HOUSE OF ASSEMBLY

Wednesday 26 November 1986

The SPEAKER (Hon. J.P. Trainer) took the Chair at 2 p.m. and read prayers.

PETITION: CAMDEN SCHOOL NOISE

A petition signed by six residents of South Australia praying that the House legislate to better protect the Camden Primary School from noise pollution occurring along the adjoining boundary of industrial land was presented by Mr Becker.

Petition received.

QUESTION TIME

MARIJUANA

Mr OLSEN: Will the Premier modify the Government's position concerning on-the-spot fines for marijuana offences by incorporating the proposal of the member for Price that second or subsequent offences of possessing marijuana be liable to a court appearance? It has been revealed today that the member for Price intended to move an amendment to the Government's Controlled Substances Bill to this effect when the matter was before Parliament. He was advised by the Government Whip that his amendment could not be put before the Parliament, because it was 'too late'. The member for Price has also confirmed that an attempt to discuss his amendment with the Health Minister was foiled because the Minister was 'too busy'.

Some Government and Independent Labor members have said today that they would have supported the amendment of the member for Price. In view of the somewhat bizarre manner in which the Government's on-the-spot fines proposal eventually passed in this House, and the apparent prevention of the member for Price from moving his amendment, will the Premier now modify his position to allow the views of the majority of members of this House to be expressed?

The Hon. J.C. BANNON: It is a pity that the Opposition relies on media reports on which to base their lead question of the day on a matter of the greatest public importance. This matter has been fully canvassed in this House and it is about time that we got on to something else. It is a waste of Parliament's time—

Members interjecting:

The Hon. J.C. BANNON: There was nothing bizarre about the vote in this place. My Party allowed Government members to have a conscience vote on this issue.

Members interjecting:

The Hon. J.C. BANNON: The Liberals, however, laid down the whip.

Members interjecting:

The SPEAKER: Order! I call the honourable member for Goyder to order. The honourable Premier.

The Hon. J.C. BANNON: The Liberal Party, this great Party of free and independent view and individual assessment, laid down the law and some members opposite who know very well the commonsense of our legislation were forced to vote in order to save the fading image of the Leader of the Opposition. The problem of members opposite is the sort of problem that they got into over Eastern Standard Time. It is ludicrous that because of the rash actions of the Leader of the Opposition this matter has been turned into a Party political issue when in fact it was an issue for the betterment of the State. It is outrageous that in this case, where we allowed our members a conscience vote on the legislation, the Liberals, in order to politicise the issue, refused to do so.

That is the fact of the matter and the member opposite who sits there grinning and laughing had better read the paper about his colleague Mr Hassell, who has gone the way that he will be going before long. The same sort of clout and the same sort of negativism, which jumped up like a squeaking doll whenever the media wanted someone to give them a headline, is being evidenced from the Leader of the Opposition in this State. It is pathetic, and what is even more pathetic is that he demands from his colleagues that they give him absolutely unswerving devotion and vote on the floor with every stupid decision he makes. It is very interesting indeed, and there will probably be more of it.

On this issue, let me repeat that the Government does not intend to make any changes to the legislation, which has been properly passed. We will monitor the situation very closely to ascertain whether the horrendous effects that are prophesied take place. We will ensure that the legislation is fully understood and that it is not misrepresented; and, if at the end of that process amendments are called for, they will be made, as any responsible Government would do. I predict that the horrific consequences outlined will not come about, because what we have done was based on the soundest assessment of national and international experience in this area in order to fight drugs effectively. By the way in which members opposite have misrepresented this issue in this very limited area of the drug problem, they have provided a great deal of encouragement and pleasure to the drug peddlers and the other people we are after. Those are the only people who gain any consolation from the nonsense that is going on.

As to the media report, I do not know whether the member for Price said what was quoted for him. The Whip certainly recalls no such approach. A number of other members are not aware of any approach to ascertain what they would do in relation to this proposition. It is a contention being promoted by a particular branch of the media, and that is fine: it is open for them to do that. However, it does not reflect the Government's view, nor what in fact will happen.

TAB

The Hon. J.W. SLATER: Will the Minister of Recreation and Sport say what was the TAB betting turnover on the 1986 Grand Prix and what were the costs of marketing promotion and advertising by the TAB for the event? What additional costs were incurred which respect to staffing of agencies that operated on a Sunday and the outlets at the Grand Prix site? Has the final TAB distribution taken place and, if so, what are the results of that distribution?

The Hon. M.K. MAYES: I thank the honourable member for his question.

Mr Becker: There was a series of questions.

The Hon. M.K. MAYES: Yes; the member for Hanson has clarified the situation, and certainly there was a series of questions. Total turnover from the Grand Prix in both offcourse and oncourse investment was $168 507.50.

Mr S.J. Baker interjecting:

The Hon. M.K. MAYES: The member for Mitcham was obviously talking to the same bloke who gave the member for Bragg the information about the Grand Prix tickets,

because once again he is way off. It is easy to go back to *Hansard*. I am sorry, but he was way off beam.

Members interjecting:

The Hon. M.K. MAYES: Perhaps I should wait for an apology before I refer to something else. The TAB regards this turnover as fairly successful, given that it is the first time such action has been attempted. The costs involved in meeting the establishment and the successful running of the TAB facility on the day will achieve a good return. They will be met, and there will be a return to the Grand Prix in view of its role in promoting the TAB Grand Prix circuit investment. The final figures are not yet available, but I will inform the House when those figures have been calculated. There will probably be some alteration next year to the configuration and the number of TAB outlets because most of the demand came from the circuit itself. I expect that the TAB will provide a full report—not only in its annual report but also a report to me in relation to the overall structure of the TAB presentation for next year.

Some members and the general public have made comments on the configuration of the betting ticket. That probably will be simplified for those who may not be familiar with betting tickets and they will be able to use the tickets available for the Grand Prix. Overall, it has been successful. For a first-up occasion it certainly will meet costs and will bring some contribution to sport and the Grand Prix in this State.

CONTROLLED SUBSTANCES BILL

The Hon. B.C. EASTICK: Will you, Mr Speaker, as the custodian of members' rights, investigate the circumstances in which the member for Price claims that he was denied the opportunity to move an amendment to the Government's Controlled Substances Act Amendment Bill when it was before this House?

The SPEAKER: No complaint has been received from the honourable member concerned. I cannot therefore follow that course of action.

PARVO VIRUS

Mr De LAINE: Will the Minister of Agriculture advise what is the situation in relation to the possible spread of the highly contagious canine disease parvo virus into South Australia? Recently it was reported in the press that a leading South Australian veterinary surgeon had warned that this virus is currently sweeping Queensland and New South Wales and could spread to South Australia.

The Hon. M.K. MAYES: I thank the honourable member for his question.

Members interjecting:

The Hon. M.K. MAYES: I am sure the member for Light would be happy to do that. The canine parvo virus has existed in this State for some time, and I would not want to alarm the community about the potential for any outbreaks. The view is taken that it should be managed by the individual owner of the animal and should be watched by the vets who, with the owners, are responsible for those animals. The matter clearly must be left within the individual's control and certainly it is not a disease scheduled under the Stock Diseases Act. I would stress that it is not something about which the public should be alarmed. Although we know that canine parvo virus has existed in South Australia, it must be dealt with by people who have animals and who suspect that their animals may be suffering from the disease. I suggest that people not be alarmed and certainly, if there is any suggestion that their animal may have canine parvo virus, that they should urgently seek veterinary advice. The member for Light may be one of the people in the community who offers such information.

The SPEAKER: Before calling on the honourable member for Murray-Mallee I advise that questions that would otherwise have been directed to the Deputy Premier will be taken by the Minister of Transport.

MARIJUANA

Mr LEWIS: Will the Premier advise whether the State Government will increase aerial surveillance along and in the near vicinity of the River Murray and make further use of Landsat infra-red photography technology to identify marijuana plantations? I ask this question in view of the discovery in recent days of three very significant marijuana plantations, worth many millions of dollars, along the River Murray. Following these major discoveries by police, the head of the Drug Squad, Chief Inspector Moyse, said that South Australia had always been known as having the right climate for growing the drug. Whether that means the right climate in climatic terms as a geographer would describe it or in terms of the market, I am not sure—it is probably both.

Given the apparent popularity of the River Murray region for the growing of large quantities of this drug, no doubt destined for South Australian markets, I ask the Premier to indicate whether his Government is prepared to mount a full-scale assault on the growing of marijuana in this State by increased usage of all technology available to identify further illegal crops.

The Hon. J.C. BANNON: The Government responds to the advice of the police, and I will certainly refer the matter to my colleague the Minister of Emergency Services to see whether there is any merit in what the honourable member proposes.

Members interjecting:

The SPEAKER: Order! The honourable member for Bright.

ALTERNATIVE ENERGY TECHNOLOGIES

Mr ROBERTSON: Can the Minister of Mines and Energy indicate what steps have been taken during the past four years to promote and encourage the use of alternative, or soft, energy technologies? It has been put to me that a number of factors favour South Australia's use of different forms of soft energy. For a start, there are excellent sites on the west and south coasts for the generation of wind power, and it has been put to me that we might investigate the establishment of wind generators in those areas, particularly where they are near population centres. Secondly, it has been put to me that we have of course a number of sites for solar power. In South Australia we have a high level of insolation; we have a combination of low latitude and high angle of incidence, both of which favour the use of solar electricity and hot water generators; and, of course, away from the coast we have minimal cloud cover.

It has also been put to me that biomass plantations of wood adjacent to the Murray River and the enormous tonnages of straw and chaff left over from harvesting operations in the cereal belt might constitute the basis of a biomass production operation. Also, of course, methane is

already generated at the E&WS sewage treatment works at Glenelg, Port Adelaide and Bolivar, and I have been told that that energy is already fed into the ETSA grid.

In the light of those things and the potential of dairies and piggeries to also contribute to methane generation, I ask the Minister what steps have been taken to promote the use of soft energy technologies. Further, as the local company Gramall was one of the first solar water heater producers in South Australia, and since Beasley Industries is also a pioneer in that field, I ask whether the Minister can indicate what steps have been taken to promote these and other soft energy technologies.

The Hon. R.G. PAYNE: I thank the honourable member for the question and also for letting me know of his interest in this area, because it gives me the chance to bring the House up to date on the Government's activities in this area. I think I should begin by pointing out that until 1984 the Government had pursued a wide coverage of alternative energy technologies. This was no better illustrated than in the very wide and diverse energy research projects conducted under the auspices of the State Energy Research Advisory Council's annual grants programs. At the same time, the Energy Information Centre, which was a joint initiative offered at the 1979 election by the previous Liberal Government and the Labor Government as a place of public contact, has had considerable influence on energy technology. I suggest that there has been concentration there in relation to low energy building design, more efficient methods of heating and cooling buildings, and solar water heating (a matter referred to by the honourable member), and so on.

However, following the release of the Stewart Committee report on future electricity generation options in 1984 the Government shifted emphasis to technologies and issues of direct relevance to South Australia. Broadly, we are concentrating on those technologies which we believe are likely to be economically viable in some locations or are likely to have an impact, either immediately or in the medium term, on a recognised sector of the community. This new approach is designed to ensure that, in allocating resources and funding in today's tight economic times, we move in a balanced way to address specific South Australian regional problems relating to energy supply.

The honourable member referred to the use of wind power for electricity generation, and talked about some southern coast sites. I have advised the House on previous occasions that some 29 sites throughout South Australia (not only on the South Coast) are now being monitored, involving measurements being taken and recorded of wind velocity, frequency and direction, on a scale which I think probably could be said to never have been undertaken previously—certainly in South Australia if not throughout Australia. When sufficient data has been assembled (and that time is now) that information will be married up with the technology available in the wind generating area.

With the use of a computer and the digestive processes that can occur, the Government expects to be able to get answers which would be of great assistance to us in making decisions about an actual demonstration project—a working project—where we can be in the forefront of technology and continue to develop that form of soft energy, as the honourable member referred to it.

I mentioned earlier that, under the auspices of the Energy Research Advisory Council, we had pursued a rather wide range of energy research. I point out that something like $3.4 million has been expended since the inception of those programs in the 1970s up until now, and a very great amount of research effort has taken place. However, I think it is fair to say that there have not been commensurate results with respect to making use of that technology for the benefit of South Australians by way of commencing manufacture, creating employment, and so on. I had some concerns about that in recent times and a review has been conducted. I am very happy to be able to inform the House that we believe that in future we will target our research projects perhaps more tightly than we have in the past so that we can get a better result. I can inform the honourable member that some of that targeting will be in the direction of pursuing soft energy research.

BREAD PRICES

The Hon. E.R. GOLDSWORTHY: Does the Minister of Labour agree with the major bakeries that deregulation of bread baking hours will put people out of work and will increase bread prices by 18c a loaf and, if not, will he explain how consumers will benefit financially from this move and why he has changed his mind? I refer to the statement in this morning's *Advertiser* by the Manager of the Bread Manufacturers Association, Mr Bobridge, who said that bakeries had warned the Government that the move would lead to price rises and loss of jobs.

Members interjecting:

The Hon. E.R. GOLDSWORTHY: Well, let me finish. I have not quite explained the Minister's public stance on this, which might help members opposite. Mr Bobridge is one whom the Minister publicly supported when the matter was before Parliament previously, and on that occasion, in relation to a similar Bill, the Minister then said:

> I oppose the Bill.....which has superficial appeal because, to suggest that one can have fresh bread provided seven days a week seems good until one looks at what are the costs of obtaining fresh bread seven days a week.

Somebody interjected:

> Now is not the time.

Mr Blevins said:

> I intend to say that never is the time...If this Bill were passed, instead of fresh bread seven days a week there would be stale bread seven days a week.

That is what Minister Blevins said. Then he went on and referred to exactly what Mr Bobridge says today, by stating that it would involve 'increased costs and increased working hours for bakeries, with no benefit to members of the public'. He went on to laud Mr Bobridge, when he said:

> Mr Bobridge from the Bread Manufacturers Association in his first-class submission—

That is the same submission that he has made today. Then, not content with that total rejection of the Bill and stating that it would never ever see the light of day again, Mr Blevins went on to say:

> The cost of bread will increase....and the benefits will only be to large bakeries.

He wound up this total rejection by saying:

> . . . and a total lack of support will ensure that we will never hear of it again. We will not be plagued with it year after year, month after month, or election after election.

I ask the Minister: what has changed?

Members interjecting:

The Hon. FRANK BLEVINS: If members would be quiet, they might be entertained. As somebody not deeply committed to the Christian faith, I remember reading some time ago a quote from Bertrand Russell. Somebody said to him, 'You are a well known atheist, Mr Russell. When you die and arrive at the pearly gates, what will you say?' He said, 'I will say that I made an honest mistake.'

Members interjecting:

The Hon. FRANK BLEVINS: It is a very serious subject. That was a very fine speech which I gave and it reads very well indeed.

Mr Lewis interjecting:

The Hon. FRANK BLEVINS: That is not true. I, as we all do, regret for many reasons that times change. It really is as simple and as serious as that. Those people who want the *status quo* to be retained in effect say that they want metropolitan Adelaide to stay as an island of stagnation in a sea of change all around Australia and the world. It will not remain static. However desirable some people may think that situation to be, it will not occur. The problem with bread baking hours, as with a whole range of questions in the same area, whether they relate to shopping hours or liquor licensing hours, is that people's tastes and demands change and inevitably Parliament eventually has to react, even belatedly, to what the community demands.

In relation to the specific questions raised, one could present a very good case (as the union and Mr Bobridge have done) that it will cost jobs. One can argue also (and I am sure that the Liberal Party will have the other side of the case put to it) that it will create new opportunities—

An honourable member interjecting:

The Hon. FRANK BLEVINS: I will come to that in a moment—and that, where there is now a significant decline in the number of outlets and the number of people employed in the industry, if one wants to arrest that decline, as they have done in the other States, then one has to deregulate the industry to allow for people's tastes to be catered for in another way and thus create the opportunities in other areas. That is already occurring and I think that everybody—

Mr Ingerson interjecting:

The Hon. FRANK BLEVINS: We will come to the pharmacists in a moment. I hope that members opposite appreciate that people do not, to the same extent, purchase the sliced white loaf of bread. To a large extent people want freshly baked specialty breads for a whole range of reasons and, if the community says to them, 'No, you cannot have that,' pressures occur, as is the case here. Pressures are exhibited in a way that concerns me in relation to this matter in the form of illegal baking. Numerous establishments in the metropolitan area bake illegally. Do we use State resources to go in there and to force the law to the nth degree? I will give some examples in my second reading explanation, but I refer to breaking into premises, hauling people away and treating people as if they were criminals in relation to something which the community does not regard as a criminal offence.

If members opposite believe that the community sees the baking and selling of bread on Sunday as a criminal offence, that only confirms to me how much out of touch they are with the community. Regarding a price increase, the bakers cannot have it both ways even though they want to. They say that they will automate the industry and I have spoken with them about that. I said, 'Okay. If we don't deregulate, will you not automate the industry? Will you maintain the numbers in your bakeries?' They were honest and said, 'No. Of course, we will have to automate.'

They told me that, when the machines they are using at present are not economically viable, they will change those machines to more modern, labour-saving, automated bread baking machines. They are perfectly honest in that matter. If bakers say that they will automate when they are good and ready, they will be using less labour and, therefore, there is no necessity for an increase in price. In the *Advertiser* a few days ago it was reported that an establishment called the Wholesaler was advertising bread at 46c a loaf. I am not sure what mark-up is required for retailers but, if the wholesale price that is advertised in the *Advertiser* is 46c a loaf, I should have thought that there was a comfortable living in it for bakers and retailers with, say, a 50 per cent mark-up at the outside, and that bread would still be a whole lot cheaper than it is at present. If there is this huge margin that someone gets, why should the consumer not get it? A great deal more will be said in this debate before—

An honourable member: How about price control?

The Hon. FRANK BLEVINS: That is a question that is very much on the agenda.

Members interjecting:

The Hon. FRANK BLEVINS: Will the honourable member support the abolition of price control?

An honourable member interjecting:

The Hon. FRANK BLEVINS: He will; that is good. We now have a commitment from the Opposition that it will support the abolition of price control. I did not want this reply to develop into a second reading debate, although I admit that I am looking forward to that debate, because I want to see these people opposite squirm. They talk about being a free enterprise Party, about small business people, and about deregulation, but they could not deregulate a boiled egg in this place last week; they did not have the capacity to deregulate potatoes; and, if they cannot deregulate a loaf of bread in metropolitan Adelaide in 1986, I do not want to hear anything from the Opposition ever again about deregulation.

HOUSING IMPROVEMENT ACT

Mr DUIGAN: Can the Minister of Housing and Construction say what effect the transferring of the Housing Improvement Act back to the South Australian Housing Trust from the Local Government Department has had on the number of actions that have been initiated under that Act? I have been concerned at the public criticisms that have been made of the Housing Improvement Act in an attempt to blame that Act for the shortage of housing for young people in South Australia. Last week the Minister told the House that that Act, together with the Residential Tenancies Act, had been responsible for eliminating much slum housing and ensuring a fair deal not only for tenants but also for landlords. Since then, I have seen another media article from the Landlords Association in the *News* which continued the attack on that Act.

On 20 November, under the headline 'Outcry over low rental policy', the *News* article stated:

> A State Government policy which has 'deliberately' reduced available low-cost rental housing has been slammed by the SA Landlords Association.

I would therefore appreciate the Minister's account of the operation of the Housing Improvement Act since it was returned to the control of the Housing Trust by the Government.

The Hon. T.H. HEMMINGS: I thank the member for Adelaide for this question, which is very important in light of the comments made by the Landlords Association last week. I can understand the greed of the Landlords Association inasmuch as it wants to exploit people with low incomes by offering them substandard accommodation, but I can never really understand the stupidity of the association, and in particular of Mr Eddie, in attacking legislation that is 46 years old. This legislation was passed in 1940, and the basic thrust has stood the test of time. To my knowledge, only two appeals against a decision under the Housing Improvement Act have been upheld—two appeals in 46 years. In my opinion, that is an indication that the

legislation is serving the community of South Australia very well.

