Ministers noted that free trade agreement negotiations with both the US and Thailand were fast approaching the scheduled dates for completion—

obviously, there have been recent developments in relation to Thailand—

> and discussed the state of play in the market access negotiations for agricultural products. Ministers also discussed the outcome of the WTO ministerial Cancun meeting and the implications for the WTO negotiations on agriculture under the Doha Round. Despite the Cancun setback, ministers emphasised the importance to agriculture and food exporters of Australia continuing to pursue reform of the multilateral trading system and working towards completion of the Doha Round.

In relation to the proposed Australia-US free trade agreement, there has been significant debate and previously I have answered questions in this parliament. Obviously, issues such as single desk and GMOs will arise, but those negotiations will be conducted principally by the commonwealth government. After all, that is the level of government that has constitutional responsibility for trade issues. Clearly, those matters will have implications for this state. It would scarcely be surprising that the United States negotiators would play hard ball on such things as the single desk, GM access, and so on. I think that is to be expected, but the point that is—

The Hon. Ian Gilfillan: Do you think we will roll them?

The Hon. P. HOLLOWAY: No, I am not sure that we will. As a result of those negotiations, whether meaningful benefits come for this country that are net beneficial to the country is something that we will see. When I was asked a question on this matter at least 12 months ago, I made the comment that from my perspective one should at least enter those negotiations with an open mind and with the objective to ensure that this country has significant net benefits as a result of negotiating any free trade agreement. Certainly, in principle, potentially there are significant benefits to be made. However, there will also be costs. It is for each country or each party to an agreement to weigh up the costs and benefits to ensure there are net benefits.

In relation to a single desk, I echo comments made recently by my colleague John Rau in the *Stock Journal*, where he makes the point—and I myself have made the same point on previous occasions—that it seems to be fairly silly to have one arm of government, namely, the National Competition Council, trying to pressure governments to get rid of single desk issues when, on the other hand, they are part of negotiations for trade. It does not seem to me to be a consistent national policy, but that is a matter for the federal government to address.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw members' attention to a parliamentary delegation of our colleagues from New South Wales. The delegation is led by my good friend and colleague the Hon. Marianne Saliba (member for Illawarra) and includes Ms Virginia Judge (member for Strathfield) and Ms Noreen Hay (member for Wollongong). I am sure that members join with me in welcoming them to our parliament. I hope their studies are informative.

GOPHERS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about motorised scooters.

Leave granted.

The Hon. A.L. EVANS: The use of gophers and motorised scooters by aged and disabled members of our community has become more prevalent due to advances in design and because the gophers provide users with a significant level of independence. Recently, I received information from a community organisation which is raising issues of concern regarding gophers. Its research led it to believe that there were a number of deficiencies and inefficiencies in the present legislation to protect users, as well as pedestrians and other road users. My questions are:

1. Will the minister advise whether the government is considering introducing any legislative change to regulate the use of motorised scooters in the community?

2. If yes, will the minister advise as to when it intends to introduce these changes?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in another place and bring back a reply. I will also make some observations myself. The point about protecting the general public from some of the drivers of gophers is an important one. I saw one fishtailing down a footpath in a country town, and the driver, who was well known to me, when he brought it under control—

The Hon. A.J. Redford: Was he related?

The Hon. T.G. ROBERTS: No, he is not related. When he brought it under control and picked up the groceries that were parked in the back of the gopher, he blamed the vehicle for getting out of control, giving it a fair kick on the back wheel. The person is also known to Mr Redford, so I will tell him who it was at another time.

The PRESIDENT: Order! A quaint story, but hardly relevant.

MUSIC INDUSTRY

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister Assisting the Minister for Environment and Conservation, representing the Minister Assisting the Premier in the Arts, a question on the topic of live music.

Leave granted.

The Hon. A.J. REDFORD: Members would be aware that I had the honour to chair the live music group in 2001 regarding the issue of live music and problems associated with venues. The committee made eight recommendations, which were accepted by all parties in parliament, and some of the recommendations have been implemented, including changes to the Liquor Licensing Act. In particular, the objects of the act were amended to include the furthering of the interests of the live music industry. In so doing it was requested that those charged with the administration of that act should consider the desired future character of the locality. The following was an agreed basic principle of the group:

> It is vital for South Australia to promote and enhance the live music industry because it plays a key role in maintaining a vibrant entertainment and cultural environment, and generates employment of a significant number of people, such as musicians, promoters, sound engineers, security firms, recording studios and booking agents.

I am pleased to discover—not that I was told—that the EPA recently issued the development proposal assessment for venues where music may be played, and I look forward to hearing the industry response.

My attention has now been drawn to the City of Charles Sturt liquor licensing policy. In that document, the council notes that it has in its area some 249 licensed premises, including the Governor Hindmarsh Hotel. It creates a noise sensitive area in which no entertainment is to take place on a balcony, no loud speakers are to be placed on a balcony, and all entertainment shall cease at least one hour before closing time. It also states that it will consider the level of security. It even goes so far as to suggest public hours. In relation to public safety, page 13 of the document states that, where it is warranted, the licensee should be requested to engage and provide a security patrol service, consisting of a minimum of one security guard on every night. Further, security staff would be expected to take all reasonable steps necessary to act as a deterrent after 11 o'clock, and, if there are any complaints, the licensee will be required to keep a logbook and monitor noise levels after 10 o'clock in the evening. My questions are:

1. Has the minister seen the Charles Sturt guidelines?

2. Does the minister support the view that security should be supplied by licensed premises whenever entertainment takes place?

3. Is the minister aware that the compulsory requirement of security is a significant impediment to the provision of live entertainment in this state?

4. Is the minister aware that the provision of security has been a major cause of the decline of live music in this state?

5. Does the council have the power to require venues to keep log books?

6. Is the minister aware that footage of the Whitlams at the Gov on ABC last night showed that not a single security guard was to be seen; and is the minister aware that not one single complaint was made as a consequence?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions and observations to the Minister for the Arts (the Premier) and bring back a reply.

SUPPORTED ACCOMMODATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the supported residential facility subsidy.

Leave granted.

The Hon. J.F. STEFANI: A recent article appearing in the *Weekly Times* of 15 October 2003 reported that the State Ombudsman, Mr Eugene Biganovsky, found that the board and care subsidy for people with mental health problems is neither fair nor necessarily able to ensure better treatment. Mr Biganovsky is reported as saying:

> The state's system of payments to operators of supported residential facilities does not adequately or equitably meet the needs of mental health consumers.

The present subsidy provides $9.20 per day to cover extra services such as rehabilitation for approximately 173 people with acute mental illnesses who are housed in supported residential facilities. This is on top of their disability pension. Mr Andrew Marshall, the President of the Supported Residential Facility Association, has unsuccessfully applied for a subsidy on behalf of 40 clients. The subsidy was refused and subsequently the Ombudsman's investigation found against the practice where the subsidy was withdrawn if the client changed from one supported residential facility to another. During his investigation the Ombudsman also found that the system did not necessarily improve the treatment of clients in supported residential facilities. Mr Biganovsky expressed concern at the length of time that the problem had been allowed to continue. My questions are:

1. Will the minister advise what steps the Department of Human Services is taking to address the problem?

2. Will the minister ensure that the subsidy allowance is reviewed, thus ensuring a more equitable outcome for clients receiving the subsidy?

3. Will the minister ensure that the subsidy is expanded to every person using a supported residential facility and is allocated on the needs basis of individuals regardless of where they are?

4. Is the minister aware that some supported residential facilities across Adelaide are facing closure owing to a lack of government funding and the burn-out amongst operators?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health in another place and bring back a reply.

INDIGENOUS JUVENILE JUSTICE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about indigenous juvenile justice.

Leave granted.

The Hon. J. GAZZOLA: I am aware that last week the minister addressed a national conference dealing with the issue of indigenous juvenile justice. Delegates from around Australia discussed important issues in this area and were able to exchange knowledge and ideas. Will the minister

outline any South Australian programs and initiatives aimed at improving indigenous juvenile justice outcomes?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question in relation to juvenile justice. It is true that I opened more than addressed the national conference held here in Adelaide and I was invited—

The Hon. R.I. Lucas: Has the question caught you by surprise?

The Hon. T.G. ROBERTS: Not really—and I also had the pleasure of accepting an invitation to close the conference. It was attended by delegates from all around Australia who were searching for alternative ways of dealing with the matter of juvenile justice in relation to indigenous young people in Australia. In various states, different programs are being trialled, and this state is no exception. Since 1999, we have been trialling aspects—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: If you keep interjecting, I will probably take another five minutes on top of that. It is an important question that needs to be answered properly. The people who attend conferences from nearly all aspects of Aboriginal affairs are people who are worn out by their role and responsibilities (such as the honourable member in relation to aged care services) in dealing with, in this case, issues associated with young Aboriginal people who, ultimately, bring themselves to the attention of the law.

South Australia is no different. We have difficulties in the metropolitan area. We have differences and variations in the way in which young Aboriginal people are drawn to breaking the law in regional areas. Certainly, in remote areas they have a unique way of bringing themselves to the attention of the police because of boredom and the lack of opportunity and choice with which they find themselves living.

We do have some alternatives to the traditional methods that we have used over time in relation to dealing with young people in the courts, and I am thankful that this has been done in a bipartisan way in this state. I must say that the previous government played some role in setting up some of the infrastructure for these trials. The Nunga Court in Port Adelaide is certainly a good example of an alternative way of addressing issues. The Port Augusta Aboriginal Youth Court is a trial program, and a special ceremony was held last week in Port Augusta for its official launch.

In many ways the issues associated with youth, although similar, have variations, whether they be in the metropolitan area or in regional and remote areas. Port Augusta is the first Australian town to run such a court, which began operating three months ago and sits once a month. As with the adult version, offenders must plead guilty to be eligible, so that there is a certain amount of contrition and acceptance involved in relation to the responsibility for the actions by those young people before they are engaged.

Aboriginal juveniles accounted for 20 per cent of all juvenile apprehensions in 2001-02. I do not have the figures for 2002-03, but I must say that they do not look as though they will decline, and I would say that there would probably be an increase in those numbers. As a society, we have to find ways of dealing with the circumstances in which young Aboriginal people find themselves when dealing with the courts. In most cases, it starts with truancy from school; with poverty in the home; with lack of opportunity and choice; and, in a lot of cases, with the lack of interest that is shown by the community.

However, in this case, we are spending money at the juvenile justice end, after the apprehension and the intervention, to try to stop the recidivism, which is also a major problem in relation to Aboriginal people finding themselves before the court. We also have a program called the Bush Breakaway Program, which has just won a national prize for its form, structure and excellent service delivery in the Ceduna area. I have made some comments in relation to that previously in this council, so I will not extend question time by reiterating the government's views on the Bush Breakaway Program.

It is a program in which the community takes some responsibility for identifying young people at risk. It intervenes and engages the elders within the community in a way in which the juveniles at risk not only re-engage and have some respect for their own culture but they begin to understand what their ultimate responsibility is and what they have to do to live within a mixed community such as Ceduna. The Ceduna community has taken huge steps in the past decade in dealing with its traditional people. Those who do present problems—those who move from the north-west of the state through Penong, Yalata through into Koonibba and into the half-way camps—find themselves in the centre of Ceduna where they are brought into contact with the police.

The Ceduna Area School has played a large role in running this program. Best results are achieved when the community is drawn together in a broad way and when it shows responsibility for its young people. It is the same for environmental issues: the community meets with Aboriginal people and draws them together to achieve best results in terms of reconciliation, environmental outcomes and, in this case, social outcomes.

The PRESIDENT: Order! Before I call on orders of the day, I indicate that I have noticed a distinct lack of discipline in the council today. There has been far too much interjection, the explanations have been far too long, and the answers have been far too long. I am also concerned that, when I call for order, members are starting to ignore me, which makes me angry and when I get angry I start throwing things. I ask members to help me with my problem in future.

SURVEY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 107.)

The Hon. IAN GILFILLAN: I saw the Hon. Angus Redford on his feet and I immediately deferred. I indicate the Democrats' support for the second reading of this bill. As I have surveyed the bill—the pun is actually intended—I note that, in large part, the bill is sensible and clarifies a number of points in the current act. The Survey Act 1992 deals with the surveying of land and provides for the licensing and registration of surveyors. The act was established in 1992 and was essentially a rewrite of the Surveys Act 1975. The bill before us today follows a national competition review of the legislation that has recommended the provisions be removed for registering and licensing companies.

Issues have also been raised by the Institution of Surveyors, the Crown Solicitor and the Surveyor-General. These issues have been addressed and the resulting bill seeks to

amend the Survey Act 1992 in a number of ways. Firstly, it removes provisions within the act relating to companies. Currently, companies that provide surveying services face considerable restrictions that are considered to impair competition in the sector. The bill deletes companies from the act and relies exclusively on the current provisions for licensing and registering natural persons. The bill also adjusts the powers of the Institution of Surveyors in two ways. It increases the delegating powers of the Institution of Surveyors. This addresses a concern by the institution that they feel it is inappropriate for the whole council of the institution to be involved in the process of investigating complaints against surveyors. Instead, in the future the council will be able to delegate this function to a subcommittee.

At the behest of the Crown Solicitor, the bill goes further and removes the power of the Institution of Surveyors to reprimand surveyors. I note that the Crown Solicitor expressed concern at the current role of the institution in investigating complaints and determining the outcomes of such investigations. The amendments rightly move the latter power to the District Court. Clarification is also given to the status of survey plans and reporting. Licensing and registration periods are adjusted from being based on the calendar year to the financial year.

Finally, the bill deals with two matters I am a little concerned with, and I look forward to discussion in the committee stage. It removes the duplication of notification procedures and removes the possibility for compensation to be paid to parties whose land is compulsorily acquired in the resolution of confused boundaries. I am not convinced that there needs to be an adjustment to the notification process. In dealing with adjusting boundaries that have been the subject of some confusion, it is better to err on the side of caution. In respect of the matter of compensation, I am concerned at the effect of having a section in the legislation expressly denying any such compensation. However, as I said, that can certainly be discussed in the committee stage. I repeat the support of the Democrats for the second reading of the bill.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (EXPIATION OF OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 162.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will be supporting the second reading of this bill and that during the committee stage we will be moving some amendments that will improve the bill. The explanation for the enactment of this legislation is not altogether convincing to many on the opposition benches. Many of my colleagues see in this legislation an attempt by the government to shore up revenue streams and, when suspicions of that kind arise, it is not surprising that many members look askance at this type of measure. The second reading explanation acknowledged that the question of the reissue of expiration notices which had been wrongly or erroneously issued has been a major issue, arising from a decision of a magistrate in 2001 to the effect that there was no authority to issue a corrected notice.

I note that on that occasion the government did not appeal against that decision, and it is somewhat alarming that this situation has been allowed to continue for as long as it has. The second reading explanation states that some $290 000 in expiation fees in respect of some 3 300 defect notices had been issued until September 2002. I ask the minister to indicate in his summing up: what is the current figure in respect of not only the refunds made but also the number of defect notices, the figure originally quoted being made up to September 2002? Additional figures were provided in the latest second reading explanation, detailing figures to 31 July this year. However, we seek information on the aggregate loss to date of revenue in consequence of this matter. The opposition will support the insertion of an explicit provision that an expiation notice may be withdrawn or reissued.

With regard to amendments dealing with the situation which commonly arises in relation to traffic infringements where an expiation notice is sent in respect of speed or red light cameras, it is noted that, in accordance with current legislation, those notices are sent to the registered owner of the offending vehicle. The owner can avoid liability by providing a statutory declaration which identifies the person who was the driver at the relevant time. In turn, that person can provide another statutory declaration saying that someone else was the driver, and so on.

The second reading explanation suggests that police currently receive some 2 000 to 3 000 statutory declarations per month, and it is expected that this will rise to 10 000 when expiable camera detected offences will attract demerit points. In reply, we would like to hear from the minister a detailed description of the process which is undertaken by police in connection with the statutory declarations which are received; in particular, information should be provided to the parliament to explain exactly what steps are taken by police to verify the truth or otherwise of material contained in statutory declarations, because this bill envisages that there will be such occasions, as no doubt there are when explanations are rejected, in an administrative procedure.

We support and commend the government for its intention to simplify procedures and reduce administrative expense by providing that, if the issuing authority does not accept the first statutory declaration, the registered owner will be sent one expiation enforcement warning giving the owner the option of paying the expiation notice within 14 days or contesting the matter in court. As I mentioned, further detail ought be provided to the council on the procedures that are adopted for issuing authorities to reject statutory declarations.

The bill proposes that the current six month time limit for the issue of expiation notices be extended. It is suggested that owners and alleged nominated drivers can avoid prosecution by delaying matters for six months. It is suggested in the second reading explanation that the incentive to engage in delaying tactics will be exacerbated by the introduction of demerit points for camera detected offences. The opposition does not agree that it would be appropriate to extend from six to 12 months the time within which an expiation notice may be issued for these offences. An extension of this time is really an endorsement of inefficiency. Expiation notices should be sent out quickly.

Not many members of this place would remember what they were doing on a specified day three months ago, let alone six months ago, but this bill proposes that motorists will receive expiation notices up to 12 months after the alleged offence occurred. That is not something that the Liberal Party

will support. Indeed, it would be appropriate to reduce the time within which expiation notices must be issued to a more reasonable period, and the opposition believes that three months would be a reasonable time on the information currently before it. I flag to the minister that we will be looking to reduce rather than extend the time limit. The council would benefit from information from the minister in reply, if such information exists, which shows that a three month limitation period would be unworkable or unreasonable. We believe it would be reasonable, and we certainly contend that extending the time limit to 12 months is unreasonable.