As I said in the House last week, it was the Hon. Murray Hill, a Minister in the Tonkin Government, who transferred the responsibility for the Housing Improvement Act from the South Australian Housing Trust to the Department of Local Government. I was in a little bit of strife last week when I questioned the motive but, to be quite fair, I believe that all members in this House would question the motives of the Government of the day in taking that action. I often wonder when a member of the Liberal Party who was in the Tonkin Cabinet will come across and tell me why that decision was made. It is interesting to note that, since the control of the Act was transferred back to the trust (one of the first actions we took in 1982), the rents of 848 dwellings have been revised following improvements. During the same period, the substandard classification for 964 houses was removed following satisfactory improvements to those dwellings. Those figures give a clear indication of the level of substandard private rental accommodation in this State at present.

During the period in which the Department of Local Government had control of the Act, not one action was initiated by the department under the control of the Minister of the day, who informed the public when he transferred control of the Act that that action would streamline its operation and make it work to the benefit of the people of this State. What the Hon. Murray Hill was really saying was that transferring control of the Housing Improvement Act from the South Australian Housing Trust would work to the benefit of slum landlords in this State. The only thing that has come out of that transfer is that the bank balances of slum landlords have increased over that time. That is the real reason why Mr Eddie is having a go at the Government at this time.

I question the attitude of members opposite. When I condemn or (in their word) impugn the former Minister for actions he took in this regard, members opposite jump up and down. The member for Victoria continually bleats to me about the standard of accommodation in his electorate office not being up to his standard, the standard that he perceives to be adequate (he wants imported carpets and imported curtains). That is the kind of thing we see from members opposite.

This Government believes in decent accommodation for people in this State. We will continue to work within the guidelines of the Residential Tenancies Tribunal and the Housing Improvement Act, and we will insist that people such as Mr Eddie of the Landlords Association maintain those houses for the benefit of people in this State.

Members interjecting:

The SPEAKER: Order!

LEARN TO SWIM CAMPAIGN

The Hon. JENNIFER CASHMORE: Will the Minister of Education consider reviewing the hourly rates paid by the State Government to instructors in the Education Department's learn to swim campaign? The Education Department has confirmed that the learn to swim campaign will be shortened, and in some cases abolished, in a bid to restrain spending by the department, despite the fact that this extremely valuable program is a cherished institution in South Australia, and is administered by only two officers.

The effectiveness of the learn to swim campaign has been demonstrated quite clearly through a large reduction in the number of drownings in South Australia—from about 60 in the early 1970s to about 15 this year. Average commercial rates of pay for swimming instructors employed in the private sector range from $7.50 to $8.50 an hour. Yet, the State Government pays its learn to swim campaign instructors rates as high as $22.05, three times higher than rates paid to private swimming instructors.

I put to the Minister that massive savings could be made, enabling a continuation of the full learn to swim campaign, if even a small reduction were made in the Government's pay rates to its instructors, who, after all, are employed with the welfare and safety of our children as a prime consideration.

The Hon. G.J. CRAFTER: Once again the honourable member has chosen to use the language in the way that misconstrues completely the reality of the situation. The honourable member said that the Education Department had confirmed that there will be a reduction in the program. That is completely untrue. On Monday of this week I received a report from the department recommending a number of ways in which that expenditure for this program can be contained. The difficulty has been that there was a very substantial overexpenditure in this program last year. The auditors within the Education Department have looked at ways in which this program, which is a very open-ended program by its nature, can be altered to bring about a containment of expenses.

I presume that the thrust of the Opposition's concern in this matter—from statements of the shadow spokesman on education which seem to be at variance with those of the honourable member who has just asked the question—is to seek additional expenditure in this program. I point out to all members that a very severe responsibility is placed on each of us as Ministers to maintain responsible expenditure patterns within our departments. Whatever the program we must ensure that they come in on budget. That is the prudent way in which this matter is being dealt with now by administrators in the Education Department.

The honourable member asks that we reduce the hourly rates paid to instructors. Although that is one of the matters being considered, I do not believe there is a great deal of merit in that proposal for many reasons that would be obvious to the honourable member. Once again, I will look at the recommendations in that area before finally reaching a decision.

South Australia spends some $2.9 million per annum on a water safety program for children, and this program is a national leader. I defy anyone to dispute the fact that we have the best water safety program in Australia. We are very proud of that as a State and as a State Government. That program will continue to be Australia's best resourced and developed program. It is unfortunate that the Opposition—and indeed today the Institute of Teachers—has decided to raise this as a political issue, to try to inflame the situation, to try to gain a few cheap points out of this program, and once again to attack education administrators in this State.

The budget, I repeat, has not been cut; it is a matter of containing additional expenditure, and I am currently considering the report to which I have referred. The main recommendation which is before me concerning the vacation program is that it be changed from 10 days to nine, in the interests of better financial management. This proposal has been fully discussed with the water safety bodies involved, including representatives of the swimming instructors, the Royal Life Saving Society and the Surf Life Saving Association. Indeed, if this recommendation is adopted, the Royal Life Saving Society intends to use the tenth day for testing for advanced awards, where previously

weekends were used. The major part of these important water safety programs, the aquatic and swimming programs during school term times, will continue to benefit all primary schoolchildren, while the overall program will benefit from improved financial management.

LOG STORAGE

Mr TYLER: Will the Minister of Forests tell the House how effective the log storage operation in South Australia has been? As members would be more than well aware, the 1983 Ash Wednesday fires caused tremendous losses in South Australia, particularly to Government forests. I understand that a large volume of logs was stored in a lake and under sprinklers. Accordingly, I think it would be appropriate for the Minister to report to the House on the effectiveness of this operation.

The Hon. R.K. ABBOTT: I thank the honourable member for the question. The log storage program in South Australia has created a very high level of interest, nationally and internationally. I am sure that everyone would agree that it is a very important program for the timber industry in South Australia. At the end of the 1985-86 financial year, 628 000 cubic metres of log had been extracted from water storage. The balance of log remaining is 379 000 cubic metres. This is located at Lake Bonney, in the South-East, at Penola forest reserve, which is under sprinkler, and at one site at Christies Beach. The Glenelg storage has already been cleared. It is hoped that the Christies Beach storage will be cleared early next year. Apart from some small pockets in the Adelaide storage areas, the log has remained sound and usable for a wide range of finished products. It has been essential, however, for the material once sawn to be kiln dried.

The Government expects that all land storage sites will be cleared by the end of February 1987, and Lake Bonney will contain only small volumes by the end of the 1986-87 financial year. The initiative taken to store logs has enabled the industry to function at levels of production similar to pre-Ash Wednesday 1983, and the local economies therefore have not suffered as they would have done had large volume of timber been declared unusable.

CORRESPONDENCE SCHOOL

Mr D.S. BAKER: Will the Minister of Education ensure that sufficient funding is provided immediately to the South Australian Correspondence School to enable the completion of educational material for use by children receiving distance education? The Correspondence School has employed five people this year to write courses in school assessed subjects of English, social studies, applied mathematics, biology and technical studies. That task has largely been completed, with those courses for children in isolated areas having been written.

However, the Education Department has not provided sufficient funding for the material to be printed for use by students. Some 12 months ago the department was aware that the minimum amount required for printing of the course material was $65 000. However, the only amount forthcoming from the department was $16 000, leaving a $49 000 shortfall. Concern has been expressed by parents of students of the Correspondence School about the destructive effect this decision will have on their children's education. They point out, quite rightly, that it will be very difficult to teach children without any printed material.

The Hon. G.J. CRAFTER: I thank the honourable member for his question, although I am not quite sure whether he has all the facts on this matter. I received a deputation yesterday from the Isolated Children's Parents Association and staff of the Correspondence School and officers of the Education Department, at which time we discussed some of the future plans for the development of the Correspondence School, and indeed distance education generally in South Australia. Some very exciting proposals are being advanced in this area, and next year quite substantial additional financial resources will be provided for the work of the Correspondence School. I do not know the precise figures or what those allocations will be for, but I will obtain that specific information for the honourable member.

I am quite confident that the priority given to and the excellent work done in distance education in South Australia will be continued and expanded and made more relevant to the needs of those children throughout the State who are required to study often in very difficult circumstances indeed. I have considerable confidence that we can continue to provide excellent services through the Correspondence School, and indeed bring into that sector of our State education system additional resources that will enhance our ability to communicate, particularly by using modern technology, with students right across South Australia, and indeed linking in with programs in other States. So, quite contrary to the honourable member's suggestion, I think all members can look forward with great confidence to the future work of the Correspondence School.

CAE SWIMMING FACILITIES

Ms LENEHAN: Will the Minister of Employment and Further Education have discussions with the administration of the Sturt College campus of the Adelaide College of Advanced Education to ensure that the public has adequate access to the college swimming facilities? Presently, there are no public swimming facilities in the Adelaide metropolitan area south of the Marion council swimming centre.

Members interjecting:

Ms LENEHAN: There are no public swimming centres. I understand from recent media reports that, while the swimming pool at the Sturt campus is available, it is available only on a limited basis and not after 5 p.m. Given the present daylight saving period, I ask whether the Minister will ensure that the public has adequate access to the swimming facilities at the Sturt campus?

The Hon. LYNN ARNOLD: I thank the honourable member for her question. I have also received approaches on this matter from the member for Fisher and the Minister of Mines and Energy, who have been concerned to receive approaches from their constituents about what seems to be a reduction in access to a facility that has been made available to the community for some time. At the outset I want to congratulate the South Australian college for the policy it has had over recent years of providing for public access to a number of the pools at its campuses. Indeed, three pools in campuses of the South Australian college are open for community access at various times. That being said, and realising it is not the prime function of the South Australian college to make available an asset that it has to pay for with attendants' costs and running costs, it also needs to be recognised that there must be a ceiling to which it must be contained in terms of the costs involved.

From advice that I have received from the South Australian college, indeed the costs have been rising quite markedly in terms of providing access. One of the reasons for

this is the change in the award rate for attendants who look after the pools while they are being used by the public. Previously, the rate was $5 an hour, but that rate has now varied quite dramatically and the public holiday rate has now gone up to $23.47 an hour.

It rises on Saturday afternoon to $18.78, so that is quite a large increase. If the previous hours of access by the community continued, the attendance cost at the Sturt campus would rise from $15 000 to $38 000. The projections are that last year's deficit of $55 000 would rise to $78 000 in the coming period if there were no variations to the hours. On that basis, a variation was made to the hours.

The hours which previously provided for Monday to Friday 6 a.m. to 6 p.m. and weekends 1 p.m. to 6 p.m. will now be varied according to the season, but at this stage it is 9 o'clock to 3 o'clock for school learn to swim campaigns; 3 o'clock to 5 o'clock for recreational swimming Monday to Friday; 7 a.m. to 1 p.m. on Saturday for clubs and organised groups; and 6 p.m. to 9.30 p.m. on Monday to Thursday for clubs and organised groups. Over the holiday period greater access to recreational swimming time will be available.

The point that I think needs to be made is that the college does have financial constraints. It must live within a very tight financial situation which has been created by Federal budget circumstances. It has to watch how much cost it is incurring as a result of this community access. It has been good enough—and I think sensible enough—to open up a facility that is provided by the taxpayers for community access, but I believe that, if these extra costs are to be contained, somebody else should have to bear them and that they should be borne either by fees on the swimmers (and the college doubts that it could get that back from swimmers paying the fees) or, alternatively, perhaps the local councils in the southern area could donate some money, because they are getting access to it. Other councils in other areas have to pay for their public swimming pools, so I think that that course should be adopted. I will undertake to write to the local councils in the southern suburbs and ask them whether they would be prepared to contribute financially to the running costs so that greater public access could be obtained.

HACKHAM WEST ROADWORKS

The Hon. TED CHAPMAN: Will the Minister of Transport investigate and report on the circumstances that led his Highways Department to committing itself this financial year to major realignment, upgrading roadworks, and the possible installation of lights at the junction of Gates Road and Main South Road, Hackham West? This question has arisen as a result of evidence given under oath by a planning engineer of the department during cross-examination before the Judge of the Licensing Court in May 1985, and was reflected again before the State Planning Appeal Tribunal at a later date and elsewhere.

The respective hearings related to an application to establish a new and modern tavern in the Hackham West region. The hearings canvassed the question of potential motor traffic movements. The engineer (Mr D.R. Chantrill) told the court under oath that there was no warrant for major works, even given the on-site existence of the tavern. He said that there was no listing of the project work in the department's five year plan. There is nothing in this year's budget to cover the major costs involved. The engineer also said, in reply to a question from His Honour at the court hearing (and I refer to the transcript of evidence):

> The works would not be warranted even if there was a fatal accident in the region of the junction, nor would it be warranted even if the tavern licensee applicant offered $50 000 to the department if given an assurance of licensed approval.

Given this background, in a letter dated 11 December 1985 the Commissioner of Highways called on the applicant to pay $10 000 as a condition of the licence issue to cover the actual costs of minor roadworks that were considered desirable in the region. In that letter the Commissioner stated:

> My department would undertake the design and construction of these works at the developer's expense. It is estimated that these works would cost $10 000. This amount would be required to be deposited with my department prior to the commencement of the works.

In a subsequent letter dated 24 June 1986, the Commissioner reaffirmed the position of the department on that issue. That letter, which went to the applicant's planning consultants, states:

> I advise that my department will undertake to complete the road improvement works, outlined in my earlier letter, within a period of 16 weeks upon the receipt of $10 000 from your client.

In a subsequent letter from the Commissioner, dated 15 October, only a few weeks ago, a dramatic and unexpected turnaround by the department is reflected, as that letter states:

> I advise that my department now proposes to carry out major reconstruction works at the junction of Gates Road/Main South Road . . . A contribution [from the applicant, whom I will not name] towards the works at Gates Road will not be required and reimbursement of the deposit of $10 000 for the originally intended works at Alveston Avenue can be anticipated.

On this issue, I cast no view on, nor do I comment on the merits or otherwise of, the tavern proposal, which is fully recognised as a matter that is strictly for the Licensing Court to determine. However, in an audience with the Minister yesterday, he intimated to me that he had not been aware of the tavern application or of the department's commitment to the major road works or the dramatic departmental turnaround as demonstrated in the Commissioner's two latest letters in particular (and they were less than four months apart), which indicated no interim changes in traffic movement of significance. The full transcripts that are referred to in this question are available to the House.

The Hon. G.F. KENEALLY: I thank the honourable member for his question. When he raised the matter with me late last evening I was not aware of the details that he has included in his question today but, as I imagine the honourable member would expect me to do, I have made inquiries this morning. The burden of the honourable member's question is why the Highways Department advice and work program on the intersection of Gates Road and Main South Road has changed in the past 18 months or so since the first approach was made to the State Planning Authority for approval for a tavern on Gates Road.

The Hon. Ted Chapman: Four months.

The Hon. G.F. KENEALLY: Yes, but the original proposal, according to what the honourable member has said today, was dated May 1985. The Highways engineer who gave evidence to the authority gave the best professional advice, as the Highways Department always does, and it was appropriate at the time. He was dealing with that intersection in isolation. In retrospect, however, one would have to say that the Highways engineer would not have been aware of the total change in the development of the region that the Main South Road services. Further, when this evidence was given before the commission, there would have been no money in the budget, because we were talking not about this year's budget but about last year's budget which, having been almost completely spent, contained no provision in any event.

The department subsequently looked at the total needs of the Main South Road and it has been the department's professional engineering advice, based on the development that is taking place there, the traffic flow, and other developments not far from Gates Road on which work is being undertaken, that it was a sensible proposition to include a major redevelopment of that intersection. That does not necessarily mean, as the honourable member suggested (and I would not be surprised if this were the real problem), that lights are needed at the junction of Gates Road and South Road.

The Hon. Ted Chapman interjecting:

The Hon. G.F. KENEALLY: I am not saying that. I am saying that there is an investigation going on there at present. As I, as Minister of Transport, and every metropolitan member of this House know, traffic lights are not handed out willy nilly. They must be justified and their warrant must exist. Very good reasons must be established for the installation of traffic lights anywhere because of the impact that they have on the traffic flow.

The Hon. Ted Chapman interjecting:

The Hon. G.F. KENEALLY: I have no idea what the honourable member is saying. He asked me a question and, if he does not like the answer, that is his problem. The fact of life is that the original advice that was given by the Highways engineer was given in isolation, considering only one area of Main South Road. Subsequently, there has been an overview of the total needs of South Road, and it is on that basis that the department's recommendations to me have changed. The road program will include an upgrading of this intersection. Both the original submission and the subsequent decision are based on the best traffic engineering advice that is available to the department and to me, and I have accepted that. If the honourable member wants to ask further questions about what will take place there after the final evaluation, I shall be pleased to give him that information when it is available to me.

PERSONAL EXPLANATIONS: VICTORIA ELECTORATE OFFICE

Mr D.S. BAKER (Victoria): I seek leave to make a personal explanation.

Leave granted.

Mr D.S. BAKER: I have been subjected to some of the most horrific allegations by the Minister of Housing and Construction and it is about time that the record was put straight. I think that the Minister accused me of bleating to him constantly about the fixtures and fittings in my electorate office. However, I would be the only member who does not have an electorate office. In fact, I have not had one for the past 10 months. When I was elected to the seat of Victoria, the electorate office that was then provided for the retiring member (Mr Rodda) happened to be 80 kilometres from my home and I suggested, in writing, to the Deputy Premier, who was handling the matter at that stage, that perhaps I should have an electorate office much closer to me in the township where I reside, which is 15 miles away from my home. The Minister of Housing and Construction, when I wrote to him about this matter, said, 'You cannot have an electorate office in your own town because that will mean paying rent from February 1986 to May 1987, when the lease expires. The Government will have to pay for that. It is $2 500 a year for that office; therefore, the total sum to be paid over the 15 months will be $5 000.'

At that stage I knew that I was not dealing with a great mathematical genius, but we battled on and finally, three months later, the Minister said, 'Yes. I have reconsidered the matter. You may have an electorate office in your town of Millicent.' For the past 12 months I have provided an office in my own business office, as well as the electricity and the photocopier. I can have an electorate secretary for only four days a week because there is no room for her during the rest of the week. That is what the Government has been saving over the past 12 months, yet the Minister gets up in this place and says that I have been bleating. I wish that he would step out of the House onto the street and make that allegation.

Members interjecting:

The SPEAKER: Order! The honourable member is entitled to make a personal explanation, but he is not allowed to debate the matter.

Mr D.S. BAKER: The sum allowed for the new electorate office is about the same as that allowed for all other electorate offices that have been refurbished in the past 12 months. Further, building a new electorate office with new partitions, and so on, is much more expensive than just refurbishing. I have a list of all the electorate offices that have been refurbished over the past 12 months, and most of them, especially in the case of the member for Fisher, have cost in excess of $35 000. So, there should be no query there.

However, when negotiations started and I saw the cost involved, I made representations to the Minister of Housing and Construction that the cost was ridiculous and that we should cut it down. The first thing that they refused to do was leave the existing back door on the office because they said that I had to have a solid door—a waste of $200. Further, I believed that spending $5 000 on air-conditioning was a waste, but I was told that the Minister had said that I must have it. I have a letter from the Minister which I received only a month ago after I had said that I did not want security in my office because it was in a country town and also a waste of money. I said that I did not think that $2 500 worth of security was necessary. The Minister said:

> I must also observe that I would be most reluctant to reduce security in any electorate office, including those located in the country. Many of the country members spend more time away from their offices than their city counterparts, and it is considered that this factor is an offset against the lower crime rates associated with country locations.

I cannot even understand that, and I would not ask other members to try to understand it. I was trying to save $2 500, but the Minister would not allow me to do so, yet he has the temerity to get up—

The SPEAKER: Order! The honourable member will resume his seat. He is straying too far from a personal explanation by raising other material that could perhaps best be raised, if he wished to pursue the matter, during a grievance debate.

Mr D.S. BAKER: Thank you, Mr Speaker. I have made telephone calls to the Minister, but he would not even agree to speak to me or see me. Therefore, I wrote to the Premier six weeks ago giving all the details, and I wrote again two weeks ago requesting to put all the facts before the Premier because I had not received a reply and because it was obvious that the Minister was trying to stall my getting into an electorate office this year. I demand—

The SPEAKER: Order! The honourable member cannot demand anything. He is making a personal explanation and he should be explaining to the House how he has been misrepresented. The honourable member's time has now expired.

The Hon. T.H. HEMMINGS (Minister of Housing and Construction): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.H. HEMMINGS: Given the comments made by the member for Victoria, I believe that the House should know the true facts of the situation. It is my responsibility in this Government to provide guidelines for the furbishing and location of electorate offices in this State. I believe that 99 per cent of the members who have had dealings with me or my office in requesting accommodation or furnishings for their electorate offices would say that they have been well satisfied.