We support the proposal in the bill relating to parking and similar offences, under which a further notice inviting a further statutory declaration will not be required in those cases where the issuing authority forms the view that the statutory declaration provided is false. In that case, the bill will provide that the owner will be sent an expiation enforcement warning giving 14 days to pay or contest the matter in court. The opposition also supports the amendments relating to drug implements and equipment. This is an amendment to section 13 of the Expiation Offences Act, and it will simplify the procedure for forfeiting drugs, drug growing equipment and drug using implements when a cannabis expiation notice is enforced. Under the existing provisions, when simple cannabis offences are expiated, any substances or items lawfully seized by police are automatically forfeited; and we agree with the proposed amendment which will have the effect of providing that the same items will be forfeited when an expiation notice is not voluntarily paid but has to be enforced by the court under section 13. That is an improvement which is supported.

We also indicate support for those amendments to the Summary Procedure Act which are contained in the bill and, in particular, the provision which will prevent issuing authorities from gaining further time for prosecutions by withdrawing and reissuing defective notices. We agree with the proposition that a nominated driver should be informed if he or she has been nominated as the driver by the registered owner of the vehicle. The procedure described in the second reading explanation is that a copy of the declaration of the registered owner nominating a person as nominated driver will be forwarded to the person who is said to be the nominated driver.

A concern was raised, which we seek to have clarified by the minister, about the information which we passed on and, in particular, any confidential information. For example, many people in the community have an address which they do not wish to pass on to an estranged partner and, for that purpose, take steps to have their address removed from electoral rolls, telephone directories and the like. We believe it would be appropriate by amendment, if necessary, to ensure that registered owners making these declarations do not unwittingly divulge to nominated drivers information which they wish to keep confidential.

Generally the opposition will support the changes on the grounds of administrative efficiency. They will make it easier for government and local councils to recover fines and penalties. It is not the intention of the opposition to allow fine defaulters or others to concoct fictitious drivers and the like in the course of seeking to avoid, for example, demerit points or their right to continue driving. We note that the Royal Automobile Association has an attitude to this particular bill. A letter dated 15 September from the RAA to the opposition states:

> Initially, the association expressed some concerns about the possibility of owners of motor vehicles being held responsible for 'an amount attributable to costs and expenses of a prescribed class incurred in the matter' on top of a 'prescribed amount'. . . we have subsequently received a commitment from the Attorney-General that the government has no intention of using the statutory power to charge vehicle owners for the costs of investigating any matters raised in an owner's statutory declaration.
>
> On the basis of this response, and recognising the difficulties that the current legislation is causing, the RAA has indicated its support of the three principal amendments.

It is also noted that this bill was examined by a committee of the Law Society and the society expressed no concerns, taking the view that the bill will 'streamline the processes surrounding expiation notices'. Once again, I commend the Law Society for its community spirit in having its members examine legislation of this kind and performing the valuable community service of providing advice to the parliament.

There is one matter which ought be examined in relation to this measure, and the opposition intends moving an amendment to the Road Traffic Act to provide that, if an alleged offender has not been convicted of a speeding offence, or has not been issued with an expiation notice or an expiation warning notice within the previous 10 years, the alleged offender should not be issued with an expiation notice automatically but should be issued with a formal warning. The basis of this proposition is that many people are law-abiding citizens and obey the traffic rules, but very occasionally are caught infringing. In those circumstances, we think it is appropriate that a formal warning be given, and if the government is serious about improving road safety rather than revenue collection, it will surely support an amendment of this kind. I am presently having the amendment drawn up and will circulate it to members for consideration well before the committee consideration of this bill. As indicated previously, the Liberal opposition will be supporting the second reading with the amendments that I have flagged.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (ANTI-FORTIFICATION) BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 218.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their comments on this bill. In the course of their contributions to the debate, several members, including the Hons Robert Lawson, Angus Redford and Nick Xenophon, sought information from the government as to the occasions on which police have sought access to motorcycle gang premises and the results of these attempts. The Hon. Angus Redford asked for information going back five years.

SAPOL has provided the following information. There are no specific police records that identify the number of occasions where police have encountered impediments when entering motorcycle gang premises. Over the past five years, police have entered motorcycle gang premises on numerous occasions. Varying degrees of impediments have been encountered and, although this has not prevented entry, delays have been encountered where evidence could have been destroyed and/or hidden. Police entry to motorcycle gang premises under warrant can be facilitated in a number

of different ways. All require different tactics, depending upon the situation and the required outcomes.

As entry to gang premises is generally categorised as high risk, police tactics usually involve negotiations to facilitate a safe entry with minimum risk to the police, the public and gang members. In these situations entry has been gained on almost all occasions. However, the time taken to negotiate safe entry has been compounded by the actions of gang members whereby sufficient time has existed to destroy and/or hide evidence. In low-risk situations where police have entered into negotiations with gang members or conducted doorknocks to facilitate entry to their premises, entry has been achieved on almost all occasions. Once again, varying degrees of impediments have been encountered which have impacted upon the timeliness of the police entry.

On occasions police tactics require forced entry to gang premises where no advanced warning is given. In these situations the construction of perimeter fences and reinforced doors are impediments to rapid entry. They require extraordinary means to be employed by police and result in time delays, reduced element of surprise, added danger to police and greater opportunity for destruction of evidence. On almost all occasions when police have gained timely entry to motorcycle gang premises, evidence of unlawful and criminal activities has been located. Any delay encountered by police in these situations is likely to result in loss or destruction of evidence.

Although police have gained entry to gang premises when executing warrants it is not practicable and expedient in all situations for police to announce their identity, request entry and then wait until doors are opened to investigate the unlawful and criminal activities of the gang. Unlike other premises, the construction of perimeter fences and reinforced doors on gang premises are impediments that do not allow police reasonable and timely access to effect lawful entry to the premises where it is suspected that unlawful and criminal activities are occurring. Raids on motorcycle gang premises have uncovered evidence of the following offences:

- manufacture and production of hydroponic cannabis;
- possession of illicit drugs;
- possession of prescribed, dangerous and prohibited firearms;
- possession of unregistered firearms;
- possession of ballistic vests;
- possession of sophisticated unlawful listening devices;
- possession of dangerous and prohibited articles;
- larceny of property;
- unlawful possession of property; and
- licensing offences.

A number of members also referred to the Premier's recent announcement that the government would move to prevent criminal organisations, in particular those referred to as outlaw motorcycle gangs, operating security firms. I do not intend to respond to these comments in the course of debate on this bill, except to say that the Premier has made the government's intention clear and appropriate legislation is being developed. A number of members, most notably the Hon. Ian Gilfillan who opposes this bill, called on the government to devote more resources to SAPOL to allow it to tackle the problem of outlaw motorcycle gangs more effectively.

Today the Premier announced that the Treasurer would be speaking with the Commissioner of Police about an increase in police numbers before the next state budget so that recruitment can take place early in the new year. This additional increase comes on top of the increase in police resources provided for in this government's first two budgets, including a real increase in police spending to the last budget of just under 4 per cent. A more comprehensive announcement will be made in November following consultations with the Commissioner of Police and the Police Association.

The Hon. Mr Gilfillan also suggested that the government enact laws to enable the government to prescribe criminal organisations so that membership of them becomes a criminal offence. The government is of the view that such legislation would be ineffective in dealing with organised crime. Prescribed organisations would quickly disband and reform under another name or using another structure. In addition to requests for information concerning the occasions and the results of police raids on gang premises (which I have dealt with), the Hon. Nick Xenophon indicated that he would be interested in information about the concerns expressed by police over the legislation, the manner in which it will be enforced and the protocols for enforcement, and whether there has been any analysis at a policy level of the ramifications of the legislation.

SAPOL was consulted extensively over the legislation, and changes were made to the draft bill as a result of comments the police made. The most notable was the power to prescribe additional offences for the definition of 'serious criminal offence'. The manner in which the legislation will be enforced and any protocols for enforcement are operational matters to be determined by the commissioner. However, the government expects there to be some discussion between it, SAPOL and the local government sector as to practical aspects of the legislation and its operation. I should add that the Attorney-General has agreed with the Local Government Association for an eight-week delay in the commencement of the legislation to allow these discussions to take place.

The Hon. Angus Redford asked a number of questions. First, he raised concerns that the definition of fortification could catch law-abiding citizens. He asked why the definition includes subparagraph (b), which includes, in the definition of fortification, a security measure that 'has the effect of preventing or impeding police access to premises and is excessive for the particular type of premises'. The government has included subparagraph (b) to ensure that police can seek a fortification removal order where the security measures were constructed for legitimate purposes, but which, subsequently, are being used for criminal purposes. This situation may arise where the criminal organisation is occupying premises secured by a previous occupant.

Members may be aware that the government has on file an amendment to subparagraph (b) to deal with an issue raised by a number of bikie gangs in response to the bill. This amendment expands subparagraph (b) to ensure that criminal organisations cannot circumvent the fortification removal order provisions by providing to the police a temporary means of access or a promise of access to fortified premises.

The Hon. Mr Redford raised concern about the lack of guidance in the legislation in terms of what 'excessive for the particular premises' means. It means what it says: a bank or a security lockup or the premises occupied by a company manufacturing dangerous chemicals would quite reasonably require an extremely high level of security. High walls and several layers of steel, reinforced gates or doors may be appropriate in such circumstances. However, this level of security is simply not warranted in the case of premises occupied by, for example, a local sporting club.