At the election in December 1985, when the member for Victoria was declared the winner in that district, he contacted my office immediately and said that he did not wish to stay in the electorate office at Naracoorte. On 31 January 1986, the honourable member closed the Naracoorte office without advising my department and terminated the employment of the former member's personal assistant on the same day. The electorate office business was then conducted from the honourable member's private residence at Furner, which is 27 kilometres from Millicent.

In January the honourable member requested that he have two electorate offices—one at Millicent and one at Naracoorte—and additional staffing of .8 full-time equivalent positions within those offices. My department advised the honourable member that the Naracoorte premises had been leased to May 1987 and that $5 000 of Government money would be wasted if the lease was terminated. However, the department informed the honourable member that it would investigate the possibility of reducing costs by subletting the premises. In February 1986, the Department of Housing and Construction advised that there was no possibility of subletting the Naracoorte lease. I then advised the honourable member that he must remain at the Naracoorte office until the lease expired in May 1987. In April 1986, bearing in mind that—

Members interjecting:

The SPEAKER: Order! I call the House to order. The Minister's personal explanation will be heard with the same courtesy that the Chair endeavoured to have the House extend to the member for Victoria.

The Hon. T.H. HEMMINGS: Thank you, Mr Speaker. In April 1986, bearing in mind that the attitude of the member for Victoria in refusing to go back to Naracoorte could cause a problem for his constituents, I advised the honourable member that the department had been requested to investigate the availability of suitable premises in the Millicent area. I also advised that I was prepared to allow the honourable member to open the electorate office at Naracoorte two days a fortnight, given that his new personal assistant was employed for only 60 hours a fortnight and an additional 15 hours a fortnight was still available for an extra staff member to be employed.

In May 1986, I gave approval for negotiation of a lease for premises at 6 Davenport Street, Millicent. It appeared that the owner of the building had been holding those premises since February 1986 on the word of the honourable member, although my office and the Department of Housing and Construction had not been aware of that arrangement.

Mr D.S. Baker: That is a lie.

The SPEAKER: Order! The Minister will resume his seat.

Mr D.S. Baker interjecting:

The SPEAKER: I warn the member for Victoria.

Mr D.S. Baker: I'm not going to put with his lying.

The SPEAKER: Order! The member for Victoria will, first, withdraw the unparliamentary language he used. If the honourable member does not do so, I shall name him.

Mr D.S. BAKER: What would you like me to withdraw, Mr Speaker? The Minister is telling an untruth, then.

The SPEAKER: I ask the—

Mr D.S. BAKER: I withdraw the word 'lie'.

The SPEAKER: I call the Minister.

The Hon. T.H. HEMMINGS: Thank you, Mr Speaker. In September 1986 the honourable member requested the following fittings for his new office that were outside the guidelines established not only by this Government but also by Governments of another political persuasion: non-standard furniture to meet the request of an interior decorator that the honourable member had engaged to advise on the standard of his office furniture; a Commander T210 plus three stations, which was against the standard equipment of a T105 plus two stations; and an additional station for a secretary whom he would employ outside the normal guidelines of personal assistants in electorate offices. He explained to my department that he would be employing a secretary in line with his private business. I believe that those are the true facts, and I leave the House to decide who is right.

The SPEAKER: Call on the business of the day.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 6)

The Hon. G.F. KENEALLY (Minister of Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. G.F. KENEALLY: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Its purpose is to facilitate the use of photographic detection devices in the reduction of road accidents by introducing owner onus provisions to the Act. In the first instance it applies to red light cameras, but the Bill has been drafted in such a way as to allow for the future use of speed detection cameras, should the Government so approve, without requiring amendment to legislation.

Red light cameras were subjected to a trial in South Australia in 1984-85 and found to be an effective means of reducing accidents caused by red light running. A working group appointed by the Government reported on the implementation of a red light camera program in South Australia and recommended that a program be established. However, the working group noted that significant administrative difficulties had been experienced by the police in identifying the drivers of offending vehicles. This problem was also experienced in Victoria, which led to the introduction of owner onus legislation there in 1985. The working group recommended that owner onus legislation be introduced in South Australia before the commencement of a red light camera program.

Without owner onus legislation, police would be required to interview the owner of an offending vehicle to determine the identity of the driver. With a projected initial offence rate of 9 000 drivers per year, this would involve unacceptably high workload levels, and detract from the effectiveness of the cameras. The proposed Bill, by making the owner liable for an offence unless the owner can prove that he or she was not the driver, allows the automatic despatching of

traffic infringement notices by mail. Having received a traffic infringement notice, the owner can then take one of three courses of action:

(a) expiate the penalty by paying the fine within 60 days,

(b) supply police with a statutory declaration of evidence which would lead to the withdrawal of the traffic infringement notice;

(c) proceed to court.

Where the case proceeds to court, the owner has two possible defences:

(i) the offence did not occur, or

(ii) he or she was not the driver at the time.

However, where the owner is a body corporate, the latter defence is framed in terms of proof by the body corporate that no officer or employee of the body corporate was the driver at the time of the offence. Where an offence is found to have occurred under owner onus legislation, the person who expiates the offence or is found guilty of the offence will not be subject to demerit points or licence disqualification. This provision has been included because the Bill does not require the explicit identification of a driver.

However, the police can, if they wish, pursue a case without using the owner onus provisions of this Bill, that is, by using the interview method described above. This may occur in serious cases where identification of the driver is necessary for charges to be laid under other sections of the Act.

In addition to the present Bill amending the Act, changes to the regulations will be necessary. These will be made prior to the date of operation of this legislation. I commend the Bill to members.

Clause 1 is formal.

Clause 2 provides that the measure is to come into operation on a date to be fixed by proclamation.

Clause 3 provides for the insertion of new sections 79a and 79b. Proposed new section 79a provides that the Governor may, by notice published in the *Gazette*, approve apparatus of a specified kind as photographic detection devices, and, by subsequent notice, vary or revoke any such notice.

Proposed new section 79b makes provision with respect to the use of photographic detection devices in connection with certain offences. The proposed new section, by the definition of 'prescribed offence', sets out the offences against the Road Traffic Act in relation to which evidence derived from photographic detection devices may be used. These are as follows:

section 20 (4)—exceeding the speed limit at road works.
section 46 (1)—reckless or dangerous driving.
section 48—exceeding the general speed limit.
section 49 (1) *(a)*—exceeding the speed limit for towns, etc.
section 49 (1) *(d)*—exceeding the speed limit at school crossings.
section 50 (1)—exceeding the speed limit in zones.
section 53 (1)—exceeding the special speed limit for trucks, buses, etc.
section 75 (1)—failing to comply with traffic lights.

Proposed new subsection (2) provides that where a vehicle appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of one of the prescribed offences, the registered owner of the vehicle is to be guilty of a separate offence unless it is proved—

(a) that although the vehicle appears to have been involved in the commission of a prescribed offence, no such offence was in fact committed;

or

(b) (i) where the registered owner is a natural person—that the registered owner was not driving the vehicle at the time;

or

(ii) where the registered owner is a body corporate—that no officer or employee of the body corporate was driving the vehicle at the time.

The penalty for the new offence is to be the general penalty fixed by section 164a (2) of a fine not exceeding $1 000. Proposed new subsection (3) provides that a prosecution for the new registered owner offence may, where there is more than one registered owner, be brought against one of the registered owners or some or all of them.

Proposed new subsection (4) provides that before a prosecution is commenced for a registered owner offence, a traffic infringement notice must first be served on the registered owner and the registered owner must be allowed an opportunity to expiate the offence in accordance with the Summary Offences Act. Proposed new subsection (5) provides that, in relation to a registered owner offence, any traffic infringement notice or summons must be accompanied by a notice in a form approved by the Minister containing—

(a) a statement that a copy of the photographic evidence on which the allegation is based may be viewed on application to the Commissioner of Police;

(b) a statement that the Commissioner of Police will, in relation to the question of withdrawal of the traffic infringement notice or complaint, give due consideration to any exculpatory evidence that is verified by statutory declaration and furnished to the Commissioner within a period specified in the notice;

and

(c) such other information and intructions as the Minister thinks fit.

Proposed new subsection (6) provides that a traffic infringement notice or summons in respect of a prescribed offence is also to be accompanied by a notice stating that the photographic evidence may be viewed on application to the Commissioner of Police. Proposed new subsection (7) provides that where a person is found guilty of, or expiates a prescribed offence or a registered owner offence, neither that person nor any other person is liable to be found guilty of, or to expiate, a registered owner offence or a prescribed offence in relation to the same incident.

Proposed new subsection (8) provides that a person convicted of a registered owner offence is not, by reason of that conviction, to be liable to be disqualified from holding or obtaining a drivers licence. Proposed new subsection (9) provides evidentiary assistance in connection with the requirement for the issue of a traffic infringement notice prior to the commencement of a prosecution for a registered owner offence. Proposed new subsection (10) provides appropriate evidentiary assistance in relation to the use of photographic detection devices for the purposes of a prosecution for a registered owner offence or a prescribed offence.

Mr INGERSON secured the adjournment of the debate.

INDUSTRIAL CODE AMENDMENT BILL

The Hon. FRANK BLEVINS (Minister of Labour) obtained leave and introduced a Bill for an Act to amend the Industrial Code 1967. Read a first time.

The Hon. FRANK BLEVINS: I move:

That this Bill be now read a second time.

The present prohibition on the baking of bread in the metropolitan area of Adelaide on weekends was brought

into the Industrial Code from the Bakehouses Registration Act 1945-47. Since that time, with the exception of minor administrative changes, the only real variation occurred in 1970 with the adoption of the greater metropolitan area which extended the prohibited area so that it now pertains from virtually Gawler to Willunga in the north and south and the foothills of Adelaide to the sea in the east and west.

In 1974 a Bread Industry Inquiry Committee reported into the bread industry generally, and in 1983 an interdepartmental working party addressed the possible constitution of the Bread Industry Authority which among other matters would be responsible for the administration of the weekend baking hours in the metropolitan and/or country areas. The recommendations of those two inquiries were not translated into legislation, with the result that the *status quo* has remained.

The effect of the prohibition obtaining is that whilst baking is prohibited on weekends in the metropolitan area no such prohibition applies in the remainder of the State and a continuing and growing supply of bread to the metropolitan area on weekends by near country bakeries is intruding into the metropolitan bakers market with the result that some bakeries, particularly the smaller or family bakery, are knowingly baking bread illegally on weekends to sustain or maintain their business. In recent years, enforcement of the legislation by inspectors has become extremely difficult, the major reason being that some establishments are locked and do not allow access to premises for inspection purposes, thus avoiding detection of breaches and subsequent prosecution. In two instances, 15 inspectors were rostered on call-out to detect breaches of baking illegally in two separate establishments. There are other similar instances which involve the department in increased costs through rostering of inspectors on overtime as illegal baking is carried out outside of normal hours.

A public demand for the fresh product is demonstrated by the growth and widespread supply of country baked bread available throughout the metropolitan area on weekends. It is also widely accepted that even if not for general public consumption bread and rolls in particular are baked on weekends for use in hospitality establishments to enable the provision of a fresh product for consumption with meals. Aside from the local population, the ever increasing number of tourists to this State find the prohibition or unavailability of fresh bread on weekends at least quaint.

There appears to be little public support for the continuance of the legislative restriction on baking hours. That fact is evidenced by petitions signed by in excess of 14 000 persons within a three to four week period requesting the repeal of the current restrictions which I tabled recently in this House. It is obvious that the public generally requires access to the market at any time. Submissions from industry sources predict adverse effects on employment within the industry should the present restrictions be removed due to the speeded up process of automation and rationalisation within the industry to maintain profitability and market share. Such an argument implies that the removal of restrictions will be the base cause of such activity. That simple argument is untenable in the long term as the industry acknowledges that restructuring of the industry will occur in the future regardless of legislative control of hours. It is likely that such restructuring will occur over the next five to 10 years. Removal of legislative restriction will at most therefore be a catalyst in earlier industry change.

Available published data from the Australian Bureau of Statistics pertaining to the bread industry nationally does not support the view that employment or indeed the industry is assisted or maintained by the present South Australian restriction. First, between 1974-75 and 1984-85, employment declined in the bread baking industry proportionately greater in South Australia (17.1 per cent) than the national decline (9.6 per cent). Secondly, the number of baking establishments in South Australia declined from 65 to 55 (15.4 per cent) during the same period compared to a national increase from 849 to 886 (4.3 per cent). Thirdly, a greater number of persons are serviced by each baking establishment in South Australia than in Australia. Although the same trend was evidenced throughout Australia, it is significant to note that the percentage increase in the number of persons served per establishment during the period 1974-75 to 1984-85 has increased by a greater magnitude in South Australia than in Australia (26.2 per cent in South Australia as opposed to 7.3 per cent nationally).

Fourthly, on a national basis there were 247 establishments employing less than four people in the baking industry in 1984-85. However only five such establishments, well below our expected *pro rata* share existed in South Australia. That fact alone indicates that some factor is inhibiting the development of such establishments in South Australia. It is not unrealistic to assume that one of those factors is the restriction on baking hours which inhibits the development of hot bread shops and some in-store bakeries within the State. That view is substantiated when one considers the initial inquiries made of the Department of Labour which do not come to fruition in the establishment of such bakeries within the metropolitan area. The development of smaller establishments such as hot bread shops will provide employment opportunities which will partially offset the inevitable decline in employment in the bread industry.

It is acknowledged that without doubt rationalisation will occur in the industry upon the removal of restrictions. Further, some country bakeries which have developed a reliance on the weekend market in the metropolitan area will be adversely affected. That fact should be considered in the overall effect of this Bill in that the anomalous situation which prohibits metropolitan bakers particularly those most affected, the smaller bakery, from gaining access to its fair share of the metropolitan market would be removed. The passage of this Bill will remove one of the last vestiges of discriminatory legislation affecting the production of foodstuffs and will place the bread industry on the same operational footing as the cake and pastry industry which presently enjoys unrestricted hours of production. I commend the Bill to the House.

Clause 1 is formal. Clauses 2 and 3 are consequential amendments. Clause 4 amends the principal Act by repealing section 194. The effect of this amendment is to eliminate statutory regulation of the hours when bread may be baked in the metropolitan area. Clause 5 is a consequential amendment.

Mr INGERSON secured the adjournment of the debate.

FISHERIES ACT AMENDMENT BILL

The Hon. M.K. MAYES (Minister of Fisheries) obtained leave and introduced a Bill for an Act to amend the Fisheries Act 1982. Read a first time.

The Hon. M.K. MAYES: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

It provides for a number of amendments to the Fisheries Act 1982 to enable both the Government and the Department of Fisheries to more effectively meet the objectives of the Act as set out under section 20. Specifically, the amendments recognise the dynamic nature of fisheries management and the need to provide measures for the proper management and conservation of the State's aquatic resources. At present, persons charged with offences under the Fisheries Act 1982 are liable to forfeiture of any fish/devices (which were seized at the time of detection) following conviction by a court. However, there are two apparent deficiencies in section 28 of the Act, which deals with forfeiture provisions.

First, a court is not empowered to order forfeiture unless the person charged is convicted of the offence. However, there is provision under the Offenders Probation Act for a person who is found guilty of an offence to be released without conviction as a result of his good character, antecedents, age, health, mental condition, or the extenuating circumstances of the offence. If fish are taken illegally, the offender should not be entitled to return of the fish or compensation simply because he is granted the benefit of the Offenders Probation Act.

Secondly, during court action, the onus is put upon the complainant to obtain an order confirming forfeiture. Such matters are often prosecuted in country courts where police prosecutors are instructed to appear on behalf of the complainant. The danger of the prosecutor inadvertently failing to ask for such an order is apparent. If this occurred, the defendant would automatically have the right to claim compensation. Therefore, an order as to forfeiture made by the Minister of Fisheries or his delegate ought to remain in force unless revoked by the court.

The Bill proposes an amendment to section 28 to empower the court to order forfeiture of items if a person is found guilty of an offence but released without conviction; and to provide for a forfeiture order to remain in force unless revoked by the court.

Speed and flexibility are vital elements in situations where urgent fishing prohibitions must be implemented immediately as a result of chemical spills into the State's waterways. This necessity was highlighted during two recent occasions—the Gillman chemical spill in September 1985 and the Ral Ral Creek (Riverland) chemical spill in January 1986. It is essential for public safety that a prohibition on fishing be implemented immediately if there is any threat of toxic discharge/spillage being absorbed by fish, thus endangering human health. Accordingly, the Bill proposes an amendment to section 43 of the Act, whereby the Minister of Fisheries, by notice published in the *Government Gazette*, may declare that it shall be unlawful for a person to engage in a fishing activity of a specified class during a specified period. This will speed up response time by not having to obtain a proclamation through Executive Council as is presently the case.

Under section 48 of the Fisheries Act 1982 the Department of Fisheries has a responsibility to protect the aquatic habitat—which includes the bed of any waters and aquatic or benthic (bottom dwelling) flora or fauna. In general terms, section 48 states that persons cannot remove or interfere with aquatic or benthic flora or fauna—except take fish (where the term 'fish' is implied to mean fin fish, sharks, crustaceans, molluscs and annelids).

However, the Fisheries Act defines fish as 'an aquatic organism of any species . . . '—which encompasses sea grasses, algae, sponges, corals and the like. This broader definition of fish severely restricts the application of section 48 and is somewhat contradictory, in that persons could remove/interfere with species of sea grasses, algae, sponges corals, etc., causing eventual damage to the local ecosystem. Therefore the meaning of 'fish' in this section should be limited to fin fish, sharks, crustaceans, molluscs and annelids, which are the species commonly taken in recreational and commercial fishing operations.

Accordingly, the Bill proposes an amendment to section 48 whereby fin fish, sharks, crustaceans, molluscs and annelids are exempt from removal/interference provisions. The Department of Fisheries has a responsibility to protect the State's aquatic environment against the introduction of feral fish and exotic fish diseases. Certain freshwater aquarium fish have undesirable characteristics which owners of hobby aquariums need to be made aware of. Following discussions with aquarium and hobby traders in this State, agreement has been reached that a two category system for the trade of exotic fish will meet the Department of Fisheries' environmental responsibilities under the Fisheries Act 1982, whilst allowing a degree of flexibility for aquarium owners and traders.

However, although agreement was reached with the majority of aquarium traders, one particular operator has indicated that he does not intend to comply with the proposal, nor the present legislation. He claims that the importation of exotic fish into South Australia cannot be subject to such a limitation as section 92 of the Australian Constitution provides for free trade between States. The intention of the legislation is to provide a means of meeting the department's responsibility to protect the South Australian aquatic environment against the introduction of feral fish and exotic fish diseases, not to impose a blanket restriction on the interstate trade of fish.

Accordingly, the Bill proposes an amendment to section 49 to provide for a prohibition on the entry into the State of such exotic fish as is reasonably necessary for conservational purposes; and that all fish in South Australia that are non-indigenous are prohibited, except for:

(1) exotic fish listed in a category 1, which may be traded freely with no encumbrances; and

(2) exotic fish listed in a category 2, which may be traded, kept or held on receipt of a permit from the Director of Fisheries.

In providing the above explanation of proposed amendments to the Fisheries Act 1982, I would inform the House that both the South Australian Fishing Industry Council, representing commercial fishermen, and the South Australian Recreational Fishing Advisory Council, representing amateur fishermen, have been consulted and support the proposed amendments to the Act. I commend the measure to the House.

Clause 1 is formal.

Clause 2 provides for the commencement of this Bill.

Clause 3 amends subsection (9) of section 28 of the principal Act which deals with the forfeiture of things seized by fisheries officers and entitlement to recover compensation.

Paragraph *(a)* provides, first, for an order for forfeiture of a thing seized to be made by a court where proceedings for an offence against the principal Act are instituted within six months of its seizure and the person charged is found guilty of the offence, whether or not a conviction is recorded. (The existing provision requires a conviction.) Secondly, this paragraph removes the onus from the prosecution of confirming an order of the Minister for forfeiture and places a duty on the court to consider the question of forfeiture

and to either confirm or quash a ministerial order for forfeiture.