In relation to the definition of 'serious criminal offence', the Hon. Mr Redford asked, first, why indictable offences were chosen and, secondly, what offences the government intends prescribing for the definition. In relation to his first question, the government believes that indictable offences represent an appropriate level of offending. Honourable members are reminded that indictable offences are serious offences carrying a penalty of more than two years imprisonment. Parliament has determined these offences to be serious enough to carry such a penalty.

During the development of the legislation, SAPOL advised that the definition of serious criminal offence be wide enough to encompass firearms offences and drug offences not meeting the classification of major indictable offence on the basis that evidence of such offending is often recovered during raids on gang headquarters. The government has drafted the definition in accordance with this advice. To limit the definition to major indictable offences would, in the government's opinion, unduly limit the operation of the legislation.

The government is of the view that where an organisation is using excessive security measures for or in connection with the commission of indictable offences, to conceal evidence of such offences, or to keep the proceeds of such offences, the police commissioner should have the power, subject to a court order, to have the security measures removed or modified.

The Hon. Mr Redford also asked about the types of offences the government intends prescribing for the purpose of the definition. No decision has been made to prescribe any additional offences. Any decision to do so will be based on advice from SAPOL and relevant agencies and will be subject to parliamentary scrutiny through the usual processes.

The Hon. Mr Redford also asked whether natural or existing features such as a hedge or an existing gate could meet the definition of fortification and as such be the subject of a fortification removal order. It is difficult to imagine a hedge that would prevent or impede police access and which would be considered excessive. However, if the court determined that a hedge did indeed prevent or impede police access and was excessive in the circumstances, it may be satisfied that it meets the definition of fortification. Likewise, existing structures such as high thick walls or fences and reinforced gates could meet the definition. It will depend in all cases on the circumstances. However, the court has no power to issue a fortification removal order in respect of any structure or device, even where it meets the definition of fortification, unless the court is satisfied that the fortifications have been created in contravention of the Development Act or there are reasonable grounds to believe the premises are being, have been, or are likely to be used for or in connection with the commission of a serious criminal offence, to conceal evidence of a serious criminal offence or to keep the proceeds of a serious criminal offence.

The Hon. Mr Redford asked what would happen if the court issued a fortification removal order and the occupiers elected to abandon the premises. Subject to the objection and appeal processes, once an order is issued, the commissioner may enforce it. However, if the commissioner is satisfied that, having obtained an order, there is no need to enforce it, he may under proposed section 74BH withdraw the order. A withdrawal notice must be filed at court and served on the occupiers and/or owners of the property.

The Hon. Mr Redford has asked about confidentiality orders under proposed section 74BB(5). Proposed section 74BB(5) provides that the commissioner may identify any information provided to the court for the purposes of the application for a fortification removal order if its disclosure might prejudice the investigation of a contravention or possible contravention of the law, enable the existence or identity of a confidential source to be ascertained, or endanger a person's life or physical safety. Where the court is satisfied, having regard to the principle of public interest immunity, that the information should be protected from the disclosure, the court must order that the information is not to be disclosed to any other person, whether or not a party to the proceedings.

Contrary to the Hon. Mr Redford's assertions, confidentiality orders under section 74BB(5) do not represent a radical departure from the existing law of the state. The court must, before making a confidentiality order, consider the public interest immunity. The public interest immunity is a long-standing, well established principle of Australian law under which a court will not compel or permit the disclosure of information where to do so would be injurious to the interests of the state. The immunity already applies to information that would disclose the identity of police informants or information about police operations that would assist criminals or hamper police operations or indicate the state of police inquiries in a particular matter. I refer the Hon. Mr Redford to the Supreme Court decision in R v. Mason (citation [2000] SASC161, 14 June 2000) for an example of a South Australian court applying the public interest immunity to prohibit the disclosure of information identifying a police informant.

The Hon. Mr Redford asked about the treatment of conditional information on an appeal against a fortification removal order. This is set out in proposed section 74BB(7), which states that a court, which includes an appeal court, must not disclose information the subject of an order without first having regard to the principle of public interest immunity. Of course, the court itself has access to the confidential material at all times. By way of notice, the government will be moving a minor amendment proposed by a member of the opposition in another place to the provisions dealing with confidential information.

The Hon. Mr Redford suggests that the legislation does not state the basis on which a court determines a notice of objection to a fortification removal order or an appeal against the determination on a notice of objection. I draw members' attention, first, to proposed section 74BF(2), which provides that the court must, when determining a notice of objection, consider whether, in light of the evidence presented by both the commissioner and the objector, sufficient grounds exist to satisfy the court as to the requirements on proposed section 74BB(1). Secondly, I draw members' attention to proposed section 74BG(2), which states that an appeal lies on a question of law or a question of fact.

The Hon. Mr Redford also asked whether any other Australian parliaments have seen fit to pass anti-fortification legislation. The answer is yes. The Western Australian parliament has enacted the Criminal Investigations (Exceptional Powers) and Fortification Removal Act 2002, part 6 of which contains provisions empowering the police commissioner to issue a fortification removal order subject to a number of checks and balances, including an approval process. The government understands that there are a number of applications pending under this legislation. Similar legislation has also been enacted in New Zealand.

The Hon. Mr Redford also asked about the relationship between the proposed amendments to the Development Act

and the Summary Offences Act, specifically whether a person, having gone through the development approval process, satisfying the commissioner that their proposed development does not involve the creation of fortifications, could at a later time be the subject of a fortification removal order. If the commissioner has examined a proposed development under section 37A and determined that it does not involve the creation of fortifications, he has no power to direct the relevant authority to refuse or place conditions on the application.

In terms of subsequent action, unless the occupiers of the premises employ or construct additional security measures that meet the definition of fortifications, the court will have no grounds on which to issue a fortification removal order. Even if the premises are further secured so as to meet the definition of fortifications, the court will still be unable to issue a fortification removal order unless it is satisfied that the premises are being, have been, or are likely to be used for or in connection with the commission of a serious criminal offence, to conceal evidence of a serious criminal offence or to keep the proceeds of a serious criminal offence.

In relation to imposing upon the commissioner a requirement that he give an applicant for development approval reasonable time to respond to a request under proposed section 37A(4), the government is confident that this is not necessary and that the commissioner will, as a matter of course, act reasonably under the provision. Furthermore, proposed subsection 37A(4) is based on subsection 37(3), which empowers a prescribed body to specify a time within which a similar request must be complied with.

The Hon. Julian Stefani asked why the government has decided to impose on the Commissioner of Police the responsibility for determining whether a proposed development involves the creation of fortifications. The government decided, following consultation with the commissioner and the Local Government Association and a number of its constituent councils, to move the responsibility onto the commissioner to ensure that criminal organisations could not use threats of violence and other means to intimidate council planning officers and elected members into approving development proposals that involve the creation of fortifications. I thank members for their contributions to the debate on this bill.

The council divided on the second reading:

AYES (15)

Dawkins, J. S. L.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stephens, T. J.	Xenophon, N.
Zollo, C.	

NOES (3)

Gilfillan, I. (teller)	Kanck, S. M.
Stefani, J. F.	

PAIR(S)

Evans, A. L.	Reynolds, K.

Majority of 12 for the ayes.

Second reading thus carried.

In committee.

Clause 1.

The Hon. A.J. REDFORD: A number of comments were made in the leader's response to some comments I made.

The CHAIRMAN: This is not another chance to debate the bill. If you have a point to make about the bill that is fine, but I would rather not have a—

The Hon. A.J. REDFORD: I think I said four words. If you can point to what I have said so far that is objectionable—

The CHAIRMAN: You wish to make a number of comments on the minister's response; that is very close to what you said.

The Hon. A.J. REDFORD: Yes.

The CHAIRMAN: I am just pointing out to you that this is not a second reading debate.

The Hon. A.J. REDFORD: I had not finished. If you had allowed me to finish my sentence I would have said, '. . . but I will not make them now.' That is what I was going to say. We can conduct the committee stage as a running battle, but that is what I proposed to say. If anything is objectionable about that, I am sure you can point it out. I asked a series of general questions in my second reading speech, and I refer to page 379 concerning general statistics regarding the need for this legislation, and I am concerned that those questions were all unanswered.

The Hon. R.D. Lawson interjecting:

The Hon. A.J. REDFORD: If I was not here, this is the process we deal with when we go straight into committee. I asked a series of questions about how many raids have been carried out in the past five years on an annual basis, etc. If the minister has answered that question I stand corrected.

The Hon. P. HOLLOWAY: Do you want me to read out what I said before?

The Hon. A.J. Redford: I was not aware that there had been an answer.

The Hon. P. HOLLOWAY: Just to facilitate things, I said that no specific police records were kept that identified the number of occasions where police had encountered impediments when entering motorcycle gang premises. That is probably not surprising, given that impediments are not things they you would normally record. Over the past five years police have entered motorcycle gang premises on numerous occasions. Varying degrees of impediments have been encountered and, although this has not prevented entry, delays have been encountered where evidence could have been destroyed and/or hidden.