Paragraph *(b)* provides that a person from whom a thing is seized (or any person who has legal title to it) is entitled to recover, by action in a court of competent jurisdiction, the thing itself or compensation of an amount equal to its market value, where either no proceedings are instituted within six months of its seizure, or proceedings are instituted within six months but the person charged is found not guilty of the offence, or proceedings are instituted within six months and the person charged is found guilty of the offence but either no order for forfeiture is made or an order is made quashing a ministerial order for forfeiture.

Clause 4 provides for all temporary prohibitions placed on a specified class of fishing activity during a specified period to be effected by ministerial notice published in the *Gazette*. (The existing provision provides for a declaration to be made by the Governor by proclamation, except where the prohibition relates to abalone or western king prawn, in which case the prohibition may be effected by a ministerial notice published in the *Gazette*.)

Clause 5 amends subsection (6) of section 48 of the principal Act, by limiting the removal of or interference with fish from the waters of the State, to fin fish, sharks, crustaceans, molluscs and annelids. (The scope of the definition of the term 'fish' currently permits the removal of or interference with sea grasses, algae, sponges, corals, etc., which may be potentially damaging to the aquatic environment.)

Clause 6 amends section 49 of the principal Act by striking out subsection (1), which prohibits the importation of exotic fish (to which section 49 applies) into the State, and substituting two new subsections. Proposed subsection (1) prohibits the importation of exotic fish (to which section 49 applies) into the State except in accordance with a permit granted by the Director of Fisheries. Proposed subsection (1a) provides that the Director must determine an application for a permit for the purposes of section 49 in accordance with the regulations made under the principal Act.

The Hon. P.B. ARNOLD secured the adjournment of the debate.

STATUTES AMENDMENT (EXECUTOR COMPANIES) BILL

Second reading.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

Its purpose is to amend the enabling Acts of the five South Australian executor and trustee companies. The amendments are designed to enhance the ability of the statutory trustee companies to provide an efficient service for their clients and to compete on an equal footing within the extremely competitive financial markets. In essence there are four amendments made to each of the enabling Acts with the exception of the ANZ Executors and Trustee Company (South Australia) Limited Act 1985, in which case one particular amendment was not necessary.

First, the enabling Acts are amended to allow companies to charge against their common funds an administration fee. The companies have argued that the necessity to charge a fee has arisen from the deregulation of the financial industry and the increased competitiveness in the market. Trustee companies have been forced to increase salaries to attract the correct investment staff and have introduced sophisticated EDP systems. They have been forced to outlay more funds for advertising and improved investor reporting and have been open to increased audit costs both external and internal. The fee provided for in the Bill is equivalent to 1 per cent of the value of the fund per annum and is equivalent to the fees charged in Queensland, New South Wales, Victoria and Tasmania. The Western Australian fee is half a per cent but that dates back to 1974.

Secondly, the Bill contains amendments to the provisions relating to the valuation of common funds. At present the statutory trustee companies are required to value their common funds on the first day of every month. Payments out to clients during that month are then calculated on the basis of that valuation. This procedure was appropriate where investments were not volatile. However, companies are now offering cash management and equity funds which can be extremely volatile. If these funds are not valued at more appropriate intervals then investors can be disadvantaged depending on when they decide to withdraw from the fund. The fund itself may be subject to runs where the asset value has dropped, but payments out must be made on an inaccurate historical valuation. So that statutory trustee companies can operate on an even footing with other fund managers and to increase the security of their funds, it is appropriate to amend the enabling Acts to allow valuation to be made on dates determined by the respective companies.

The third set of amendments relates to the ability of the companies to charge a fee or commission in relation to services for clients who are *sui juris* without having to seek approval of the court. The Bill allows the statutory trustee companies to negotiate fees with *sui juris* clients, but retains the necessity for the companies to seek approval of the court for the setting of fees in relation to services provided to beneficiaries who are minors or disabled persons. Providing companies with the ability to negotiate a fee brings their powers in line with those of statutory trustee companies in the other States.

The final amendments remove the restriction on the companies, when acting under a power of attorney, to exercise powers and discretions by the manager or any two directors only. These provisions are unduly restrictive and not commercially practical. The ANZ Executors & Trustee Company (South Australia) Limited Act 1985 is not amended in this way as that company was never subject to this restriction. The above amendments were requested by the companies themselves and the Government in the furtherance of its policy of supporting legitimate business aims is happy to implement these amendments which will increase the efficiency and security of the operation of statutory trustee companies in South Australia. I commend this Bill to the House.

Clause 1 is formal.

Clause 2 provides for various amendments to the ANZ Executors and Trustee Company (South Australia) Limited Act 1985. The amendment effected by paragraph *(a)* is consequential on proposed new subsections (6) and (6a) of section 8. Under the amendments contained in paragraph *(b)*, the company will be entitled to charge commission either under section 8 or under an instrument and court approval will not be required in relation to the charging of

a commission or fee independently of the section unless a beneficiary of the particular estate or trust is a minor or a person under a disability. Under the amendment contained in paragraph *(c)* the company will be required to value the investments for each common fund held by the company on the first business day of each month and, at the discretion of the company, on such other days of the month as the company thinks fit. Paragraph *(d)* contains a consequential amendment. Under the amendment contained in paragraph *(e)* the company will be required to effect investments in and withdrawals from a common fund on the basis of the most up-to-date valuation. The amendments effected by paragraph *(f)* will allow the company to charge an administrative fee against a common fund. The fee will be chargeable on a monthly basis and will not be able to exceed one-twelfth of 1 per cent of the value of the fund as at the first business day of the particular month.

Clauses 3 to 6 (inclusive) contain similar amendments to the various other Acts to be amended by this measure. The only additional matter is contained in paragraph *(a)* of each of the clauses, which will allow each company acting under a power of attorney to delegate its powers and functions to an officer of the company (instead of the present situation where the manager of the company or two directors must act).

The Hon. B.C. EASTICK secured the adjournment of the debate.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

The Legislative Council intimated that it did not insist on its amendments Nos 4 and 5, to which the House of Assembly had disagreed; that it had agreed to the House of Assembly's amendment to amendment No. 5; and that it did not insist on amendment No. 2 but had made in lieu thereof the following amendment:

Page 4 (clause 7)—after line 35—Insert new subclause as follows:

(2a) The Minister should, in nominating members for appointment to the Commission, endeavour to ensure that the various regions of the State are adequately represented.

Consideration in Committee.

The Hon. M.K. MAYES: I move:

That the Legislative Council's alternative amendment in lieu of amendment No. 2 be agreed to.

Mr GUNN: This matter will have to be put off until later because a fair bit is involved in this. In this case, commonsense has not applied, and I ask that the debate be adjourned so that we can consider this amendment that has just been put on my desk.

The CHAIRMAN: The amendments were circularised last night, and the honourable member should have them.

Mr GUNN: I do not want to apportion the blame, but when I came into the Chamber this afternoon—

The Hon. M.K. MAYES: I am happy for the matter to be dealt with later.

Progress reported; Committee to sit again.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill seeks to replace the current trust accounting provisions and the Consolidated Interest Fund with a revised system of trust accounting and an Agents Indemnity Fund. The changes will provide greater protection for those who deal with agents and brokers. The main features of the Bill are:

1. All agents (which include brokers) will be required to maintain a trust account with a bank or prescribed financial institution which pays interest on trust accounts above a prescribed rate of interest;

2. All moneys received by an agent in his capacity as an agent will be paid into a trust account;

3. All interest derived from money held in trust accounts will be paid to the Commissioner for Consumer Affairs for payment into a fund called the Agents Indemnity Fund.

The current Part VIII Division I of the Act provides for a comprehensive regulation of an agent's financial dealings with respect to land and business transactions which he handles for his principal. Section 63 requires an agent (which by definition includes a land broker) to pay all moneys received by him, in his capacity as agent, into a trust account. The trust account provisions require an agent to keep full and accurate records of all trust moneys received by him and of any payments or dealings with such moneys, and to keep the amounts separate and in such a state that they can be conveniently audited.

The current Part VIII Division II provides for the establishment of the Consolidated Interest Fund. The fund comprises all moneys paid to the Tribunal by an agent in relation to all interest and accretions paid or credited in respect of a trust account. The fund is also made up of interest which accrues on an agent's interest bearing trust security. Section 65 of the Act requires an agent to pay out of his trust account an amount of money which is a sum not less than the prescribed proportion ('one half') of the lowest balance of the trust account during a twelve month period. An agent is also required to invest further sums in an interest bearing trust security in order to ensure that the 'one half proportion of the trust account' is maintained. The moneys contained in the Fund are available, subject to an order of the Commercial Tribunal, for the purpose of compensating persons who suffer pecuniary loss as a result of a fiduciary default by an agent who has defalcated, misappropriated or misapplied moneys from his trust account.

The effectiveness of the fund has been impaired for a number of reasons. One reason is the operation of section 65 (3) which states 'if during the whole of the period of twelve months . . . the balance of the trust account of an agent and the amount (if any) invested by him in any interest bearing trust security amount to less than $2 000, the agent shall, during the succeeding period of twelve months, be exempt from the obligations of this section'. The effect of this section is to exempt an agent from the obligations of section 65 (1) if the aggregate balance of the trust account is below $2 000 for the entire twelve month period.

There is also the practical effect of section 65 (1) itself which limits the fund. This section provides that an agent

who operates a trust account need only pay into an interest bearing trust security half of the lowest balance of this trust account during the period of twelve months. Therefore, an agent only has to ensure that, for one day during the year, the balance is zero to avoid the requirement to keep an interest bearing trust security.

The operation of sections 65 (3) and 66 further exacerbate the problem of the fund. These sections provide that where a separate trust account is maintained by the agent on the instructions of his principal, for the benefit of his principal, any interest which accrues to that separate trust account does not have to be paid to the board nor is the amount contained in the separate trust account to be taken into account for the purpose of calculating the interest bearing trust security ratio. The impact of this exemption operates to severely limit the potential of the fund. It is also difficult to reconcile the purpose of such an exemption when balanced against the purpose of such a fund: to enable persons to claim on the fund in cases where their agent misappropriates moneys from the trust account.

The proposed solution to the problems set out above is to adopt a broad approach to the question of 'interest'; that is, that without exception all moneys paid to an agent in his capacity as an agent shall be paid into a trust account which earns interest at a prescribed rate and that all interest which accrues upon the money contained in that account will be paid into the agent's indemnity fund.

This proposal is aimed at eliminating the weaknesses in the current scheme and has the potential to stimulate the size and growth of the fund. While this approach will deprive some principals of income when they direct their agents to hold moneys in separate trust accounts, it is not unreasonable for principals to forego this source of income if they are to share in the benefit of being able to be adequately compensated if they find themselves in the unfortunate position of having their money misappropriated.

The fund itself will be applied to defray administrative expenses, to satisfy valid claims where there has been a misapplication, misappropriation or defalcation by an agent, and for other prescribed purposes. One of those prescribed purposes will be the funding of educational programs by industry groups.

The Bill will also allow the Commissioner for Consumer Affairs greater scrutiny of the accounts of an agent. Agents will be required to keep detailed accounting records and, the Commissioner may, at any time, appoint an examiner to furnish the Commissioner with a confidential report concerning any agent's account. The Commercial Tribunal, on the application of the Commissioner, may appoint a person to administer the trust account of an agent.

The Commissioner will receive the interest paid on agents' trust accounts, to be invested in a manner to be prescribed. Those persons who suffer pecuniary loss as a result of the fiduciary default of an agent and who have no reasonable prospect of recovering the full amount of that loss except under the provisions of the Bill, may apply for compensation under an order of the Commercial Tribunal. Where a claimant is compensated from the proceeds of the Agents Indemnity Fund, the Commissioner will be subrogated to the rights of the claimant. The Commissioner will also be able to purchase insurance for the Agents Indemnity Fund. The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 amends certain definitions appearing in section 6. The new definition of 'bank' is in the usual form and will complement the reference to financial institutions in new Part VIII. The new definition of 'date of settlement' is one of a number of amendments designed to remedy a problem relating to the determination of the cooling off periods under sections 88 and 91a. The cooling off period depends on the relationship between the service of statements under sections 90 and 91 and the date of settlement. The new definition adopts the date fixed in the contract as the date of settlement. Where no date is fixed in the contract the cooling off period will extend (in the case of the sale of land) until settlement actually occurs. The definition of 'interest bearing trust security' is no longer required. The other definitions removed by paragraph *(c)* are replaced in modified form in new Part VIII.

Clause 4 replaces section 38 with 2 new sections. The new sections rectify an anomaly in the existing Act that requires an agent to employ a manager of each branch office but not of the registered office.

Clause 5 removes sections 42 and 43 of the principal Act. The substance of the sections will be provided by new section 67.

Clause 6 replaces Part VIII of the principal Act. New section 62 is a definition provision. Section 63 requires trust money to be deposited with a bank or financial institution in an account that attracts interest at, or above, the prescribed rate. 'Trust money' is defined as money received by an agent in the course of business to which the agent is not entitled. 'Agent' is defined to be a land agent, land broker and any other person carrying on business of a prescribed class. The word 'agent' is defined in section 6 and the meaning of the word is extended by section 62. Section 64 sets out the circumstances in which an agent can withdraw money from his trust account. Section 65 provides that a bank or financial institution that holds trust money must pay the interest on the account directly to the Commissioner. Section 66 sets out the circumstances in which the Tribunal can appoint an administrator of a trust account. Section 67 requires an agent to keep proper records and section 68 requires him to have the account and records audited. Section 69 enables the Commissioner to appoint a person to examine the accounts and records of an agent or the audit program and working papers of an auditor. Section 70 gives an auditor and an examiner power to obtain information. Division III of the new Part deals with the Agents Indemnity Fund. Section 75 (3) sets out the money that constitutes the fund and subsection (4) sets out the manner in which the fund will be applied. Section 76 provides for claims against the fund. A claimant must apply to the Tribunal to determine the amount of the claim. Section 76a allows the Commissioner to call for claims in respect of a particular fiduciary default. This will enable the Commissioner to assess whether the fund is sufficient to meet outstanding claims. Section 76b empowers the Tribunal to determine whether or not a claim is valid. Subsection (4) provides for an appeal to the Supreme Court against the Tribunal's decision. Section 76c provides for the Commissioner to be subrogated to the rights of a claimant. Section 76d provides for claims by agents who are innocent of any wrongdoing or fault but who have paid compensation in respect of a fiduciary default committed by a partner or employee of the agent. Section 76e provides for insurance of the fund. Section 76f provides for pro-rata reduction in payments where the fund cannot meet all claims.

Clause 7 amends section 85 to provide that fines imposed by the Tribunal under that section be paid to the Commissioner for the credit of the Agents Indemnity Fund.

Clause 8 makes it clear that disciplinary action should not be taken against an agent in respect of the default of his employee or other person acting on his behalf if the agent is blameless.

Clause 9 amends section 88 of the principal Act in relation to the existing uncertainty as to the extent of cooling off periods. Under paragraph *(b)* of the definition of 'the prescribed time' in section 88 (5) the cooling off period is 2 days if the section 90 statements are served at least 10 days before settlement. If the statements are served less than 10 days before settlement the cooling off period extends up to settlement. The problem is that when the statements are served it is not possible to be certain when settlement will take place. The amendment therefore confines paragraph *(b)* to contracts that fix a date of settlement. In the case of contracts that do not fix a date for settlement the cooling off period will apply up to the time of settlement.

Clause 10 amends section 90 to require information as to insurance by builders under the Builders Licensing Act 1967.

Clause 11 extends the period in which statements may be made to 1 month before the signing of the contract.

Clause 12 amends section 91a of the principal Act.

Clauses 13 and 14 make consequential amendments.

Clause 15 inserts a schedule of transitional provisions at the end of the Act. These provisions replace those of section 5 that are still relevant. Clauses 11, 12 and 13 of the schedule add provisions in relation to the transition to new Part VIII.

The schedule sets out amendments to the principal Act for the purpose of statute law revision. A reprint of the Act will be available after this Bill has been passed.

The Hon. B.C. EASTICK secured the adjournment of the debate.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This Bill proposes amendments to the Second-hand Motor Vehicles Act 1983 to refine and clarify several machinery provisions and to make a range of textual amendments as part of the continuing process of Statute Law revision.

The Second-hand Motor Vehicles Act was passed in 1983, replacing a 1971 Act of the same name.

The 1983 Act was the first of a series of Acts which have extensively recast and updated occupational licensing procedures in the course of bringing a wide range of occupational licensing under the jurisdiction of the Commercial Tribunal. The 1983 Act came into force on 1 January 1986.

The main amendments now proposed reflect both the past several months operational experience, as well as developments that have taken place in the approach to occupational licensing legislation since the Act was passed.

The 1983 Act, in section 9, creates an exemption from the obligation to be licensed for 'a licensed credit provider whose principal business is not the selling of second-hand vehicles'. This exemption was intended to preserve, in simplified form, a similar exemption in section 22 of the 1971 Act, so that credit providers would be able to sell vehicles which had been seized by them, or returned to them, pursuant to contract, but would not require a licence to do so. However, it has become apparent that this wording is wide enough to permit licensed credit providers, whose financial business may be unconnected with the motor vehicles sales industry, to deal in second-hand vehicles as a significant sideline without having to be licensed.

The present form of the exemption has also been associated with some uncertainty about the obligations of credit providers and auctioneers who auction vehicles on their behalf.

It is therefore proposed to make the exception subject to the credit provider observing any requirements imposed by regulation, and to make regulations under section 6 of the Act to narrow the exemption so that credit providers cannot operate as unlicensed dealers, but will be able to sell vehicles which come into their hands in the course of business without incurring a dealer's liability to do repairs. This will make clear that the position which has applied since 1971 will continue. The reason for using the regulation-making power for this exemption is that it enables conditions to be imposed. Consideration is being given to requiring credit providers who conduct their own auctions to give written notice making clear that they are not offering consumers the statutory warranties given by dealers under the Act. Auctioneers conducting sales on behalf of non-dealers already have to give this notice.

The Bill also revises the licensing provisions to give the tribunal more flexibility in the grant of licences.

There is no provision in the 1983 Act for the grant of conditional licences. One result is that persons dealing in partnership must all satisfy the requirements of the Act for the grant of individual licences. Their only alternative is to form a corporation controlled by a licensee, or for the licensee to employ the other person or persons while they gain the experience that would enable them to acquire a licence.

This fetters the way in which people can do business without providing significant consequential benefit to consumers. Several licence applications by inexperienced persons seeking to enter partnerships, often with their spouses, have been refused.

Some difficulties have also been experienced in relation to persons who wish to deal only as wholesalers. Premises which may be suitable for a wholesale business might, if used for retail dealings, undermine the policy of the Act to prevent what is known as 'backyard dealing'. But there is no mechanism in the Act for distinguishing between classes of dealer.

To meet these difficulties, provision is being made for the tribunal to impose conditions on licences in appropriate cases. Consequential amendments are made to the parts of the Act dealing with disciplinary proceedings.

The Bill also provides the tribunal with the necessary power to permit licensed dealers to carry on business at specified premises (other than the registered premises of the licensee) for a specified period. This provision is paralleled in the Second-hand Goods Act 1985.

To support the Second-hand Vehicles Compensation Fund, provision is being made to credit the fund with fines recovered as a result of disciplinary proceedings under the Act. The powers of the Commissioner of Consumer Affairs to deal appropriately with the moneys of the fund are clarified.

A schedule to the Bill lists the routine textual amendments previously mentioned.

The provisions of the Bill are as follows:

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that this Bill is to come into operation on a day to be fixed by proclamation and provides for the suspended operation of specified provisions of the proposed Act.

Clause 3 effects an amendment of section 5 of the Act, consequent on the insertion of proposed section 6, as effected by clause 4.

Clause 4 provides for the repeal of section 6 of the Act, dealing with the scope of application of the Act and the insertion of a new section 6.

Proposed subsection (1) restates the position of a dealer who sells a second-hand vehicle to a credit provider and the vehicle is then sold or let on hire to a third person. (The position of the dealer as it is under the existing section 5 (2) remains unchanged.)

Proposed subsection (2) restates the existing power to make regulations exempting (conditionally or unconditionally) specified vehicles, persons or transactions from compliance with all or any of the provisions of this Act.

Clause 5 provides for the amendment of section 9 of the Act. The current exemption of licensed credit providers (whose principal business is not the selling of second-hand vehicles) from the requirement to be licensed dealers, is made subject to the licensed credit provider observing any requirements imposed by regulation.

Clause 6 amends section 10 of the principal Act, dealing with applications for dealers' licences, by striking out subsection (9) and substituting four new subsections.

Proposed subsection (9) restates the requirements for the issue by the Commercial Tribunal of a dealer's licence to an applicant, who may be a natural person or a body corporate.

Proposed subsection (10) empowers the tribunal to grant conditional licences.

Proposed subsection (11) provides that where the Commercial Tribunal is not satisfied that the applicant fulfils the requirements for the grant of a licence, a licence may nevertheless be granted (in the case of an applicant who is a natural person) on the condition that the licensee carry on business in partnership with another approved licensed dealer.

Proposed subsection (12) provides that where a licence is granted by the Commercial Tribunal it does not come into force until the licensee pays the prescribed fee.

Clause 7 inserts a new Division dealing with conditions of licences. Conditions may be attached to a licence on grant, or in disciplinary proceedings under the principal Act and such conditions may be varied or revoked by the Commercial Tribunal, on the application of the licensee.

Clause 8 extends the powers of the tribunal by empowering it to permit licensed dealers to carry on business at specified premises (other than the registered premises of the licensee) for a specified period.

Clause 9 provides for the amendment of section 14 of the principal Act which deals with the exercise of disciplinary powers by the Commercial Tribunal.

Paragraph *(a)* of clause 7 extends the powers of the Tribunal by empowering the tribunal, after it has conducted an inquiry and is satisfied that proper cause for disciplinary action exists, to attach conditions to a licence.

Paragraph *(b)* of clause 7 restates the causes for disciplinary action under section 14. Where the respondent is a licensee, the following additional causes for disciplinary action have been inserted:

(a) failing to comply with a condition of a licence;

(b) registered premises having ceased to be suitable for carrying on business as a dealer.

Where the respondent is a body corporate that holds a licence, insufficient knowledge or experience on the part of those responsible to direct and manage the business conducted pursuant to the licence has been inserted as a cause for disciplinary action.

Clause 10 amends section 28 of the principal Act, which deals with the Second-hand Vehicles Compensation Fund.

Paragraph *(a)* of clause 8 provides for the payment into the fund of fines recovered in pursuance of orders made by the tribunal in disciplinary proceedings.

Paragraph *(b)* of clause 8 expressly permits the moneys of the fund to be expended in purchasing 'back-up' insurance, to provide for the possibility that the fund is unable to meet claims against it.

Paragraph *(c)* of clause 8 is a procedural amendment.

Paragraph *(d)* of clause 8 permits the payment of an amount from the fund where the Commissioner for Consumer Affairs certifies that the amount has been mistakenly paid into the fund.

Clause 11 deals with the schedule to the Bill. The schedule makes certain procedural amendments for the purposes of republication of the principal Act.

The Hon. B.C. EASTICK secured the adjournment of the debate.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 4)

Received from the Legislative Council and read a first time.

The Hon. G.J. CRAFTER (Minister of Education): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

During the last session of Parliament the Legislative Council passed an amendment to the Summary Offences Act which dealt with the rights of children upon arrest.

That amendment provided for the mandatory presence of a solicitor, relative, friend, or nominee of the Director-General of the Department for Community Welfare at any interrogation or investigation to which a minor is subjected whilst in custody. This mandatory requirement for the presence of an adult witness was in addition to the other rights including entitlement to make a phone call, and entitlement to an interpreter already provided for by the Summary Offences Act.

Since the passage of that amendment by the Legislative Council potential practical problems in requiring the attendance of an adult witness on every occasion a child is arrested, have been identified by the Government.

The police currently operate under a general order which requires them, when practicable, to interview a child in the presence of the child's parent or guardian. The police have advised that the average attendance rate of parents at interviews is one in 10. Based on these figures it is anticipated therefore that the primary burden of providing an adult witness would fall on the Department for Community Welfare. This department would have difficulty in providing officers after hours and would not be able to adequately service the far northern areas of the State.

For these reasons this Bill to amend the Summary Offences Act differs from the previous Bill. This Bill overcomes problems identified with the earlier Bill in two ways:

First, the mandatory requirement that an adult be present at an interrogation or investigation has been limited to circumstances where a minor is arrested on suspicion of having committed a serious offence. It is only for these offences that a person can be detained after arrest for four hours (or up to eight hours if a magistrate permits) before being delivered into custody at a police station. It is considered prudent and proper to require that an adult be present when a child is detained in this way. In circumstances where a child is arrested for an offence which is not a serious offence the Bill places an onus on the member of the police force conducting the investigation to take reasonable steps to secure the attendance of an adult at any interrogation or investigation whether the child makes a request that such a person be present or not.

These provisions are stronger than those applying for adults in that the adult may request or may decline to request the presence of another person at an interrogation or investigation, whereas, in the case of a child reasonable steps must be taken to secure the attendance of an adult where the suspected offence is not a serious offence, and the presence of an adult is mandatory in other cases.

The second way in which this Bill seeks to overcome difficulties associated with its predecessor is that the category of persons who can be called upon to be present with a child at an interrogation or investigation has been widened to include any other suitable adult representative who is not a police officer or an employee of the Police Department. This change should ease the burden on the Department for Community Welfare in being called upon as the last resort, and will also make for the easier operation of the provisions in areas where there is no-one from a nominated category in close proximity.

The Bill makes another change of note; the definition of 'prescribed period' in section 78 has been altered to ensure delays occasioned in arranging for a solicitor or other person to be present are not taken into account in calculating the period of detention after arrest.

Finally, the Government is concerned at misinformed media comment on the changes to the Summary Offences Act and I take this opportunity to reiterate the effect of the changes.

The changes do permit a child to be held for four hours after arrest (and for a further four hours if a magistrate permits) but only where the child is arrested on suspicion of having committed a serious offence. The only purpose for which a child can be so detained is for the purpose of investigating the suspected offence. The proposed provision ensures that a minor apprehended on suspicion of having committed a serious offence will not be subjected to any interrogation or investigation whilst in custody unless an adult of one of the specified classes is present. It should be pointed out in this context that a person is 'in custody' from the time he is arrested by the arresting officer.

Where a child is arrested for an offence which is not a serious offence there is an onus on the police officer investigating the suspected offence to take reasonable steps to secure the presence of an adult of one of the specified classes at any interrogation or investigation to which the child is subjected whilst in custody.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 makes amendments to section 78 of the principal Act. These amendments are consequential to the amendments made by the Bill to section 79a of the principal Act.

Clause 4 makes amendments to section 79a of the principal Act—rights upon arrest. Subsection (1) is amended to provide that a relative or friend nominated by a minor under arrest must be an adult.

New subsection (1a) is inserted. The new subsection provides that where a minor has been apprehended on suspicion of having committed an offence and the minor does not nominate a solicitor, relative or friend to be present during the investigation or interrogation, or the attendance of a nominated person cannot be secured, then, subject to new subsection (1b), no interrogation or investigation may proceed until the police officer in charge has secured the presence of—

(a) a person nominated by the Director-General of Community Welfare to represent the interests of children subject to criminal investigation;

or

(b) where no such person is present, some other adult person who in the opinion of that officer is a suitable person to represent the interests of the minor.

New subsection (1b) provides that such an interrogation or investigation may proceed if the suspected offence is not punishable by imprisonment for two years or more and it is not reasonably practicable to secure the presence of a suitable person to represent the child's interests.

The Hon. B.C. EASTICK secured the adjournment of the debate.

TOBACCO PRODUCTS (LICENSING) BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 2190.)

Mr OLSEN (Leader of the Opposition): The Opposition opposes this Bill—it is a farce and a bluff. No responsible Government would ever propose such a measure. No sensible Government would pursue the *de facto* decriminalisation of marijuana, and at the very same time force cigarette consumers to take out a licence at the risk of facing penalties which could be as high as $10 000. It is a reflection of how irresponsible and how insensitive—

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr OLSEN: —this Government—

Members interjecting:

The DEPUTY SPEAKER: Order! The honourable Leader of the Opposition.

Mr OLSEN: It is a reflection of how irresponsible and how insensitive this Government has become that it wants to make criminals out of cigarette smokers and even people who sell lolly cigarettes, while it goes soft on marijuana smokers. I was going to talk about double standards, but the Government is now abandoning any standards in South Australia's legislative program. How will the Government police this nonsense? Will we have a gang of cigarette inspectors demanding the production of a licence by anyone seen smoking in Rundle Mall? Are we to have these inspectors keeping watch on cigarette traders? This could be real Maigret stuff, complete with the pipe—provided, of course, that the tobacco was bought subject to the farcical conditions of this legislation. And heaven help smokers if these inspectors make a mistake—because under section 22 of the Act the Government will not be liable if they act in an honest but mistaken belief.

This House must debate this nonsense because of the greed of the Government for taxation revenue. That is what the bottom line is, and that is the objective. Let us first consider some of the history of this measure. It was introduced in 1974, following a successful court fight to impose a tax on tobacco in Tasmania. The Governments of Victoria, New South Wales and South Australia quickly got into the act as well.

Members interjecting:

Mr OLSEN: I can well understand the interjections from the Government side, Mr Deputy Speaker, because—

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr OLSEN: —the Government is very sensitive about its tax raising revenue making this the highest taxed State *per capita* in Australia, having increased taxes to levels higher than in any other State in Australia. They have been increased to a level higher than at any other time in South Australia's history. The Government is also very sensitive to the view that it is going soft and relaxing the law relating to marijuana smokers in the community, whilst genuine law abiding consumers out there who want to smoke cigarettes are subject to penalties that simply cannot be enforced or policed under this farcical Bill before the House at the moment. Well the Government might show sensitivity, because it knows that the measure will not work and that it is a bluff. At the time when the States were introducing tobacco taxes throughout this country, with the centralist approach of the Whitlam Government denying the States revenue—

Members interjecting:

The DEPUTY SPEAKER: Order! The level of interjection is far too high.

Mr OLSEN: —it was perhaps understandable that they would seize on this new revenue opportunity. However, its effectiveness depended on uniform action amongst the States. I refer to the *Hansard* of this Parliament of 27 November 1974. The then Leader of the Opposition in another place, Hon. Mr DeGaris, referred to this point when debating the legislation—

Members interjecting:

The DEPUTY SPEAKER: Order! Order! I ask the honourable Leader of the Opposition to resume his seat, and I call the House to order. This debate will be conducted in an orderly way. The level of interjections is quite ridiculous. The Leader of the Opposition has to shout his head off in order to be heard. I would like the House to show courtesy to the speaker and hear him in the way in which this House ought to conduct its debates. The honourable Leader of the Opposition.

Mr OLSEN: Thank you, Mr Deputy Speaker. The then Leader of the Opposition in another place, Mr DeGaris, referred to this point when debating the legislation to establish a franchise fee for trade in tobacco products. He warned:

> The question of uniformity of taxation in each State becomes important. Otherwise, it will lead to some abuses. I will quote one that would be easy to perpetrate; for example, with a cigarette tax in South Australia of 5 cents a packet it would be easy for a 20 tonne truck to load in New South Wales 3 000 000 or 4 000 000 cigarettes and take that truck across the border into South Australia; that operation would net the operator $7 500 for each truckload of cigarettes. The policing required to prevent this would be enormous.

In other words, the possibility of abuse of this legislation has always been apparent. It was, however, minimised while the States applying this tax—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: I will get to that in a minute. If the Premier will just be patient, I will get to his legislation and what the Government ought to be doing about it. Something that has a bit of commonsense will be proposed, not the farcical nonsense that he has on the table at the moment.

It was, however, minimised while the States applying this tax kept it at a rate low enough to be a deterrent to abuse. So long as transport and other costs associated with bringing cigarettes from one State to another were kept in line with the impact of the tax, there was no incentive for abuse—for bootlegging. This was the case until State Labor Governments from 1983 decided to use this tax as one means of feeding their big Government, big spending programs. The rate was doubled by this Government in 1983—doubled to 25 per cent. The Premier was looking for people to print money for the Government, and smokers were among his first targets. The revenue projections doubled overnight from about $20 million to $40 million.

The Premier suggests that this sort of impost is necessary to discourage smoking and to help pay for the treatment of those whose health is affected or even destroyed by smoking. That is a shallow argument, for what Labor Governments are really interested in, at the expense of virtually any other consideration, is getting their hands on the hard earned money of ordinary people—whether they be smokers, drinkers, public transport commuters, or pensioners paying their cheques into bank accounts, this Government has taxed them. There is no area into which the tax man will not dive under Labor Governments.

I warned the Premier, in 1983, what this greed would result in. I quote from the *Hansard* of 11 August when the House was debating the Bill to double the rate of tax:

> Another matter the Premier has not addressed is the possibility that this legislation will lead to mail order cigarette sales into South Australia and therefore to reduced activity for local retailers and distributors, especially small businesses.

The Hon. J.C. Bannon: Do you want to send them bankrupt?

Mr OLSEN: No, I want the Government to take some action under the current legislation, but it is too timid. It is not only applying a wimp's approach to Government decisions, but it is not prepared to enforce the laws that are on the statutes at the moment. That is the point, Mr Deputy Speaker: that is the bottom line. It is not prepared to take them on. To return to the quote from 1983:

> This increase will open up a price differential of up to 40c a packet between South Australian prices and those applying in some other parts of Australia. In Queensland, there is no State taxation on tobacco and there is nothing to stop cigarettes being mail ordered into South Australia from that State to avoid the tax. There is also strong inducement for bootlegging.

The Opposition kept warning the Government. In a statement on 10 July 1984—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: If the Premier will hold his breath for a few minutes, I will get to all the points he is raising and we will put in proper context how timid he is about acting to protect law abiding retailers and citizens of South Australia rather than bringing in farcical legislation such as this. In a statement on 10 July 1984, I said:

> At least 3 000 000 packets of cigarettes a year—

Members interjecting:

Mr OLSEN: Well, I might get a bit of silence from the other side. Obviously, all the interjections for the first 10 minutes were attempting to disrupt the recording of the proceedings. It was quite well orchestrated. We understand what members opposite were on about for those first 10 minutes—disrupt the verbiage in the House so the TV cameras cannot get the first grab. Okay, Mr Deputy Speaker—

Members interjecting:

The DEPUTY SPEAKER: Order! I ask the Leader to take his seat. I know that this is a very sensitive debate and that feelings are running high, but I would ask the House to conduct itself properly. If the House does not conduct itself properly, then I will have to do something about it. I would ask that the House come to order and conduct this debate in a way in which it ought to be conducted. The honourable Leader of the Opposition.

Mr OLSEN: Thank you again, Mr Deputy Speaker. In a statement on 10 July 1984, I said:

> At least 3 000 000 packets of cigarettes a year are being purchased in Queensland and the ACT for distribution in South Australia, to avoid paying the Bannon Government's tobacco tax.

In a further statement on 5 June 1985, I said:

> I have received complaints from distributors of cigarettes within the State highlighting the avoidance by people who flout the laws in this State. While the genuine dealer pays the 25 per cent tobacco tax to the Government, the 'Bootleggers' avoid this tax. In the majority of cases the people who purchase these cigarettes tax free for resale make massive profits, but the consumer does not receive any benefits. I raised this problem almost a year ago and the Bannon Government stated that they had been investigating it. It is obvious that insufficient action has been taken. The bootleggers continue to brazenly operate with apparent impunity. I have a list—

Mr Tyler interjecting:

Mr OLSEN: If the member for Fisher will wait for a moment, I will get to the solution. We are just going over the background for the honourable member's benefit, because he has been here only a short time and he does not understand some of the background. My statement continued:

> I have a list which is being openly circulated to dealers in this State. This sheet highlights the cost difference in purchasing tax free cigarettes.

Finally, earlier this year, the Government admitted the problem but suggested it had been resolved. When on 25 February the Premier introduced amendments to the Business Franchise (Tobacco) Act, he said to the House:

> Steps taken over the last 18 months following a substantial increase in the inspection resources of the State Taxation Office have curtailed these activities and the measures proposed in this Bill will further enable the inspection staff to move against those operators attempting to defraud the revenue.

The Opposition was pleased with and accepted these assurances. However, recently it became apparent to us that the Government's words had been stronger than its actions. We asked a further question on 27 August this year to which the Premier replied in part:

> I assure the honourable member that the matter is being taken with the utmost seriousness and that investigations are proceeding. The Commissioner has been asked to take whatever action is appropriate as rapidly as possible.

He also said:

> It certainly is outrageous that, under whatever guise, people who wish to sell tobacco or cigarettes in this State are crossing over borders and trying to take advantage of what they see as freedoms under section 92 of the Constitution to avoid paying the appropriate duty here in South Australia. If that situation develops to too great an extent there is no question that State and Commonwealth action on a united basis will be taken that will certainly put these people out of business.

In a ministerial statement on 28 October the Premier issued a further warning, saying:

> Action is being taken to ensure that the law is complied with.

The Hon. E.R. Goldsworthy: This lady just coming in could well be a criminal—

The DEPUTY SPEAKER: Order!

The Hon. E.R. Goldsworthy: If you smoke the wrong cigarettes you will be—

The DEPUTY SPEAKER: Order! I call the Deputy Leader of the Opposition to order.

Mr OLSEN: He also referred to the possibility of retrospective legislation under which directors and agents of non-complying companies would be liable.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr OLSEN: In this matter the Government has spoken with all the force of a heavyweight fighter yet acted with the feebleness of a featherless fowl. There is not much doubt that that is the timid approach that this Government has been applying in recent times. The Premier said in February that the activities attacked by this Bill had been curtailed: they have not. The Premier said in August there would be joint State and Commonwealth action over the problem: there is no joint State and Commonwealth action. The Premier said in October there would be retrospective legislation: there is none. All the law, all the promises during the course of this year—none of them have been lived up to by this Premier in this House. I invite the House to contrast this lame approach with what has happened in Victoria. I quote from the 1983 report of the Committee of Inquiry into Revenue—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: I am about to quote—

Members interjecting:

The DEPUTY SPEAKER: Order! I call the House to order.

Mr OLSEN: I can understand the Premier's sensitivity. He has had a bruising over recent weeks in this Parliament with the legislative program he has brought into this House that has been ill thought through and not planned properly. I quote from the 1983 report of the Committee of Inquiry into Revenue Raising in Victoria—a committee appointed by the Labor Government in that State. It states:

> Business franchise legislation . . . is particularly vulnerable to avoidance and evasion attack because of the way in which the legislation is drafted to avoid the constitutional constraints on States imposing excise.

I am pleased that the Premier is agreeing with the statement. If he listens intently, I am sure that we will get to the point that interests him. The report further states:

> The scheme achieves the same result as a direct tax on the sale of goods and has been declared to be constitutionally valid by the High Court. Amendments were made to the Business Franchise (Tobacco) Act 1974 to give it 'teeth' in 1980 and 1981.

Having provided a sound enforcement framework, a large scale joint business franchise/Victoria police investigation was mounted to combat the Canberra/Victoria activities in the tobacco industry. The operation required a great deal of investigative and legal expertise and strategy. The benefits from the exercise were twofold.

Mr Lewis interjecting:

The SPEAKER: Order!

Mr OLSEN: The first was to revenue and the second was to eradicate inequities for legitimate traders whose business had been severely undermined by the evasion. The report further states:

> Many assessments were raised against retailers and unlicensed wholesalers following the investigation, and retailers and unlicensed wholesalers were successfully prosecuted, demonstrating that their activities were illegal.

The Premier is not listening to this part, because it specifically answers his question. The report further states:

> This has had significant deterrent impact on other participants in the scheme. The Business Franchise Office believes that the practice has been almost eliminated.

I am quoting from a report of a revenue raising committee which was set up by the Labor Government to report on their activities and on amendments to its legislation. The report continues:

This is supported by licensed wholesalers who have indicated that the increase in their sales is largely explained by the effectiveness of the investigations and follow up legal and administrative action.

This report makes it clear that, while this Government has dithered, there has been determined and decisive action in Victoria to stamp out this form of tax avoidance. This Government has had three years to recognise the problems and react to them, and it has failed.

It now wants to hold out South Australia as a laughing stock to the nation—and I suppose that one could even take it further and say internationally—by introducing a licence to smoke cigarettes, all apparently because a Mr Stokes operating at Clearview has called the Government's bluff. Why is the Government allowing Mr Stokes to push it around? Why must we have bureaucracy gone mad and cigarette spooks almost, just because the Government cannot handle Mr Stokes?