Police entry to motorcycle gang premises under warrant can be facilitated in a number of different ways. All require different tactics, depending on the situation and required outcomes. As entry to gang premises is generally categorised as high risk, police tactics usually involve negotiations to facilitate safe entry with minimal risk to the police, the public and gang members. In these situations, entry has been gained on almost all occasions. However, the time taken to negotiate safe entry has been compounded by actions of gang members, whereby sufficient time has existed to destroy and/or hide evidence.

In low risk situations, where police have entered into negotiations with gang members, or conducted doorknocks to facilitate entry to their premises, entry has also been achieved on almost all occasions. Once again, varying degrees of impediments have been encountered that have impacted on the timeliness of the police entry.

On occasions, police tactics require forced entry to gang premises, when no advance warning is given. In these situations, the construction of perimeter fences and reinforced doors are impediments to rapid entry that require extraordinary means to be employed by police and result in time

delays; reduced element of surprise; added danger to police; and greater opportunity for destruction of evidence. On almost all occasions when police have gained timely entry to motorcycle gang premises, evidence of unlawful and criminal activities has been located. Any delays encountered by police in these situations are likely to result in the loss or destruction of evidence.

Although police have gained entry to gang premises when exercising warrants, it is not practicable or expedient in all situations for police to announce their identity, request entry and then wait until doors are opened to investigate the unlawful and criminal activities of the gang. Unlike on other premises, the construction of perimeter fences and reinforced doors on gang premises are impediments that do not allow police reasonable and timely access to effect lawful entry to the premises where it is suspected unlawful and criminal activities are occurring.

I then went on to relate that raids on motorcycle gang premises have uncovered evidence of the following offences, and I listed the following:

- manufacture and production of the hydroponic cannabis;
- possession of illicit drugs;
- possession of prescribed, dangerous and prohibited firearms;
- possession of unregistered firearms;
- possession of ballistic vests;
- possession of sophisticated unlawful listening devices;
- possession of dangerous prohibited articles;
- larceny of property;
- unlawful possession of property; and
- licensing offences.

So, that was essentially the information. I also draw the committee's attention to the statement made today by the Premier on outlaw bikie gangs, when the Premier provided the following additional information:

> Between April 1999 and October 2003, the police made arrests and seized goods from all five of these bikie gangs that include:
> - more than 200 various firearms ranging from pistols to sawn-off shotguns;
> - 'Taser' guns used for stunning people;
> - hundreds of rounds of ammunition;
> - numerous knuckledusters and other weaponry, including crossbows, machetes, and ASP batons;
> - cannabis valued at more than $5 million, with almost every crop grown hydroponically;
> - a total of $250 000 worth of hydroponic equipment;
> - the amount of $300 000 worth of amphetamines, Fantasy and Ecstasy, steroids, and LSD tabs;
> - large quantities of Sudafed tabs used for breaking down into amphetamines; and
> - many thousands of dollars in cash seized at the time of the drug seizures.

There was also some other information in relation to arrests, and I draw the Premier's statement to the attention of any member who wishes to read it.

The Hon. A.J. REDFORD: I thank the minister for that answer, which was probably far more expansive than the specific issue I raised. I think that the answer could have stopped at the end of the second sentence. However, I did ask a third question that has not been addressed at all, namely, the question of whether there have been any occasions when the police have not bothered to take any steps as a consequence of these fortifications. In other words, have they been deterred by the fortifications?

The Hon. P. HOLLOWAY: My advice is that there have been no occasions where, if they had a warrant, they have been denied entry. However, from the point of view of the police, the issue is timeliness and the ability to obtain access before the destruction of evidence.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: In relation to when they have had a warrant, ultimately they have got in. However, the issue really is the timeliness.

The Hon. A.J. REDFORD: Has it discouraged the police from even applying for a warrant? This is not a trick question; I am just interested.

The Hon. P. HOLLOWAY: Obviously, we do not have that information. The police would really need to answer that question.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I have read out the information that the police have provided. What motivates the police? How would they answer that question, anyway? Would you go out and ask every one of the 3 000-odd police officers in the state who had—

The Hon. A.J. REDFORD: Can I just say that I deprecate the leader's response. This is a legislative process. You are seeking to make a substantial intrusion into the private rights of people who are presumed to be innocent. You have the support of the opposition at the second reading. All I did was ask whether or not there has been any discouragement of police taking action as a consequence of fortifications. You do not have to ask 3 000 police officers, with the greatest of respect, for an answer to that question. Other than that, I will leave it. However, I think it is typical of this government, and certain officers that advise it, in terms of avoiding questions that are properly put in this place.

The CHAIRMAN: I would rather that we did not comment on officers.

The Hon. J.F. STEFANI: I have a couple of questions for the minister. If a property has a substantial brick fence right around the perimeter and it has been leased to a bikie gang, I note with some interest that the removal of the fortification, or the three-metre high brick fence, if you like, will occur on the basis that the bikie gang may be suspected of being involved in some illegal activity. What rights does the owner of the premises have in relation to the removal of the fence? I do not see that there is any reference to the owner of the property in the bill. It talks about the occupier of the property but not the owner. Can the minister give some explanation?

The Hon. P. HOLLOWAY: I think the answer to that is that really this legislation has to be addressed to the occupier. Otherwise, you could have a situation where the owner of a property knowingly leased this property to an outlaw motorcycle gang, which would provide an avenue to circumvent the law. That could potentially provide a loophole. However, I draw the honourable member's attention to new section 74BK, liability for damage. Subsection (2) provides:

> However, an owner of a premises may recover the reasonable costs associated with repair or replacement of property damage as a result of creation of fortifications or enforcement of a fortification removal order as a debt from any person who caused the fortifications to be created.

I hope that the honourable member gets the point: an innocent owner of a property is effectively protected by new section 74BK(2). However, the government would be concerned if there were a loophole where the owner of a property, who was in collusion with a gang, might use such a provision to circumvent the effective operation of these proposed new laws.

The Hon. R.D. LAWSON: The Attorney has mentioned (certainly on public radio) the names of the well-known outlaw motorcycle gangs operating in South Australia. Can the minister indicate how many fortified premises occupied by gangs or motorcycle clubs currently exist in South Australia?

The Hon. P. HOLLOWAY: We believe that there are five or six which probably correspond to gangs. My advice is that we would not—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, there may be others. We will not know until the law is in place and it becomes necessary to enforce it.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The fortifications owned or occupied by them. If there are five gangs and they have more than one premises, one would expect—

The Hon. A.J. Redford: You ought to know that.

The Hon. P. HOLLOWAY: My advice is that there are five or six. Presumably, they have one headquarters. My advice is that we obviously would not know if there are others where the police may wish to take action. Certainly, we are aware that the major outlaw bikie gangs do have fortified premises.

The Hon. R.D. LAWSON: Can the minister indicate whether the government is aware of any current development application which is under consideration and which would fall within the definition of a proposed development involving the creation of fortifications?

The Hon. P. HOLLOWAY: My advice is that there was an application, about 12 months ago, to the Charles Sturt council. It may have been of interest under this particular measure if it had been implemented. As I understand it, that application was made by a woman who lived in the area. I presume she was associated with an outlaw gang.

The Hon. J.F. STEFANI: Can the minister advise whether the government considers an underground tunnel a fortification?

The Hon. P. HOLLOWAY: I do not think it is regarded as a fortification. The definition is:

> . . . any security measure that involves a structure or device forming part of, or attached to, premises that. . . is intended or designed to prevent or impede police access to the premises. . .

If there was a tunnel going down to a secret drug laboratory under something that was fortified—obviously, if you could not get into the tunnel, presumably the police would seek access. It does depend upon the circumstances.

The Hon. J.F. STEFANI: Would the occupation of existing tunnels, anywhere in South Australia, by the alleged outlaw bikie gangs be considered a problem for the police?

The Hon. P. HOLLOWAY: I would presume that it would depend on the measures that were taken to prevent access. If someone was occupying a tunnel, it would depend on the doors or whatever structures were there to prevent access. The key question here is, surely, whether it 'is intended or designed to prevent or impede police access to the premises'. That is the test. The second part is 'or has the effect of preventing or impeding police access to the premises'. I do not know whether a tunnel itself would impede access; it would probably depend on what measures were associated with that tunnel.

The Hon. J.F. STEFANI: If you put steel gates at the entrance to the tunnel—which often people use these days, and very tall ones, so that people cannot go in and burgle the premises—is that considered to be a fortification?

The Hon. P. HOLLOWAY: Again, I make the point that it would depend if they were intended or designed to prevent or impede police access to the premises. So, if the police have easy access, and if there is no issue with them, then that is one thing; but if the police have reason to believe that it was being used to impede access, then I guess they would be able to seek removal orders before the courts.

The Hon. J.F. STEFANI: Sorry to persist with this matter but, if the gates are installed, they would be installed to preclude not only the police but also any other person from entering the property, surely?

The Hon. P. HOLLOWAY: Well, the test is not just that which I gave in relation to whether or not they were intended to preclude police access but the second part of the test, new section 74BB, states 'if, on the application of the Commissioner, the Court is satisfied that—(a) premises named in the application are fortified' so that has to be the first test. Secondly, part B states 'the fortifications have been created in contravention of the Development Act 1993'. I suppose that if one had a legitimate reason—growing mushrooms in a tunnel, for example—and had proper development approval for it, and was using that to secure the thing, that I imagine it would be unlikely that any fortification removal order would be sought. If it were sought, it would be unlikely to be granted. It depends on the purpose of that particular development.