The Premier referred to the constitutional position in his second reading explanation, and he said:

Proceedings which would test the application of section 92 to the current Act would have to be determined in the High Court and would necessarily take considerable time. The Government cannot afford to wait the outcome of normal judicial process because it will be local traders who suffer in the meantime.

However, the Government has known about these problems for three years. The matter should have been resolved long before now without this farcical legislation. The Premier spoke earlier this year about joint State-Commonwealth action, but still there is none, even though this matter was also addressed by the Fiscal Powers Subcommittee of the Australian Constitutional Convention more than two years ago, in its report of July 1984. The major recommendations of that report which impinge on this matter were approved in July last year at the Constitutional Convention. A clear majority of delegates, including all those representing South Australia—from both sides of this House—agreed that the States should have the power to impose duties of excise. This would avoid the complexities of the business franchise legislation.

The Hon. J.C. Bannon interjecting:

Mr OLSEN: I just said that we did not—it was bipartisan. Have a look at the record.

The Hon. J.C. Bannon interjecting:

Mr OLSEN: I do not need to answer that. It is clear, as I have indicated in my second reading speech. This would obliterate at one stroke the devices used to get around the business franchise legislation. The Fiscal Powers Subcommittee recommendation on the effects of section 92 of the Constitution on State taxation was also agreed to by last year's convention. Let me first quote some of the subcommittee's report. It stated:

The problems arise because section 92 has been interpreted to proscribe any burden on interstate trade, even if that burden falls equally on intrastate trade. A tax is always a burden. Not only does section 92 prevent a State taxing any aspect of interstate trade, thus effectively discriminating against intrastate trade, but it also provides an incentive for transactions to be organised so as to attract the protection of section 92. Much avoidance and evasion of State taxation can be traced to this source. State taxation legislation has become intricate and technical in an endeavour to combat it.

This is the situation which has resulted in this legislation. However, more than two years ago the Fiscal Powers Subcommittee of the Constitutional Convention also proposed that section 92 be capable of a more narrow interpretation to clarify some of the problems it poses for State taxing powers. It stated—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: You do not understand the implications of the legislation that comes before the House, and in fact you find that it is impossible to police this new legislation.

The Hon. J.C. Bannon: You haven't looked at it.

Mr OLSEN: I have looked at it very closely. The subcommittee stated:

The subcommittee prefers the free trade view of section 92, which identifies its principal purpose as protection of the common market. On this view, section 92 would invalidate State taxation only when it was in substance protectionist, in the sense used in this report.

The report defined protectionism as—

Substantially to give one State a significant economic advantage—an advantage which is not outweighed by the vindication of a legitimate local interest—at the expense of competition from another State or States.

I understand that recently at least two members of the High Court have indicated a willingness to view section 92 in a way which may overcome the problem that the Government now seeks to address with this legislation. It is unfortunate that this report was not taken up with the Commonwealth before now, to avoid this farcical legislation. It is ludicrous to have to go to these lengths to protect the revenues of a State. The Government now appears to be admitting—

Members interjecting:

Mr OLSEN: Yes, we do. Some positive actions are contained in the recommendations. The Government now appears to admit that all its business franchise revenue is in jeopardy, revenue which in the case of tobacco and petroleum is estimated to generate $88 million for the South Australian Government this financial year. Instead of going through this farce, the matter should be taken up with the Commonwealth with a view to ensuring more effective, more sensible joint action. As it is, even if this Bill passes—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: Given your track record in negotiation with Canberra, a damn long time. Given your track record and the way in which you lose every time that you go to Canberra to negotiate, as was the case with the wine tax and the fringe benefits tax—you lose every time you go over there—

Members interjecting:

Mr OLSEN: Well, you do not deserve support, because you have not yet won a round. Even Senator Button, when altering the tariff relating to ICI and soda ash, did not acknowledge the Premier's involvement. He sent a telex straight to the Trades and Labor Council.

The SPEAKER: Order! The Chair would appreciate the Leader of the Opposition not turning his back on the Chair but instead addressing his remarks to the Chair and, furthermore, his trying to resist the temptation to respond to interjections, which are also out of order.

Mr OLSEN: I am pleased that you, Sir, acknowledge that the interjections from the Government's side which are coming at a fast and furious rate—and which have continued to do so since I started to speak—are also out of order and contravene the Standing Orders. Even if this Bill passes, it is likely to face constitutional challenge on the basis that it is aimed at restraining interstate trade. That is a statement of fact, and the Government and the Opposition knows it. We have not been prepared to test the current legislation—

The Hon. Ted Chapman: Why don't you test it now?

Mr OLSEN: Exactly. Why is not the current legislation, like Victoria and Western Australia—

The SPEAKER: Order! The interjection from the member for Alexandra, who is out of his place, is particularly out of order.

Members interjecting:

Mr OLSEN: That is very clear. You are not prepared to take on Mr Bond, but you are prepared to try to take on Mr Stokes if this legislation passes. We know how timid the Government is when the big boys start to rattle—

The SPEAKER: Order! The Leader of the Oppostion will have to take on the Chair if he does not address his remarks to the Chair and if he does not cease turning his back on the Chair.

Mr OLSEN: The Premier has even made it more vulnerable to this by admitting at last Thursday's press conference that the legislation is aimed at only one person, Mr Stokes. It seems, therefore, that the Government will be no better off. It will still land itself in court.

The Hon. J.C. Bannon interjecting:

Mr OLSEN: It is true: that is what you said.

The SPEAKER: Order! The Premier will have his opportunity in due course.

Mr OLSEN: Why is the Government so nervous about that? We saw it back off from the beverage container legislation after maintaining that a High Court challenge would not succeed, and now it has backed off on this matter as well, even though Victoria is soon to take on this constitutional argument in the High Court and it has recently survived a court challenge in Western Australia.

The particular constitutional position has a history going back more than 25 years to the High Court decision in the case of *Dennis Hotels v. the Victorian Government*. In that case a narrow majority of the High Court held that a Victorian liquor licensing fee assessed as a percentage of the gross amount payable for liquor sold over a preceding 12 month period was not an excise duty. In subsequent cases the High Court has affirmed that licensing fees modelled in all substantial respects on the scheme upheld in this case are within the competence of State Parliaments. It is just not good enough for one person to be able to hold legislation of this Parliament to ransom like this. It is not good enough that one person should have the potential to inconvenience all smokers in South Australia—to force them to get a licence to smoke.

Members interjecting:

Mr OLSEN: That is what the Bill indicates. It is not good enough that one person should be able to produce the farce we now have—legislation put before the Parliament which simply will not work. Let the House consider just how much the Government has over-reacted. Anyone taken to court over an offence relating to a consumption licence faces a penalty of up to $10 000. How can that be justified, when measured against how the Government has gone soft on marijuana, just defies explanation.

The Hon. J.C. Bannon: There is no connection.

Mr OLSEN: The Premier is saying that on the one hand it is and on the other hand it is not. There is all the connection. It is a matter of standards in the community that we are talking about. A consumption licence can be issued by the Commissioner on receipt of a written application containing the applicant's name and address and a statement that he or she is over the age of 16. How will this be properly administered short of extending the bureaucratic maze even further through searches of births information or perhaps personal checks by a cigarette inspector? The House needs to realise that, in providing for such licences, South Australia is, in effect, introducing a licence to avoid tax, and, what is more, a licence which transfers the onus onto the consumer for paying a tax that is always intended to be levied on the trader.

Because the Government has failed to enforce the existing law more effectively, consumers, holders of consumption licences, will be vulnerable to massive intrusions of their privacy. Anyone having a leisurely puff in Rundle Mall could be subject to a demand to show that he or she is a legitimate smoker.

The Hon. J.C. Bannon: That's trivialising it. It is a statement of fact.

Mr OLSEN: It is not. How will the law be policed? That is the bottom line.

Members interjecting:

Mr OLSEN: In the absence of a provision that the cigarette inspectors must have a warrant, such inspectors will be able to march into anyone's home to check just who is smoking and where they got their cigarettes—and this after all the resistance in the Labor Party to giving the police wider power to search people. It appears that the humble fag carries far more fear and suspicion within the Labor Party than the hardened criminal, if one equates those two scenarios. Another result of this crazy system will be to create a new army of cigarette retailers, because one obvious way to get around this proposed law will be for a group of people to get together and have one of them obtain a consumption licence to buy cigarettes on behalf of them all.

How will the cigarette inspectors unravel that one short of delving into bank accounts, cheque accounts or mounting round the clock surveillance? The Mixed Business Association has appointed out that the proposed consumption licence fee will not be a sufficient deterrent to unlicensed trading and has proposed the quarterly fee be increased to $100.

Members interjecting:

Mr OLSEN: I suppose members said that when we started to debate the Controlled Substances Bill and highlighted a certain clause in that Bill. Wait until the public realises what the Government is on about in this legislation. On the basis of figures that I have taken out in relation to the moderate to heavy smoker, it appears that he or she will be almost $100 a year better off through buying off an unlicensed trader.

There are other unanswered questions. How will packets of cigarettes be marked to show from where they were purchased? The Premier's second reading explanation was silent on that one. Another means of getting round the consumption licence will be to take up a licence for one quarter and then buy all the cigarettes you need for the year during that quarter. How will the cigarette inspectors then determine when it is legitimate to smoke those cigarettes and when it is not? What happens in the case where a person purchases cigarettes from a licensed trader, say, to last a period of one year, and that licensed trader then becomes an unlicensed trader? Will the purchaser then have to buy a consumption licence to smoke the remainder of the cigarettes?

Further, we need to be concerned about these cigarette inspectors because, if they do act in what the Bill calls an 'honest but mistaken belief', the Government evades any consequences. The Government has failed to ensure that this legislation can be effectively enforced despite repeated warnings.

There must be a far more simple, sensible solution to protect the interests of all those traders who have accepted their obligations under the existing law, and I suggest that lies in more effective policing of that law. I suggest that the Government should withdraw the Bill; introduce amendments to the existing law to give it the teeth which has allowed Victoria to come to grips with this problem (the Government should look particularly at clauses 13, 14 and 15 of Victoria's legislation which relate to records to be kept by traders, inspections and the provision of information); and initiate immediate Joint Commonwealth-State

action to resolve the constitutional questions which are involved and to which I have referred.

The Hon. E.R. Goldsworthy: That's what he said he would do.

Mr OLSEN: Yes. Let us not have the intelligence of South Australians insulted any further with this sort of nonsense. Consumers must not be exposed to a farcical licensing system (and this Parliament should not be asked to participate in a bluff) in an artificial attempt to protect the legitimacy of Government tax revenue. The Opposition will oppose the second reading in the hope the Government will take the action that we propose.

The Hon. TED CHAPMAN (Alexandra): This afternoon the Leader of the Opposition has canvassed a number of examples of where it would be difficult, if not impossible, to implement this Bill. I do not intend to canvass those examples again but, over the 14 years that I have been in this place, I cannot recall any Government of any political persuasion entering so hastily into the preparation of a Bill as has occurred in this instance.

We have heard much through the media and in this place about the penalty that will apply to the purchase and the smoking of cigarettes from unlicensed premises. We have heard a fair bit about the difficulties that the police would have in upholding this law if it came into effect. However, the bottom line is an effort by the Government to take the heat off itself in relation to the fouled up mess that it made of the recent pot legislation.

In recent weeks, since the public has reacted so violently to the Government's measure on that subject, it has sought as many social issues as possible on which to make press releases in order to head off the criticism against the Government over that issue. I am satisfied that those are the tactics of this exercise and that the Government has not thought through the implementation or the policing of this Bill. Frankly, it is not unlike a piece of legislation that was introduced by the Hon. Peter Duncan, the then Attorney-General, in February 1976 when, on behalf of the South Australian Labor Government, he set out to amend the Licensing Act.

The Government did that not for the general benefit and welfare of the community at large or for those who were generally involved in the exercise of marketing liquor, but specifically to get someone, a person named Brian Warming. In fact, at that time the Bill was dubbed 'The Brian Warming Bill'. It was designed specifically to knock off one individual, and despite some minor amendments to that legislation the Government was successful in driving that operator to the wall. It is clear from the second reading explanation accompanying this Bill that the Government intends to knock off this man called Stokes and run him out of the business in which he is involved at present.

It has been clearly stated this afternoon again and again by the Leader that there are other means of bringing proper order into the marketing of tobacco and tobacco related products in South Australia. We have legislation and, if there is a problem with our legislation in constitutional terms, we should put it to the test. In response and in violent reaction, the Premier says, 'We haven't the time.' As the Leader pointed out in counter-response, of course he has had the time.

The Premier has had 12 months to put this issue to the test since the earlier reminders of the type of trading that was going on in that arena. However, the Premier did nothing about it: he hoped the issue would blow away with a hot northerly. But it has boiled over in this climate of public reaction to the Government's legislation on marijuana, in my view, and it has surfaced in this hastily designed measure. This Bill is earmarked to get one person in the business who is allegedly exploiting the marketing of cigarettes as practised by the licensed operators in this State. Admittedly, it appears that the payment of tax is being avoided. The Premier nods his head vigorously, shakes his ears, and up and down go his locks. This is a desperate attempt—

The Hon. J.C. Bannon: Tax dodging.

The Hon. TED CHAPMAN: It is nothing to do with tax dodging at all. If the existing law is not being applied by the Government, which is bound to administer it, the Government is weak in its administration. If there is some fear about the legitimacy of the law, it should be tested according to the machinery and the mechanics available to us all, whether on a State or Commonwealth basis, through the courts. There is absolutely no excuse and no reasonable grounds for evasion of that course of action. The Government became aware of this practice, and indeed it has been occurring for many years, as I am sure the Premier well knows. For sheer convenience, this Bill has been drawn up and introduced into the House to head off the flak from other sensitive directions both within the community and, clearly, within Government ranks.

As a smoker of tobacco products, I do not feel like a criminal, and I never have. I recognise that smoking is a socially undesirable habit and, indeed, the vast majority of people are demonstrating their feelings in this regard. But whether in the corridors of this Parliament, on my own land, within my own house, in my motor car or in any reasonable public place where it is not directly offensive to others, I intend to smoke, and where I buy my cigarettes is my business. Whether I buy them from one of the so-called licensed retailers in the community or from the Stokes establishment or anywhere else, there is no way in the world I will seek or pay for a licence to smoke. The suggestion that the Premier has come up with in an effort to get this one operator, this one-off individual who is allegedly avoiding paying the tax, is absolutely ludicrous. I do not believe that—

Ms Gayler interjecting:

The Hon. TED CHAPMAN: Well, some sensitivity on this subject is now being expressed by the member for Newland. I am not too sure, but I think that she might even be a smoker. I do not know where she buys her cigarettes, but I would bet London to a brick that, if she could buy them for 10c a packet less down the street, that is where she would buy them, whether or not it was from licensed premises. Do not try to kid me otherwise! It is human nature. I have never met Mr Stokes, but obviously he is conducting a roaring trade in the meantime, and it has got up the Premier's nose.

The Premier is losing revenue but is frightened of the court procedures he could take and he has hastily introduced legislation to try to head off the situation. I support the Leader's comment that the Premier should pick up the legislation that is already on the statute book and give it sufficient teeth, as other States have done. Consistent with the other States across Australia, he should apply the law in a reasonable and rational way and not head off the situation with a single piece of legislation to pick up one person, as the Labor Government did in 1976 to pick up Warming. I do not agree with that sort of knee-jerk reaction to a problem in the community, whether in the taxing, retail or industrial arena.

I do not intend to speak at length on this Bill, but I oppose it. I do not believe that it could be amended reasonably. It is just not acceptable to proceed in the direction

that the Government has proposed. The second reading explanation spells out the farcical content and nature of this measure, and I hope that it is not supported in this House or in the other place.

Mr S.G. EVANS (Davenport): The more I hear in this debate, the more I realise that our founding fathers were perhaps smarter than those of us who serve in Parliament today. There is no doubt that our founding fathers intended that the States would have income taxing powers. The States gave those powers to the Commonwealth because they did not want the stigma of collecting tax, although they wanted the glory of spending the money. The States were not prepared, and they are still not prepared, to use that form of taxation to supplement their State budgets. There is an agreement that, if any State wants extra money, it can add a surcharge to State taxation and it will obtain more money from the Commonwealth sector. In other words, if a State wants another 5 per cent added to the income tax imposed on the residents or businesses in that State, the Federal Government will collect the tax and the States will get it back. That is a simple process, but, of course, no political Party or Government would have the intestinal fortitude to apply such a measure.

To the credit of South Australia, it was the last State to hand back income taxing powers, and I believe that that was in 1942, whereas other States started to hand back those powers in 1928. We are now at the stage where we play around with the petroleum franchise as a licensing process, and that commenced in 1974. A few days later the tobacco measure was passed, and there is also the hotel licensing measure.

I was a member of the joint conference of the Houses on the petroleum issue, and the thing that concerned that conference of managers from both Houses was that we were really playing around with something very close to excise. To apply the licence fee to sales was the only way in which the members at that conference believed we could apply any form of charge on cigarette retailers without applying an excise. In fairness, I suppose that one can talk outside these conferences: when I leant over to Jack Wright and said, 'We have no chance of resolving this unless we adopt a process similar to hotel licensing,' he said, 'I think you're right.' We raised that matter with the other members and with the legal eagles at the other end of the table who were trying to sort it out, and that is the path we took.

The more I hear about this issue, the more I wonder where we would stand in relation to other provisions for liquor licensing or a petrol tax. As much as I respect the views of the Leader of the Opposition and other members who said that we should narrow the interpretation of section 92 (and that was the decision of a committee that reported back to the Constitutional Convention), I deplore that action.

One thing of which the small States like South Australia, the Northern Territory (when it becomes a State) Tasmania and Western Australia (not so much Queensland) need to be conscious is the corporate and political power in Canberra and all the other power influencing 13 million people out of the 16 million people in this country. If we narrow the scope of section 92 at all, one can bet that those with the most power politically, economically and in the numbers game will not consider a little place like South Australia. We need to be conscious of that when we are thinking about solving a small problem. If we believe that this tax is justified as a licensing fee for tobacco, with tobacco costing what it does—and the same with liquor—then surely we should be able to get some agreement with the Commonwealth Government and not worry about State laws. Let the Commonwealth Government apply a higher excise and pass it back to the States, as it does with income tax. If we can get it back to the same authority and have equal rights throughout the country, why not tackle it that way?

One suggestion was to follow the Victorian course, although I am not sure that that would stand up to a real test of law. If the present law were found to be not enforceable in the High Court, does that mean that we have on the statute book a law that really should not be there because it is unlawful and cannot stand up to a challenge? Are we saying that Stokes is acting lawfully, while the others are abiding by a law that is not a law in the sense that parts of it are invalid? Are we prepared to test it and ask the High Court whether it would agree to the interpretation the Government puts on it here, thereby calling Stokes a criminal for breaking the law and avoiding the tax? Is it a fact that he is not breaking the law or that the law does not have any validity?

Parliament should be concerned about leaving something on the statute book that it is fearful of testing in a Federal court, merely because it might lose or find that the law is invalid. Yet that is the Government's attitude. I do not know the legal implications. Does the same thing apply to the liquor licensing law? Can that be challenged, and is that why we are not going to the High Court? Do other forms of licensing—petroleum and liquor—fall into the same category? Can someone start the same practice by bringing in similar goods from other States? The Premier may be able to enlighten us. The laws may be different, but the method of collection is similar.

We should be concerned about the whole area of this form of licensing which is a tax, although we cannot call it a tax because it then becomes an excise and a Federal Government responsibility which the Constitution stops us from applying. The only reason we relate it to sales concerning a previous period is that otherwise it is an excise. Somebody has found a way around the matter through free trade between the States—buying the goods elsewhere and bringing them in. How would we go with liquor if somebody started a pub on that basis? It would be very interesting. I do not support cigarette smoking at all. I have no smokers in my own family, but I do not object to anybody smoking near me.

The Hon. J.C. Bannon: You want to make it cheaper?

Mr S.J. EVANS: I will come back to that. I do not ask anyone to put out a cigarette: if they are smoking near me I put up with it. My father is a heavy smoker. It is a habit that offends a lot of people, as it gets into your clothes and hair and you have to live with it. My generation were accustomed to putting up with it but many young people today will not accept it and often quite rightly ask people to put out a cigarette or not light up until after a meal. The Premier interjected and said, 'Do you want to make it cheaper?' I do not like smoking; I have never smoked in my life, and I am not trying to make it cheaper. However, I thought we were here to make laws that stand the test of the courts.