The Hon. R.D. LAWSON: Earlier in the committee stage, the minister provided answers to two questions that I asked. Firstly, that there were five or perhaps six fortified premises in South Australia of which the government is aware that are occupied by outlaw motorcycle gangs. Secondly, that the government was aware of one proposed development application in relation to Charles Sturt council last year and I asked the minister to undertake—

The Hon. P. Holloway: It may improve it.

The Hon. R.D. LAWSON: It may improve it. I asked the minister to undertake to make inquiries and, if the information that he has provided to the committee is not accurate, to provide that information to the opposition before the matter returns to another place.

The Hon. P. HOLLOWAY: Can I clarify that? The information in relation to what in the application? I am advised that there is only one application in relation to other premises.

The Hon. A.J. Redford: Can't you check what you said?

The Hon. R.D. Lawson: We are asking just to confirm the accuracy of what you have indicated.

The Hon. P. HOLLOWAY: You are talking about fortified premises occupied by or believed to be associated with outlaw bikie gangs. There are obviously lots of fortified places, and a lot of them might be used for crime. The question involves those known to be occupied by gangs. We will see what we can do.

The Hon. A.J. REDFORD: Further to the question of the Hon. Rob Lawson, is the government—and I appreciate that this is being taken on notice—able to advise us as soon as it can of any other fortifications not owned by bikies that have attracted the attention of police and may be the subject of this legislation?

The Hon. P. HOLLOWAY: We can ask the police. My advice is that there may be covert operations. Naturally, the amount of information we will get from the police will be limited.

The Hon. A.J. Redford: You undertake to get that to us?

The Hon. P. HOLLOWAY: What information we can, yes. Obviously, the police will not provide information about any particular location.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I want to make sure that we know what we are talking about. I understand that the honourable member would like to know whether the police believe that other premises are fortified and may be occupied or associated with criminal organisations.

The Hon. A.J. REDFORD: If so, how many?

The Hon. P. HOLLOWAY: Okay.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The Hon. R.D. LAWSON: What rights of appeal would exist in a case where a proposed development involving the creation of fortifications is not approved by the commissioner? The question is really predicated upon the proposition that subclause (7) provides that, if a refusal or condition referred to is the subject of an appeal but there is no specific conferral of an appeal right that I can see in that section, no doubt there may be other general appeal rights in the Development Act. If so, I ask the minister to indicate where they are.

The Hon. P. HOLLOWAY: My advice is that it is an appeal to the ERD Court under the Development Act.

The Hon. A.J. REDFORD: During the course of my second reading contribution, I raised an issue in regard to clause 7 and, in particular, new section 37A(4)(a). It provides:

> If a request is made under subsection (3)—
> (a) the Commissioner may specify a time within which the request must be complied with; and
> (b) the Commissioner may, if he or she thinks fit, grant an extension of the time specified under paragraph (a).

I understand it is a rather trite and sometimes treat-us-as-fools response from the government that subclause (3) provides some sort of reasonable time. I am not sure that I understand what the government is saying. However, I cannot see how new section 37A(3) requires the commissioner to be reasonable in relation to an applicant in terms of the provision of information.

The Hon. P. HOLLOWAY: Just for accuracy, the statement I made is that the government is confident that this is not necessary and the commissioner will, as a matter of course, act reasonably under the provision. One would hope that the commissioner would always act reasonably in relation to such matters. One would expect that he would do so.

The Hon. A.J. REDFORD: With the greatest of respect to the leader, time and again he treats the committee stage of bills with utter contempt. In his second reading contribution, the minister tried to justify the absence of the word 'reasonable'. He said that it was unnecessary because of some force that new section 37A(3) has. I do not understand his answer as he put it in his second reading response. That is what I am asking him to explain.

The Hon. P. HOLLOWAY: I will read the second part. It says that, furthermore, new section 37A(4) is based on section 37(3), which I assume is section 37 of the Development Act which empowers a prescribed body to specify a time within which a similar request must be complied with. Section 37 of the Development Act is headed 'Consultation with other authorities or agencies.' Section 37(2) provides:

> A prescribed body may, before it gives a response under this section, request the applicant—
> (a) to provide such additional documents or information (including calculations and technical details) as the prescribed body may reasonably require to assess the application; and
> (b) to comply with any other requirements or procedures of a prescribed kind.

Section 37(3) provides:

> Where a request is made under subsection (2)—
> (a) the prescribed body may specify a time within which the request must be complied with; and
> (b) the prescribed body may, if it thinks fit, grant an extension of the time specified under paragraph (a).

Section 37, the provisions that I just read out, is applied generally for a prescribed body under the Development Act. Section 37A provides that the commissioner may specify a time within which a request must be complied with, and presumably he would be expected to take the lead from the Development Act. The point that has been made to me is that, if the commissioner were to act unreasonably and put too tight a time frame on obtaining information, it is likely to end up as an appeal, anyway. If he did not give a reasonable time frame, one would expect an appeal. One would expect the commissioner to act reasonably, because it is in his interest not to create grounds for an appeal.

The Hon. J.F. STEFANI: Let us assume that a large block of land at Wingfield (or any other area, for that matter) is owned by a trust, the trust applies to the local council to erect a four metre high brick fence around it and the local council is not able to determine what the final purpose of this brick fence will be. According to this legislation, the relevant authority, that is the council, may have reason to believe that the proposed development may involve the creation of a fortification. I put it to the minister that the erection of a three or four metre high brick fence around a property would fall under that definition. Therefore, we would have the local authority not being prepared to take the chance of saying, 'Yes, we will approve the development', because it would involve a brick fence—and people are entitled to put a brick fence around their property—and a trust, and it is very difficult to find out who the beneficiaries of the trust really are.

In those circumstances, it refers the application to the commissioner, which is what this legislation requires. The commissioner must, as soon as possible after receiving the referral, assess the application to determine whether or not the proposed development involves the creation of a fortification. I put it to the minister and the government that building a fence around a block of land is creating a fortification, because how on earth would you otherwise interpret the purposes of creating a fortification? And how on earth will you find out what the trust will use it for if the trust says, 'Well, I just want to protect my property'?

The Hon. P. HOLLOWAY: Under section 37A(1), the authority—in the case cited by the honourable member, the local government body—must refer the application for consent or approval to the commissioner. Obviously, the police have an intelligence gathering capacity and one would hope that that would be sufficiently accurate for the commissioner to determine whether behind that trust was some outlaw organisation or some criminal organisation.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I was coming to that. The police commissioner has to determine, as the honourable member said, whether or not the proposed development involves the creation of a fortification. It is not just the fact that it is a brick fence, because the definition of 'fortification'

means any security issue that involves a structure or device forming part of or attached to premises that, first, is intended or designed to prevent or impede police access to the premises, or, secondly, has the effect of preventing or impeding police access to the premises and is excessive for the particular type of premises. Obviously, that is something that the police commissioner would judge based on the police intelligence information. The point is that, if the police commissioner cannot establish that and he knocks back the application, it almost certainly would be appealed. There is the protection. Unless the police commissioner has sufficient grounds for justifying his decision, it would be subject to appeal.

The Hon. J.F. STEFANI: Is the minister saying to the parliament that client confidentiality, whether it be a solicitor, an accountant or any other professional person, will go out the window? I find unacceptable the notion that, because of a suspicion, this legislation provides the opportunity virtually to bypass every individual's rights and other rights which we as a community have always had and which are enshrined in our democratic system.

The Hon. P. HOLLOWAY: The government is not saying that it will be easy to prove that a fortification exists, that is, that some structure is designed to prevent or impede police. There would have to be some very strong intelligence from the police perhaps from operations involving criminal activity. In the example given by the honourable member, they might come across information that the trust was associated with some criminal gang and it appeared that, for whatever reason, there was evidence that they were looking for premises for criminal activity; then, presumably, the police commissioner would act. Of course, if it was appealed, he would have to be able to demonstrate that that definition was met, that is, that the reason for building that structure is to impede police access.

The Hon. J.F. STEFANI: Will the minister indicate how many fortifications the government expects to be removed as soon as this legislation is passed? Does the minister foresee that the commissioner will require specialised support staff and human resources to become the arbiter in determining the building of a fortification? As I see it, the commissioner will require some very specific knowledge in assessing the applicant's documents, which might include calculations and technical details concerning the foundations, the steel reinforcement, the structure of pillars and whatever else.

The Hon. P. HOLLOWAY: Obviously, the commissioner believes that he is the one who should have this power to determine whether a fortification exists, that is, a fortification in terms of this definition, and the structure is there to impede police access. He believes he should have the power so that others, who might be vulnerable to intimidation, are not put in that position. The commissioner supports the fact that he should have this power. My understanding is that he has not expressed any reservations about how this might operate.

I indicated in my response during the second reading that Western Australia had introduced this bill last year. I believe there were one or two applications pending, so based on that one might expect there would not be too many of these applications. The answer has to be that at this stage we do not know because it is up to the police commissioner to determine that. Based on that experience, we can expect there might be a small number.

The Hon. J.F. STEFANI: The minister is saying there are possibly two pending applications for fortification, which are identified to be around properties that are used or owned by outlaw bikie gangs. He does not know of other fortifications the police commissioner may require to be removed when this legislation is passed.

The Hon. P. HOLLOWAY: The point that needs to be made is that the commissioner has to satisfy an independent court, not the government, whether action should be taken against proposed or existing premises. It is a matter of the police commissioner satisfying the court, not the government.

The Hon. J.F. STEFANI: The government is asking the parliament to pass legislation to enable the police commissioner to do certain things. The minister has just said that he is not aware whether the police commissioner has any need to have this legislation so he can enforce the removal of fortifications. Certainly, he has indicated that the commissioner may have the need to invoke the legislation to prevent possibly two applications to erect fortifications.

The Hon. P. HOLLOWAY: Let me correct the honourable member's understanding. I was talking about Western Australia. I said that I understand that in Western Australia the law was passed in 2002 and there were a couple of applications. I am using the Western Australian experience to try to answer the honourable member's question. If there are two applications under a law that has been around for a year in Western Australia, that might give us some idea of the number of times this law will be used here. Obviously, we will not know until the bill is passed. I made the point earlier—and the Premier in his ministerial statement pointed this out—that there have been arrests and goods seized from all five bikie gangs.

The particular concern of the police was not so much access but the time it takes, and the fact that time provides the opportunity to hide or destroy evidence. The police concern is access to evidence rather than, ultimately, being able to gain access to premises. The difficulty is getting access speedily before evidence can be destroyed. That is the issue.

Clause passed.

Clause 8.

The Hon. P. HOLLOWAY: I move:

Page 4, after line 23—
After 'has' insert:
, or could have,

This amendment expands the definition of fortification in new section 74BA of the Summary Offences Act to ensure that criminal organisations cannot circumvent the fortification removal order by providing to the police a temporary means of access or a promise of access to fortified premises. Members would be familiar with recent reports in the newspaper that motorcycle gangs had sent electronic controls for their gates to the Commissioner of Police and the Premier. The comments accompanying this stunt indicate an intention on the part of these gangs to frustrate the operation of the legislation. The government has no intention of allowing criminals to prevent a fortification removal order being issued by providing to the police temporary access in the form of a key or electronic device that can be revoked easily, for example, by simply changing a lock, or a hollow promise of access to fortified premises.

This amendment will add the words 'or could have' to subparagraph (b) of the definition of 'fortification' so the definition will include a security measure that has the effect, or could have the effect, of preventing or impeding police access to premises, whether or not the police have been granted temporary access by the occupiers, through the provision of a key or remote control device or otherwise, or because a promise of access has been made by the occupiers.

It will be sufficient if the security measures could be used to prevent or impede police access to the premises. Although this broadens the definition of 'fortification', it does not detract from the safeguards built into the new provisions.

The security measure or measures must still be excessive for the particular type of premises. Before issuing an order, the court must still be satisfied that there are reasonable grounds to believe that the fortified premises are being, have been or are likely to be used for or in connection with the commission of a serious criminal offence; or to conceal evidence of a serious criminal offence; or to keep the proceeds of a serious criminal offence; or that the premises have been fortified in contravention of the Development Act. I commend the amendment to the committee.

The Hon. R.D. LAWSON: The opposition supports the amendment.

The Hon. A.J. REDFORD: I made some comments about the definition of fortification. I note that the minister attempted to respond to them. The only reason I am not jumping up and down, and the only reason I did not sit with the Democrats in relation to this, is that it is my understanding the definition of fortification is covered by this overall term of 'security measure'. Will the minister explain why the term 'security measure' appearing in the first line of the definition was not defined at all?

The Hon. P. HOLLOWAY: My advice is that the assumption is that the court will take just the general meaning of the term 'security measure'. It is a commonly used expression and it should not create any problems, according to the interpretation of it. It is a security measure that involves a structure or device to form part of or attached to premises. In other words, we are happy to leave it to the courts for their determination. That is the short answer.

The Hon. A.J. REDFORD: I will make this comment because I have no doubt in my mind that I will be back here saying, 'I told you so.' I will put it in this context. This is a piece of legislation that impinges upon the rights of potentially ordinary people, be they bikie gang members or not. At the end of the day, we all subscribe to the principle that people are innocent until proven guilty, notwithstanding ministerial statements, front pages and other assertions.

One of the rules in the law I do understand is that provisions such as this are always construed against the person to whom it may be directed. It is a principle that, if a law is passed—a criminal sanction, for example—the courts will always interpret it as narrowly as possible on the basis that it is assumed that parliament does not lightly take away people's rights. The point I make is that the term 'security measure', in the absence of any definition, will be interpreted extremely narrowly by the courts. Just as successive governments have grappled with the lack of success in relation to confiscation of profits, because courts have taken a very narrow definition of what we pass through this place, I am of the view and believe that the term 'security measure' is the one term that lawyers and courts will seize upon to ensure that these provisions are not used in any broad sense.

The Hon. P. HOLLOWAY: I guess time will tell.

The Hon. R.D. LAWSON: Proposed section 74BB(3) provides that a fortification removal order may be issued on an ex parte application, and that would have to be an application of the commissioner. An ex parte application is one in which the other party or parties with an interest in the proceedings are not necessarily notified of the proceedings. Can the minister indicate why the government did not include in this bill a requirement that the fortification removal order could only be made if prior notice had been given to persons affected by the order?

The Hon. P. HOLLOWAY: My advice is that the government believes that there are adequate protections in place, firstly, in relation to the matters expressed in section 74BB(1). That provides some safeguards, namely, that the premises named in the application are fortified. Paragraph (b) provides that they have to be created in contravention of the Development Act or there are reasonable grounds that the premises are being, have been or are likely to be used—under the three conditions that I have mentioned so many times today—for or in connection with the commission of a serious criminal offence, or to conceal evidence of a serious criminal offence, or to keep the proceeds of a serious criminal offence. So, there is that protection.

Further, under section 74BE, there is a right of objection. So, a person on whom a fortification removal order has been served may, within 14 days of service of the order, lodge a notice of objection with the court. That is another layer of protection. Ultimately, under section 74BG, there is the right to appeal. We believe that that suite of measures provides adequate protection.

Amendment carried.

The Hon. A.J. REDFORD: I draw the minister's attention to proposed section 74BB(1), and in particular line 16. The minister will observe that, if certain events happen in paragraphs (a) and (b), the section goes on to state that the court may issue a fortification removal order. Is the use of the word 'may' in that section mandatory or discretionary?

The Hon. P. HOLLOWAY: Discretionary is my advice.

The Hon. A.J. REDFORD: Other than the matters set out in paragraphs (a) and (b), in the exercise of the discretion, can the court take into account other matters?

The Hon. P. HOLLOWAY: The answer is that governments or parliaments do not usually direct courts to do things, but our expectation is that the matters set out in that measure would be necessary and sufficient conditions for the courts to make their determination. It is probably not a good idea to unnecessarily fetter the courts.

The Hon. A.J. REDFORD: In light of that, can the courts take into account factors other than those matters mentioned in paragraphs (a) or (b)?

The Hon. P. HOLLOWAY: It is not the intention of the government that that should be the case, if that satisfies the honourable member. We do not believe it would and it is not our intention that it should do so, but I suppose that courts tend to do what they want to do.

The Hon. A.J. REDFORD: We are passing laws here, in case the former attorney does not realise it, and I am trying to get to the bottom of what parliament is intending. Is it the understanding of the government that, within the meaning of the legislation that the government wants us to pass, with the use of this word 'may' the courts can take into account matters other than (a) and (b)?

The Hon. P. HOLLOWAY: No is the answer to that question.

The Hon. A.J. REDFORD: Will the minister then explain to me why he said earlier in answer to a specific question for which he sought advice that the word 'may' was discretionary? Why is the word 'must' not there so that it is beyond question?

The Hon. P. HOLLOWAY: I am informed that it is not usual drafting practice to instruct. My new advice is that the

courts may take into account other factors if they believe they are relevant. We are trying to think of an example.

The Hon. A.J. Redford: All I want is an answer to that effect.

The Hon. P. HOLLOWAY: It is at the courts' discretion, but it is our belief that it would be unlikely and unusual circumstances where they would wish to consider matters other than within those parameters.

The Hon. A.J. REDFORD: Given that answer, will the minister now apologise to this place and to me for the response he gave in his second reading speech? Specifically, he said that the courts cannot take into account other matters in response to a suggestion on my part that the courts could take into account other matters.

The Hon. P. HOLLOWAY: I will just go through what I said.

The Hon. A.J. Redford: Just a simple apology and I will not take it further. You might want to think about this.

The Hon. P. HOLLOWAY: Just let me see what I said. I said that the court has no power to issue a fortification removal order in respect of any device, even where it meets the definition of fortification, unless the court requires an extremely high level of security. Was that the definition? I will try to find the comments the honourable member is referring to.