I led the campaign for advisory opinions when I was on Constitution Committee D. I raised the matter and the legal eagles told me that there was no hope. I give credit to a Labor man in Victoria, Jack Galbally, who said, 'Keep at it, you're right.' I did keep at it until we got to the point where we agreed that we should be able to obtain advisory opinions from the High Court without setting any precedent, so that the Government could go to the High Court before introducing this sort of legislation on which we have doubts. We had to set up a conference of managers from both Houses to look at it. When the second reading was

completed and before the Committee stage, the Government could submit the measure to the High Court for an advisory opinion, without setting a precedent for future court cases, and obtain that opinion. We may not have ended up with this sort of law on the statute book. I started my efforts in around 1973 or 1974 and whether it will ever become part of the Constitution I do not know, but more people are saying that I am right than said it then. I hope that we can get an advisory opinion on proposed laws before they reach the statute book.

I am not condoning smoking or people cheating, but if the law cannot force the man to pay the tax (and the Premier is admitting that he is frightened of this), then the man is not breaking the law. When it comes to telling people they have to get a licence to smoke we know that they can get around it without any bother at all. We are making a joke of the whole process. We could pay for a couple of people and have an inspector sitting outside Stokes' store or some other store, and when people walked out they could say, 'You bought those cigarettes there; where's your licence?' They would collect enough in fines to pay several inspectors' salaries, which is the point the Premier is coming to. He admits that that is the only way it can be policed. If he does not, I would be surprised.

It is a stupid law: one day we are taking away a law in relation to eggs and the way they are sold, the next day we are deregulating the bread baking and sales industry, and the next day again we are bringing in a system to license those who smoke cigarettes if they buy them from a particular vendor. They can buy them from a vendor outside the State and not pay the tax. It is really quite stupid. We should test the law. If we are not going to test it we know that it is invalid. We should ask the Federal Government to apply an excise at a higher rate, with all States sharing in it. We will then solve the problem without any challenge and it would be on an equal footing. That is the way our founding fathers intended it, but we want to mess around within the separate States and do our own little bit to make ourselves good or bad fellows in the eyes of others.

Joh Bjelke-Petersen makes himself a good fellow because he can do so through the way he manages his State. He can run a cheaper operation than we can with all our regulations and law; he does not have to apply the tax up there, and thus gains the benefit of being able to supply smokers down here. We become a highly taxed State, as it is another form of tax. I cannot support the Bill; I am forced to oppose it, because the present law is not lawful. The Premier is admitting that it will not stand up to a court challenge. How can I support something that involves a law that would not stand a challenge in the opinion of the Premier of this State and his Cabinet colleagues with the best of advice they get from Crown Law? They admit that they cannot win in this respect, and they want us to continue to operate in that way. I cannot do that, because it is unfair for the people of South Australia.

Mr BLACKER (Flinders): I indicate my opposition to the Bill. The Leader of the Opposition has detailed to the House a lengthy debate which I believe highlights many of the problems that I see in the Bill. I sympathise with the Premier and the Government in relation to the problem that exists, but I do not believe that this is the way to go about it; I believe that this legislation would create more problems than it would solve. It is really from that point of view only that I oppose the measure. I do not recall how long ago it was, but I can remember a Bill of a similar type, known at the time I think as the 'Get Brian Warming Bill', designed to get one particular person, and the community outrage about that was, likewise, of some concern.

The Hon. J.C. Bannon interjecting:

Mr BLACKER: It was the type of business that we were talking about; it was in relation to liquor licensing, was it not?

An honourable member interjecting:

Mr BLACKER: Come on! The Premier knows that is not what I am doing; I am highlighting that it was a piece of legislation designed against one person, and this legislation, similarly, is against one person. I think that is really what it is all about. There are problems in this legislation. I note that the Premier refers to the collection of tax, although I think he was unwise in his choice of words, because I do not believe that the State can tax as such. It can levy and do a number of other things, but 'taxation' is the wrong word to use, when the Premier's refers to 'ensuring that tax is paid on all tobacco products that are consumed in this State'. So, it does become a Bill of rather dubious nature. As I have said, I appreciate the dilemma that the Premier is in, but I do not believe that this is the way to solve it.

Members interjecting:

Mr BLACKER: I believe that, unless something can be arranged—

Members interjecting:

Mr BLACKER: I do not wish to comment further other than to indicate my opposition, and that is where is rests.

The Hon. J.C. BANNON (Premier and Treasurer): If the solution to this problem was the simple means that the simplistic and, I suggest, totally legally illiterate Opposition proposes, would we not have followed it? At the base of the criticisms and attacks on this legislation is apparently some view on the part of the Opposition that we want to try to ensure that there is equality of tax payment or franchise payment across the State and that we are going about it in the most complex and complicated and difficult way, just for the sheer sake of it, that for the hell of it we want to sit here and listen to the nonsense from the Leader of the Opposition and go through hours of debate in this House and in another place, arrange briefings and have top experts in Government in law, taxation, and so on, spending hours and hours of time, just for the fun of it, just because we think it is a great idea.

Surely members do not believe that, and yet that is the whole tenor of the remarks, even from such members as the member for Flinders, although admittedly he was temperate in his approach. He made his position clear, but ended up at the very point of saying to the Government, 'But surely there is another way to do it; I just do not like the way it is being done here.' Well, if there was another simple solution, we would have adopted it. If the revenue was not going to continue to bleed, had there not been quite clear advice on that, and if that was not the situation, the Government would not be wasting the time of this House in this manner, or our own time. It just does not stand to reason.

The Government has taken the best advice over a considerable time. We have consulted intensively with the Commissioner of Taxation and his colleagues in other States. I have consulted with other Ministers and Premiers. We have had our legal people, the Solicitor-General, and all those other experts in Government—

Mr Olsen interjecting:

The Hon. J.C. BANNON: If the Leader of the Opposition does not believe that there are problems in Victoria, New South Wales, Western Australia and Tasmania then he obviously has not been talking to his colleagues. However, I will concede that the hapless Bill Hassell was not worth talking to; Kennett has his own preoccupations; Robin Gray

is too busy trying to run a State; and Nick Greiner has his delusions of grandeur—so, putting them all together the Leader is probably not able to get much advice. The fact is that all the States are facing major problems in this area. We are confronted with a situation that we are seeking to adjust, and on all the advice and all the options presented the one before us is the one that has come forward as being constitutionally sustainable, equitable and as achieving our purpose—and that is what we are putting before the House. There is nothing sinister, outrageous or unreasonable about it.

We are giving the consumers a choice, a choice that they can take and one that is easy to make. We are not putting any great burden on them. If they choose to go to the unlicensed retailer, pay the licence and do all the other things that the Act requires, that is up to them. For the Deputy Leader of the Opposition to sit opposite and say 'You're taxing the smoker; you're destroying the consumer' is nonsense. The consumers can go about their purchases in the ordinary way, as they are doing now, or they can choose to take the licence provided by this Bill.

I come back to the point. If it was as simple as is maintained, why would the Government have bothered? The Government has acted on the best possible advice—and it is expert advice, and advice that obviously the Opposition either does not have access to or will not take. One of the big deficiencies, particularly in the House of Assembly, is the total lack of legal expertise on the Opposition benches.

Mr Olsen interjecting:

The Hon. J.C. BANNON: Yes. It is a major gap, and members opposite demonstrate again and again that they do not have access to proper legal advice in what is a legislative area of great complexity. The nonsense mouthed by the Leader of the Opposition demonstrates that very clearly. They ought to take some proper advice, and they ought to listen to the briefings that are offered to them by the Government and try to understand that this was the only solution and that their solution is simply a rehash of things that we have done already, things which have proved to be deficient.

Members interjecting:

The Hon. J.C. BANNON: The Victorian legislation has not been sustained at the highest level. Further, in relation to the Western Australian case that was cited, in fact it was a technicality in the way in which the trader involved was operating that allowed that case to be sustained. Had the Leader read the judgment and understood it he would have realised that in fact there was someone else, and other people have taken account of the way in which that judgment was delivered and have so managed to avoid some of the problems that their Western Australian counterpart encountered. That is the situation with the Western Australian case—so, members opposite should not try to substitute absolutely nil legal training and absolutely nil resources of advice for that of the Solicitor-General, the Crown Law Department, the Commissioner of Taxation, and other people who have to give expert competent advice in this area, and I would imagine, too, those who advise people to try to tackle this legislation and to become tax avoiders.

Mr Olsen interjecting:

The SPEAKER: Order! In view of the number of interjections that were made on the Leader of the Opposition, it is difficult for me to call him to order now for interjecting on the Premier—however, although it may be difficult it is not impossible. The honourable Premier.

The Hon. J.C. BANNON: I am happy with his interjections; they expose his ignorance, Mr Speaker. The interjections expose the ignorance of the Leader's position and the irresponsibility of that position. I believe that, when dealing with sensitive constitutional matters and revenue issues, a bit more understanding and a bit more basic knowledge should be obtained before taking a Pavlovian approach: 'We are opposed to it; we are against it; it is terrible; it is like marijuana legislation or liquor legislation'—or anything else that one can think of. Members opposite are against the measure for purely opportunistic reasons. Had they researched this matter properly and informed themselves they would understand the facts and take a very different view of this legislation. However, they chose not to do so; they chose to remain in blissful ignorance, so as to make the sort of outrageous statements and claims that have been made. I say again that this scheme has been devised on the best advice.

Let us look, Mr Speaker, at basically what the Opposition is doing by this approach. It is simply condoning a method of avoiding tax, simply providing a charter for tax avoidance. The member for Light and the Leader of the Opposition are proud of it: they raised the matter, and by so doing created major problems for us in the enforcement of this legislation. However, we will leave that aside. In the Estimates Committee, the Leader thumped the table and said, 'We demand you take action against blatant tax avoidance.' That is what he said, 'We demand you take action against blatant tax avoidance.' So, we do it on the best advice possible, after interstate consultation and a total review of the law. So we do it, and we are told that the Opposition will oppose it: 'After all, we are the Opposition.'

Members interjecting:

The Hon. J.C. BANNON: This is really extraordinary. What are its motives? Its motives can be viewed only as opposition for its own sake, because we know who it is hurting—it is hurting the normal consumer of cigarettes who pays tax and is probably pleased to do so, the honest person who is prepared to abide by a particular scheme. It is hurting a whole series of small retailers—hundreds of them—who are seeing rivals setting up in an unfair competitive environment. That is who it is hurting by opposing this method which provides a choice to consumers, a choice to persons who wish to retail. It is opposing them, and I would have thought these are the small business people. I thought these were the people who like small business.

In one day the Opposition opposes us in trying to protect or provide a fair trading situation for hundreds of small retailers of tobacco products and also suggesting that we send policemen in crowbarring small bakeries and others because they oppose the bread law, so let us not worry about it. The Opposition talks about small business, and that is who it is threatening. What else is it threatening? It is threatening the revenue of this State and the health services which rely on revenue from this source. That is what it is threatening and it thinks it is a joke. Opposition members would believe that closed hospital beds and all those other things are just a matter that they chortle about because they say, 'We like the way in which smart operators can avoid the system and we will block off the Government doing anything about it.' That is its line.

Well, Mr Speaker, I find that totally unacceptable. The Leader of the Opposition referred to double standards. That is a gross double standard. The people of this State are prepared to play the rules fairly. They are prepared to pay their way. They do not object to that. Smokers do not object to a fair contribution, as long as it is reasonable and as long as it is equal. Under this legislation they will be given a fair choice. They can make the decision. The Act will provide them with the framework to do so, and by so doing every-

body will pay their way, and tax avoidance and tax dodging will not be protected.

The House divided on the second reading:

Ayes (27)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon (teller), Blevins, Crafter, De Laine, Duigan, M.J. Evans, and Ferguson, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Slater, and Tyler.

Noes (17)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Chapman, Eastick, S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen (teller), and Oswald.

Pair—Aye—Mr McRae. No—Mr Wotton.

Majority of 10 for the Ayes.

Second reading thus carried.

In Committee.

Mr LEWIS: I want to understand when and if we will consider the preamble.

The CHAIRMAN: The preamble will be considered immediately before the title.

Clause 1 passed.

Clause 2—'Commencement.'

Mr OLSEN: When is it proposed that the Bill, should it pass the Parliament—that is, both Houses—will be proclaimed, given the administrative mechanisms which must be put in place—the printing of consumption licences and the preparation of signs to be displayed by unlicensed traders? I think they are relevant points because the Premier indicated during his speech the need for urgency in this matter. It is well for the Committee to reflect on some of his comments when he accused the Opposition of causing the problems by exposing the avoidance of tax. The reason and the only reason is the incentive he has created by his tax greed, by doubling the tax in the first place. When he talks about the Opposition's lack of legal expertise in such a condescending and arrogant style from Government, let me say that the Premier may have a law degree, but you would not think it after reading the second reading explanation that he delivered in this House.

Members interjecting:

The CHAIRMAN: That clause 2 stand as printed—

Mr OLSEN: Surely if we ask when the anticipated proclamation will take place—

The Hon. J.C. Bannon interjecting:

Mr OLSEN: That is not the question that was asked. There is a classic example of the absolute arrogance of the Government. I asked when it would be proclaimed, given the complexities of printing the licence fees and undertaking the other administrative acts, but the Premier is not prepared to rise to give information to the Committee.

Mr S.J. BAKER: The simple question—

An honourable member interjecting:

Mr S.J. BAKER: —put to a very simple person in the simplest possible terms is: when does the Premier intend to proclaim this legislation? As the Leader of the Opposition quite rightly pointed out, the consumer and retail licences have to be prepared. Members of the Opposition are interested to know when all the groundwork will be done and when it is intended to actually proclaim this legislation.

The Hon. J.C. BANNON: As soon as possible. Obviously, we do not want to waste any time with this legislation. As soon as the Act is passed, forms will be designed and ready to go. We will get them printed and the legislation will be in operation as soon as we can possibly do that. It is a matter of high priority because, while we do not do it, the revenue bleeds, and that is something about which all members of Parliament and the public should be concerned.

Mr S.J. BAKER: We want something a little more specific than that, because obviously the Premier must have some firm idea as to whether he wishes this legislation to be in place before or after Christmas. What timeframe is the Premier operating on? It is a simple question.

The Hon. J.C. BANNON: As soon as possible; as soon as this is proclaimed, we will implement it.

Mr OLSEN: No consideration was given in the second reading explanation to constitutional issues. I am talking about the commencement and consultation with the Commonwealth and the States. Despite the fact that we canvassed this at length in my response, is it the Government's intention to approach the Commonwealth and the other States with a view to introducing some uniformity in the area about which we are talking; that is, this legislation that is currently before the House and, if not, why not?

The Hon. J.C. BANNON: That is desirable and we will continue to pursue that, but the discussions I have had over the past few months, in attempting to solve this problem, have indicated how difficult that is. It is difficult because, first, in the case of Queensland, it does not want to know about it. Secondly, Tasmania has a common problem, but apparently it has some difficulties in joining with so-called Labor States to do something about it. Constitutional issues take a long time to sort through.

Constitutional reform is littered with failure and with time delays. We simply cannot afford it in this instance, and that is why we are now moving on the legislation. However, we will continue, because it is a far more satisfactory solution to the whole thing if we have a uniform approach—to have either an exchange of powers or some uniform arrangement with the Commonwealth. That would be most desirable, but it is a long way from being achieved. In the interim, this approach is a sensible one.

Clause passed.

Clause 3—'Repeal of the Business Franchise (Tobacco) Act 1974.'

Mr OLSEN: I seek some clarification relating to the repeal of the Business Franchise (Tobacco) Act. How much does the Government estimate that it is losing in revenue under the existing Act and how many traders are involved in the avoidance?

The Hon. J.C. BANNON: I have covered this both in answers to questions in the Estimates Committee and to questions without notice in the House. It is very hard to get a precise estimate, because it involves trying to make some estimate of general demand before one can even begin to find out the difference between what one expects to get and what one actually gets and therefore try to judge what leakage is involved. It could be as much as $1 million. The figure of $500 000 has been used.

I remember the member for Light making some sort of calculation based on advice that he had received, so we could say that at this stage that it is of that order. However, I point out that, if we allow this to go unchecked, it will not simply be that kind of effect around the margin of what is an overall collection of $40 million; it will become very much more significant indeed. In fact, there is evidence to suggest that in New South Wales in particular it is very much greater naturally in amount, but also in proportion, and we simply cannot expose our State, with its very slim revenue base, to that kind of danger.

Mr OLSEN: How many traders is it anticipated are involved in tax avoidance? I recognise that this relates to mail order, and one cannot determine that, because it is impossible to specifically identify.

The Hon. J.C. BANNON: I do not think it is just a question of how many traders are involved: it is a question

of how many will be encouraged to be so involved if they believe that this is an appropriate or legal thing to do, and that is the big danger. Some hundreds of traders have virtually said to the Government, 'Why should we do the right thing while others aren't?'. That is a very good question and it is one that requires response, and we have done that.

We are providing all traders with a choice. They can either trade in one way or the other way, and the legislation provides those alternatives. As to how many are actually so operating, it is almost impossible to know. One trader advertises very prominently that this is what he is doing. He has been on television and he has made public statements saying that he will take the Government to the courts and do anything to assert his rights. There is an individual who has declared himself, and there may well be others.

I repeat that the danger is in those who at the moment use the regular methods, as they have done, as honest traders over the years, and who may be tempted, in the absence of any legislative change, to move to some other system. As a result of this legislation they will have a choice to do it and a method by which they can do it. At the moment they are, if you like, in a very difficult position, because a lot of them feel that it would not be the right thing to do. I respect that, and I think that we ought to do something to assist them.

Mr OLSEN: Can the Premier indicate why other States have decided to more effectively enforce their existing legislation rather than to change to a system of licensing consumers?

The Hon. J.C. BANNON: I would not like to get too deeply into the position of other States—and for a very good reason—because I do not want to expose them. If they want to follow the approach that we are taking, they are welcome to do so. I am addressing the situation in South Australia and a particular problem, as we view it, being solved in this State. All I can say is that, from my observation (and some of this has been published), firstly, in New South Wales, there is a large problem indeed, and prosecutions have comprised people actually bringing cigarettes across in vans. There has been illegality connected with that, but it has not affected the actual direct retailing. There is evidence that that is obviously going on and to quite a large extent. The best solution that New South Wales has talked about publicly is an approach to the Commonwealth. As I have already said, that State concedes that it takes time and it is very unlikely that that approach would be successful.

As far as Victoria is concerned, there has been some success with prosecutions at the lower court levels, but not in instances of particular trading practices, as has been the case here. There is no question that Victoria has been looking very seriously at a similar system to us. In fact, some of the ideas that are embodied in our system came from ideas that are obviously being looked at by people in Victoria.

In the case of Tasmania, again, if members recall, original legislation that was established was knocked out and had to be redefined and re-introduced. Tasmania will be affected in exactly the same way as everybody else if this is allowed to go unchecked.

Finally, in relation to Western Australia, the prosecution succeeded, not in relation to the nature of trading, as has been identified in this State, but on a different technical point. In fact, if one reads the judgment (and I mentioned this in my second reading reply) and analyses it properly, one will understand that it will give encouragement to the sort of trading that is going on in South Australia and not go the other way. Certain statements were made in Western Australia which meant that the practices by and large ceased. As yet, they have not been resumed. I had hoped that some of my statements would encourage South Australian traders to comply with the normal system of licensing, but that did not happen because, clearly, some traders are determined, come what may, to test and challenge it, and in those circumstances we had no choice but to act as we are doing.

Clause passed.

Clause 4—'Interpretation.'

Mr D.S. BAKER: The Bill defines 'tobacco merchant' as 'a person who sells tobacco products in the course of a business'. Does that refer to both wholesale and retail businesses?

The Hon. J.C. BANNON: Yes.

Mr M.J. EVANS: The definition of tobacco product includes 'tobacco prepared for chewing or sucking'. As I recall the provisions of the Tobacco Products Control Bill, that kind of product will, when that Bill has been proclaimed, become illegal. Is it normal in that context to tax a product that is illegal for sale?

The Hon. J.C. BANNON: The other legislation has not yet been proclaimed. This legislation could well operate before the other is proclaimed, in which case it is irrelevant. If, on the other hand, the other legislation is proclaimed first, it does not matter, but we have to cover that situation.

The Hon. E.R. GOLDSWORTHY: Has the Premier consulted with the other States in drawing up this legislation?