The Hon. A.J. REDFORD: Perhaps to refresh the minister's memory, I will refer the minister to what I said on page 379:

> The fourth issue that I wish to raise is the grounds upon which an objection can be lodged. Proposed section 74BE does not state the basis upon which a matter would be considered, nor does proposed section 74BG, which sets out the rights of appeal. All this legislation does is give the property owner a right to object and a right to appeal. But it does not say the basis upon which a court will or will not allow an appeal.

This is specifically what I said:

> The only source of comfort that might be granted to such a person is that clause 74BB(1) provides that the court may—and I emphasise the word 'may'—issue a fortification removal order.

In a speech made earlier this afternoon, the minister, on the advice of his advisers, said that the only consideration is those matters set out in (a) and (b). When I asked the minister what is meant by the term 'may', he said that it is discretionary and can possibly refer to paragraphs (a) and (b). The minister cannot have it both ways: either his response to me this afternoon was incorrect, or 'may' is directory and does not give the court any discretion. It is one or the other but, either way, the minister has given an incorrect answer.

The Hon. P. HOLLOWAY: In relation to 74BF(1), it provides that the court 'must'. Subsection (2) provides:

> The Court must, when determining a notice of objection, consider whether, in the light of evidence presented by both the Commissioner and the objector, sufficient grounds exist to the satisfy the Court as to the requirements of section 77BB(1).

Is that what you are referring to?

The Hon. A.J. REDFORD: No. I apologise; I have probably given the minister too much information, so that it gets confusing. In my statement yesterday I said this:

> The only source of comfort that might be granted to such a person is that clause 74BB(1) provides that the court may—and I emphasise the word 'may'— issue a fortification removal order. It does not set out any facts or circumstances that a court may take into account in determining whether or not such an order is to be made. Subject to any advice from the government, I can only assume that a court has a complete and unfettered discretion as to whether or not such an order is made.

In his contribution this afternoon, the minister said that the proposition I made yesterday is wrong. That is fine. The minister is entitled to say that I am wrong, that there is no discretion. Therefore, if the minister is correct in relation to what he said this afternoon, the only thing that needs to be done in relation to a fortification removal order is, first, to demonstrate that the premises are fortified (and that is defined); and, secondly, that the fortifications are either in breach of the Development Act or there are reasonable grounds to believe that some sort of serious criminal activity is involved. That is it.

In committee this afternoon, I asked the minister, 'Can you go any further than that?' The minister said, 'Yes, you can.' Now, one answer is correct: either what he said in his second reading reply or what he said in his answers to the questions I put just then.

The Hon. P. HOLLOWAY: The honourable member can correct me if this is not the part to which he was referring, but I think that the relevant part of my statement is as follows:

> The Hon. Mr Redford suggests that the legislation does not state the basis on which a court determines a notice of objection to a fortification removal order or an appeal against a determination on a notice of objection. I draw members' attention, first, to proposed section 74BF, subsection (2) of which provides:
> The court must, when determining a notice of objection, consider whether, in the light of the evidence presented by both the Commissioner and the objector, sufficient grounds exist to satisfy the court as to the requirements of section 74BB(1).

Perhaps the honourable member thought that, when I made those comments earlier, I was referring only to the provisions of 74BB when, in fact, I was drawing the attention of members to proposed section 74BF(2). Look, we could go on all day. If I did say anything that contradicted what I have subsequently said, I apologise to the honourable member. It would be helpful if I could find the exact statement. As I said, if I have contradicted myself, I apologise.

The Hon. A.J. REDFORD: I accept the minister's apology, I understand that if there has been any error on his part it has certainly been based entirely upon the advice given. But, in relation to that advice and those advising him, the points I make in some of these speeches I make quite seriously, and I make for the benefit of the people. But to sit there and glibly dismiss them will often lead to exchanges and time taken such as have occurred in the last half an hour. I accept that the minister does not have any direct personal blame in relation to that. I just wish that some of the advisers would take what we say a little more seriously.

The Hon. P. HOLLOWAY: It may be that I did not do it. Let us not waste time on it now.

The CHAIRMAN: Information that is provided by the advisers is to assist the minister. Advisers are unable to answer, and it is pretty rough when members make attacks, and I say that within the confines of reason.

The Hon. A.J. REDFORD: They attacked me.

The CHAIRMAN: Order! I am in the chair. I think that we need to get back to the basic standards of the parliament where attacks on advisers are not made on the *Hansard* record. Advisers are unable to answer. I know that members can get frustrated.

The Hon. P. HOLLOWAY: I think that we were talking about different things. I was talking about section 74BF(2) and the honourable member, obviously, was talking about 74BB(1). Let us not waste any more time on it.

The CHAIRMAN: These are matters that you can handle in the lobbies.

The Hon. R.D. LAWSON: May I indicate why I support section 74BB(1)? As a discretionary power that is given to the court, it can be exercised only if the conditions set out in the section are first satisfied. However, even if those conditions are satisfied, the court is not required to issue a fortification removal order. For example, one of the conditions is that the premises have been used for a criminal purpose. Let us say they have been used for such a purpose but have been sold to the Catholic church for use as an orphanage and are no longer proposed to be used for some unlawful purpose. Clearly, the conditions have been satisfied but the court, in those circumstances, takes into account that that additional matter would not exercise the discretion which the court has to issue a fortification removal order.

It is a discretionary power that would be required to be exercised judicially, as are all discretionary powers granted to courts. I am satisfied that this is an important element and one which is essential in a provision of this kind. Will the minister confirm, for the committee, that these provisions relating to fortification removal orders will apply retrospectively? In other words, existing premises may be the subject of a fortification removal order.

The Hon. P. HOLLOWAY: Yes, they can. I will move my next amendment—

The CHAIRMAN: Order! If honourable members want to have discussions, disputes or arguments, they will use the lobbies and not the chamber. It lowers the demeanour and dignity of the council.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 30—

Insert:

(4) If disclosure of information included in the affidavit would be in breach of an order of the Court under section 77BB(5), an edited copy of the affidavit, from which the information cannot be disclosed has been removed or erased, may be attached to the fortification removal order.

Under proposed subsection 74BB(4), the Commissioner must verify the grounds on which a fortification removal order is sought by affidavit. Under proposed subsection 74BC(3), a copy of the affidavit must be affixed to the order once made. This is to ensure the occupiers or owners of the premises are fully aware of the grounds on which an order has been sought and made. However, this is not permitted if the affidavit contains information that is the subject of a confidentiality order made by the court under proposed subsection 74BB(5). The prohibition on affixing an affidavit that contains confidential information is absolute. This reflects the sensitivity associated with the type of information that could be the grounds of a confidentiality order, namely, information the disclosure of which might prejudice an investigation of a contravention or possible contravention of the law, or enable the existence or identity of a confidential source of information to be ascertained, or endanger a person's life or physical safety.

During the debates in another place, the opposition asked the Attorney-General to consider amending proposed section 74BC to enable an amended copy of an affidavit from which any confidential information has been deleted to be affixed to an order. The Attorney indicated at the time that he was happy to consider such an amendment. New subsection (4) will enable a copy of an affidavit from which information that is the subject of a confidentiality order has been deleted or erased to be affixed to the order.

The Hon. R.D. LAWSON: The opposition supports this amendment.

Amendments carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

SOUTHERN STATE SUPERANNUATION (VISITING MEDICAL OFFICERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 October. Page 312.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to indicate support for the second reading of this bill. The bill is relatively straightforward. The government has advised that the trustee of the Visiting Medical Officers Fund has decided to wind up the fund principally because its small size makes it difficult to compete against larger funds on a cost per member basis. We are advised that the trustee's decision has been endorsed by the government and that, in fact, from 1 July this year no further contributions have been paid into the fund.

We are also advised that the visiting medical officers have been given the option of rolling over their accumulated balances into a fund of their choice. I note that the second reading explanation speculated that a large number of VMOs were expected to roll over their accumulated balances to the government's triple S scheme. In a subsequent briefing, government advisers indicated that they believed that about 40 per cent of the accumulated balances had been rolled over into the triple S scheme and that 60 per cent of the accumulated balances had been rolled over by VMOs into their own private sector superannuation schemes. The visiting medical officers had the option of either rolling over into the government's triple S scheme or into their own private superannuation scheme and, as I said, we are advised that 60 per cent of the accumulated balances have now gone into private superannuation schemes.

The bill proposes the repeal of the Superannuation (Visiting Medical Officers) Act 1993 and amends the Southern State Superannuation Act 1994. There are a number of technical provisions in the legislation which the opposition supports and, based on the briefings and the advice that we have been given—in particular, that the Salaried Medical Officers Association (SASMOA) has been fully consulted and has indicated its support for the proposed changes in the bill—the opposition indicates its support for the second reading.

The Hon. G.E. GAGO secured the adjournment of the debate.

EMERGENCY SERVICES FUNDING (VALIDATION OF LEVY ON VEHICLES AND VESSELS) BILL

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

STATUTES AMENDMENT (INVESTIGATION AND REGULATION OF GAMBLING LICENSEES) BILL

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

ADJOURNMENT

At 5.42 p.m. the council adjourned until Wednesday 21 October at 2.15 p.m.