The Hon. J.C. BANNON: We have had extensive discussions with other States on how this problem should be tackled. Officers at all levels, including Commissioners of Taxation have been involved. Crown Law authorities notes have been exchanged, and Solicitors-General have discussed the broader constitutional issues. I have also had discussions with my counterparts in other States. The approach in this Bill has been taken in this State and is based on a wide ranging consultation. I imagine that our approach will be considered closely as perhaps the way to tackle this problem.

Mr S.G. EVANS: Has there been discussion with the Commonwealth Government on whether it should charge an excise? This would mean that we would need to have Queensland on side. The Commonwealth Government would apply a higher excise and distribute the money back to the States *pro rata* according to population and we would not have to worry about this problem.

The Hon. J.C. BANNON: That would be a simple and sensible approach. If the Commonwealth was prepared to do that, we would be happy to repeal all our legislation. However, the problem is that we are not likely to get the Commonwealth Government's cooperation in this matter. Since the tax sharing agreement of the 1940s, all Commonwealth Governments have resented and resisted the collection of taxes specifically on behalf of the States. Although I said earlier that we will continue to pursue uniformity and Federal cooperation, that will take a long time. The Commonwealth Government has other problems and is not overly concerned about the situation facing the States.

Mr S.G. EVANS: Does the Commonwealth Government then actively object to collecting the petrol tax that is distributed to the States for road development purposes? Will the Commonwealth Government accept one obligation and reject the other?

The Hon. J.C. BANNON: The Commonwealth retains some of the petrol tax and they would see this as the odium for collecting tax without the States being involved. Unfortunately, on that basis the Commonwealth Government would not be inclined to act on our behalf.

Mr LEWIS: Regarding the consumption licence, this clause defines 'licensed', but that definition does not refer

to the consumption licence itself. What will be the score in that respect? Is a consumer unlicensed if he buys tobacco products in another State? For instance, if I had flown to Brisbane this morning to do business and had bought cigarettes there to bring back to South Australia, would I have been an unlicensed consumer? If so, do I commit an offence by smoking those cigarettes or offering them to someone else? Further, is the other person who innocently consumes those cigarettes that I have brought back from Brisbane guilty of an offence because he is smoking cigarettes that have been purchased by me in another State as an unlicensed consumer? This definition is silent about who is licensed and who is not, and it makes a farce of the legislation if the consumer without a licence innocently offers someone else a fag on returning from another State.

The Hon. J.C. BANNON: It does not make the legislation a farce. The Bill is silent on that point because it is not relevant. This definition relates only to tobacco merchants. The consumer's licence is dealt with in other clauses. In the situation described by the honourable member the answer is 'No'. The honourable member would not be in breach in the circumstances that he has described.

Clause passed.

Clause 5—'Grouping of tobacco merchants.'

The Hon. E.R. GOLDSWORTHY: What will be the effect on revenue as a result of this legislation?

The Hon. J.C. BANNON: The whole purpose of the Bill is to ensure that all tobacco products that are consumed in this State carry the appropriate tobacco franchise equivalent. I would say that the revenue effect would be neutral.

The Hon. E.R. GOLDSWORTHY: Will the projected $41.5 million which the Government expects to collect as business franchise tax this year remain unchanged?

The Hon. J.C. BANNON: I understood that the Deputy Leader of the Opposition was seeking information on the tax impact between the two systems and the overall take. If the honourable member is saying that this Bill will ensure that we obtain the sort of figure for this year, I can only say that I hope we will get close to it, because we aim effectively to collect a tax on all tobacco products, as was contemplated in the past. I have already given an assessment of tax revenue. When this Bill operates, there will be no loss of revenue, so we will be getting the appropriate level of revenue. However, as between the two methods this is a neutral revenue situation.

Clause passed.

New clause 5a—'Territorial application of this Act.'

The Hon. J.C. BANNON: I move:

Page 5, after clause 5—Insert new clause as follows:

5a. (1) This Act applies to tobacco merchants—

(a) who carry on business in the State;

or

(b) who carry on business outside the State and in the course of that business dispatch tobacco products to purchasers in the State.

(2) If a tobacco merchant does not carry on business in the State, this Act applies to the merchant as if the sale and dispatch of tobacco products to purchasers in the State constituted the merchant's sole business.

This is a drafting amendment which inserts new clause 5a and replaces and expands subclause (4) of clause 14, which will be deleted. That latter subclause is deleted and this provision is inserted by means of a new clause. The amendments standing in my name are purely drafting amendments which Parliamentary Counsel has suggested to clarify certain matters.

Mr S.J. BAKER: I cannot find the amendment to strike out subclause (4) of clause 14.

The Hon. J.C. BANNON: That is at the bottom of my amendment sheet which I have circulated. We will come to that later. At this stage, I am simply saying that subclause (4) will be deleted from clause 14 and that new clause 5a will be inserted.

Mr M.J. EVANS: Does that mean that we are anticipating obtaining taxation revenue from those who carry on business outside this State and who are caught under clause 5a (1) *(b)*? Is it anticipated that they will send cheques as part of the process?

The Hon. J.C. BANNON: They are dispatching the product directly into the market, so essentially they are South Australian retailers.

Mr M.J. EVANS: So we are expecting them to pay tax?

The Hon. J.C. BANNON: No, they will not pay tax, because they will be unlicensed. If they choose to be licensed, they will pay tax.

Members interjecting:

The CHAIRMAN: Order!

Mr S.G. EVANS: We are assuming that people operate a mail order business from Queensland and regularly dispatch cartons to consumers in South Australia. Those consumers who received the cartons would be expected to take out a consumption licence so that they could lawfully consume those products. The only way in which we will know that that is happening is if the interstate merchant chooses to comply with the notification conditions and tells us to whom he is sending the cigarette products. Otherwise, the State will have no way of knowing which consumers receive the products: it will be impossible to track them down. Is it intended that those mail order retailers will be required to send information to the State of South Australia to enable the State to track down the consumers who receive their cigarette by mail order? If that is intended, I would have thought that it contravened section 92 as much as would any other process.

The Hon. J.C. BANNON: It is very difficult to enforce the provision in relation to mail orders. However, if there is evidence—

Members interjecting:

The Hon. J.C. BANNON: I am answering the question.

Members interjecting:

The CHAIRMAN: Order!

The Hon. J.C. BANNON: There are certainly problems with identification in relation to mail orders in this instance, as there are in relation to a series of legislation. Some transactions do not come to the attention of the authorities by normal notification processes. At some stage, those tobacco merchants may be required to furnish returns or notices. If, for instance, it is clear that cartons of cigarettes are being sent from a certain dispatch point, the consumers who receive them will obtain licences.

In fact, the dispatcher might want to become licensed to prevent his customers from having to take up consumer licences, so he must also furnish the appropriate forms, returns, and so on, as any other retailer of cigarettes or tobacco products would be required to do. That must be covered in the Act. We will not provide a loophole or a special provision so that mail orders will be allowed to continue. We would discourage that to the best of our ability, and that is why the clause has been inserted.

Mr M.J. EVANS: It seems to me that the ability to discourage that practice would be nil. Members should not for one moment think that I am not in favour of attempting to extract the maximum possible amount of tax from those who sell and those who smoke cigarettes—I am, and I would be overjoyed if we made a great deal of money from that area. However, it seems to me that this will be simply the next loophole. If we succeeded in closing down the business of this fellow who is selling cigarettes under the existing

loophole, the next loophole would be mail order cigarettes from Queensland. That person would transfer his business to Queensland and post cigarettes back here. There is no way in which we could require him to notify us, because we could hardly prosecute someone in South Australia in that context. I fail to see how the Constitution allows us to do that.

We cannot open or interfere with Australia Post mail: that would be a Federal offence. We cannot expect the mailman to report the person to whom he delivers these products, and in any case they would be delivered in a plain brown paper wrapper. We cannot find out which consumers are smoking mail order cigarettes.

Mr Gunn: You could smell the difference.

Mr M.J. EVANS: I do not know whether cigarettes from Queensland smell like bananas. It seems to me that this is the next loophole.

The Hon. J.C. BANNON: I do not understand the point that the honourable member is making. There is a loophole, and that practice is continuing, although the Act does not provide for it. That practice is illegal and, if detected, people will be prosecuted. I agree with the honourable member that it is very hard to prosecute people in this regard. At present the States are working towards an exchange of taxation information law which will be uniform and which will allow for cross-exchange of information. That may well be one way of collecting evidence of such a practice.

However, I am not sure what point the honourable member is making in the context of this legislation. This Bill makes that practice illegal. Sure, there are problems in enforcement, but does that mean that we should make the practice legal? Of course not. Should we enourage that practice? Again, of course not. We will do all in our power as a State in a Federal system to ensure that everything is covered. Everything is covered by this Bill, and I hope that the honourable member will support this attempt to do so.

Mr S.J. BAKER: This clause also has implications in relation to clause 12, which refers to licence fees. I point out to the Committee that people pay $2 for a licence (and that is the question at issue here) plus 25 per cent of the aggregate value of tobacco products. The Premier has said that, as long as people are licensed, they will be all right. We will require people in another State to provide details so that they can pay the licence fees. Quite clearly, it is untenable that anyone in Queensland will supply information to this State. How can we require them to do that? If we were to contemplate this course of action, the simplest solution would be for Queenslanders to purchase a $2 licence fee and not submit a return. If they submit a return, what guarantee is there that that return will be correct? Under State law people are not required to do that, and they cannot be prosecuted. We cannot prosecute people in Queensland.

I am at a loss to understand the Premier's latest invention. I would have thought we were exacerbating a very difficult situation by considering a law that is quite strange, and I will address that matter later. We would be getting ourselves into further difficulties if we inserted this provision. There is no way in the world, under this system, in which the Premier would be able to enforce this provision in relation to a merchant in Queensland who is selling mail order cigarettes or bringing truckloads of goods to South Australia for retail.

The Hon. J.C. BANNON: People in Queensland are not immune from South Australian law if they seek to carry out transactions here, just as South Australians are not immune from Queensland law. We can prosecute, and if we can collect the evidence, we will prosecute. Indeed, it has been done. The point has been made. Of course, it is difficult, but it will be done, and the law must make it unlawful. That is what the Bill does. I presume that the honourable member does not oppose the clause but is trying to publicise the fact that people might be able to get away with this practice if they carry it out by mail. Thank you very much! That is probably right.

Members interjecting:

The CHAIRMAN: Order! I call the member for Mitcham.

Members interjecting:

The CHAIRMAN: Order! I call the Leader to order.

Mr S.J. BAKER: Perhaps the Premier can clarify whether South Australian police or licensing officials have jurisdiction in Queensland. If he can assure the Committee that that is the case, we would have difficulties with the legislation but we would certainly not criticise this provision. Can the Premier say that South Australia can send licensing officials to Queensland to subpoena books and to enforce the subpoena? If he cannot, then this subclause is untenable.

The Hon. J.C. BANNON: No, we cannot cross the jurisdiction of the border. As soon as a transaction takes place in South Australia, we can take that action; that is all. They are not Queenslanders because, if they are operating in South Australia, they are operating under South Australian law. Would the honourable member have it otherwise?

Mr LEWIS: I am still astonished at the Premier's apparent equanimity in question. I wonder how it can be held that somebody who addresses an envelope or package in Queensland is committing an offence in so doing by mailing it to an address in South Australia and, in the process, how arrangements can be made to prosecute that person to the point where he or she is extradited to South Australia to answer charges. One charge may ultimately be contempt of court, arising from the very fact that the person in question did something lawful in the first place, namely, address correspondence to another Australian citizen at an address in South Australia—or, for that matter, to some place in Victoria where it is automatically readdressed to a place in South Australia.

The Hon. J.C. BANNON: If somebody in Queensland mailed a bomb to South Australia after placing an address and stamp on it and it then exploded in South Australia. the logic of the honourable member's position is that that is bad luck because they are protected, having mailed it from Queensland.

Mr Lewis: It's a Federal offence, and you know it.

The Hon. J.C. BANNON: It is a State offence under the Criminal Law Consolidation Act.

Mr Lewis interjecting:

The Hon. J.C. BANNON: The mailing of the bomb under the Federal law is not the point I am making. If it kills or maims someone here a State offence has been committed and we can prosecute and would do so. It is exactly the same. If someone receives those cigarettes and they are unlicensed, at the moment it is legal. The mail order trade is legal. They will be required under this legislation to get the consumers' licence and the supplier in turn would be required to have the appropriate notices, and so on. That is where the transaction will be caught up.

New clause inserted.

Clause 6—'Act to bind the Crown.'

Mr M.J. EVANS: The Premier will know of my interest in Commonwealth places and the abuse of State laws in relation to Commonwealth places involving other matters. I would like advice from him in relation to its effect on this legislation. In my own electorate is a large Air Force base with a canteen selling cigarettes. There is an airport in South Australia selling cigarettes and ANR terminals selling

cigarettes. They are all Commonwealth places. To what extent will this clause permit this legislation to reach into those Commonwealth places?

Mr Lewis: What about someone smoking in a plane flying over the State?

The Hon. J.C. BANNON: The Commonwealth Places (Application of Laws) Act will apply in the instance to which the honourable member referred. In other words, the State law will apply to those individuals. The interjection is plainly ridiculous. I have already answered that, and the honourable member will find the provision in the legislation if he reads it.

Mr M.J. EVANS: I can be satisfied that those who sell cigarettes in Commonwealth places will be required to be licensed or, if not, will be required to comply with all the conditions of the Act. A consumer who consumes cigarettes or tobacco products at a Commonwealth place will be required to have a licence and all the normal course of events will apply outside that Commonwealth place.

The Hon. J.C. BANNON: A Commonwealth law overrides that, but in this instance it does not. It will apply and in fact they pay fees. This legislation will not alter that.

Clause passed.

Clause 7—'Unlawful consumption of tobacco products.'

Mr D.S. BAKER: What happens to the person who goes to the international airport and buys four cartons of cigarettes, flies to New Zealand for the week, comes back to South Australia and then consumes them? Under the provision governing duty free cigarettes he would be liable for a $10 000 fine, which is a heavy penalty.

The Hon. J.C. BANNON: The responsibility is there. The penalty is a heavy one, and up to $10 000 is provided. That is a maximum figure and is not absolute. It could prove to be quite an expensive exercise, but people can get a licence if they do not want to be caught up under this penalty. They can then buy from any unlicensed merchant they wish or even buy from a licensed merchant: it is as simple as that.

Mr S.J. BAKER: The Premier said that we had not taken advice and obviously did not have any legal expertise on this side of the Chamber. If it is the legal expertise opposite that is determining the force of this legislation, perhaps we are better without it. We have seen some atrocious legislation coming from the Government, presumably on the best advice. I will not go through all the Bills, but we had the debacle with vegetation clearance. We also had the recent beverage container legislation, automatic parole system, workers compensation and occupational safety, and now the Government is changing the Act because it cannot break down the doors of the bakers. If we follow that logic through we would never prosecute anybody. This clause says that there will be a $10 000 fine if one consumes a cigarette that has not come from a licensed source. We are continually told that the Government has good legal advice, but where was the good legal advice on the beverage container legislation?

The CHAIRMAN: Order! I call the honourable member to order. This is not a second reading speech. I ask him to come back to the clause before Committee and to address his remarks to that clause.

Mr S.J. BAKER: I am addressing myself to the clause by indicating that nowhere in Australia or, indeed, in the rest of the world (even Singapore and places commonly quoted by members opposite) is a fine of $10 000 laid down for the smoking of a cigarette, yet that is exactly what this legislation does. We are making a farce of this law in South Australia. The Premier can say that he has a good excuse because he has to overcome a problem. He said that the best legal advice in the land stated this was the way to go. I have seen the best legal advice in the State and can point to a number of enactments which have failed.

Mrs Appleby interjecting:

Mr S.J. BAKER: This legislation is unbelievable.

Members interjecting:

The CHAIRMAN: Order! I ask the honourable member to resume his seat. Nothing will be gained by one side of the Chamber trying to shout down the other side. No points are to be gained anywhere in arriving at a situation like this. I ask the honourable member once more to come back to the clause before the Committee.

Mr S.J. BAKER: I am merely making the point that, if anyone envisaged that we would fine someone $10 000 for smoking a cigarette, the public would be asking what had gone wrong with this Parliament.

An honourable member interjecting:

Mr S.J. BAKER: With marijuana, one gets only a $50 fine. This is important. We are here to legislate properly for the State, and if the only way we can get out of a difficult situation is 'according to the best legal advice'—and I just say that I am not sure about the best legal advice we have here—

Mr Tyler: What are you suggesting?

The CHAIRMAN: Order!

Mr S.J. BAKER: The Opposition has already made some suggestions which have not been addressed by the Premier. I do not intend to go on with the point. The question has been raised about someone buying cigarettes legally in this State on Commonwealth property and then bringing them back and smoking them: under this definition, the person doing that is subject to a $10 000 fine. I say simply, 'How can people consider that the Parliament of this State is legislating in the best interests of people in South Australia when we have such anachronistic laws being put on the Statute Book? I appeal to some people's sense of logic. Where else would one find a piece of legislation that prescribes a $10 000 fine for smoking a cigarette, just because a person got it from the wrong premises. That is exactly what this legislation does. So, even if members opposite do not like logic, they must at least ask themselves, in such circumstances how people view this Parliament?

The Hon. J.C. BANNON: I am afraid that the honourable member just does not understand the legislation. It is not fining a person $10 000 for smoking a cigarette just because that person got it from the wrong place—there is no right or wrong place to buy. A $10 000 fine will be applicable if cigarettes were bought from an unlicensed merchant, with the person not having a licence. So, in order not to be fined $10 000 one can either take a licence or buy from a licensed retailer—like 98 per cent of people do.

Mr S.J. Baker interjecting:

The CHAIRMAN: Order!

The Hon. J.C. BANNON: So, there is no $10 000—fair enough?

Mr LEWIS: The other circumstance to which I wish the Premier to address himself in answering questions about this clause is where, for instance, I go interstate and buy a Christmas present for, say, the honourable Minister of Labour, of a carton of cigarettes and mail it to him when I get to Pinnaroo, or from anywhere else for that matter. In the event, if the Minister of Labour accepts my Christmas present and smokes the cigarettes, he is obviously smoking cigarettes as an unlicensed consumer, as duty has not been paid on them. Is he guilty of an offence, and in what way is it possible for him not to be guilty of an offence—if he is not—whereas other people are?

The other matter to which I wish to draw the Premier's attention is the prospect of the formation of consumer cooperatives where the individual consumers are part of a consumer cooperative that extends across the borders of the States and, as members of that cooperative, quite lawfully registered, they procure a range of goods, amongst which for a package fee each month they get a certain option of taking cigarettes. If they take those cigarettes they cannot be prosecuted.

The Hon. H. Allison: Is there a defence in the case of an unsolicited gift?

Mr LEWIS: Yes, in the first instance there is an unsolicited gift about which the ultimate consumer has no knowledge, and in the second instance there is the question of goods chosen from a range offered to people in a consumer cooperative, where they ultimately consume those goods in South Australia.

The Hon. J.C. BANNON: The Act provides that, if one consumes such products without a licence, then one is liable to the penalty if those goods come from unlicensed sources. However, I draw the honourable member's attention to subclause (2) *(a)* and *(b)*, which covers the instances that the honourable member talks about. Are those provisions adequate for his purpose? Paragraph *(a)* refers to a person obtaining a tobacco product, while outside the State, for personal consumption and paragraph *(b)* refers to a person who obtains the tobacco product as a gift from a person who is neither a tobacco merchant nor an associate of a tobacco merchant. Again, they do not have to have a licence and that covers the gift situation.

Mr LEWIS: If one is a member of a consumer cooperative and as part of the options available, after having bought one's $400 worth of goods from the cooperative each month, one decides to collect cigarettes as one's trading stamps, if you like, or remission, it should be remembered that in such circumstances that person owns the business and those cigarettes would be a gift from the cooperative to which that person belongs and therefore he would not be guilty of an offence in that instance.

The Hon. J.C. BANNON: If it is a gift, yes, it would not be caught under the provisions.

Mr D.S. BAKER: Will the Premier explain why in clause 7 (3) the expiation fee is $200 for a product like tobacco, which is legal, whereas in relation to marijuana we believe it will be $50? Can the Premier explain why the legal product expiation fee is at the higher level?

The Hon. J.C. BANNON: It applies to the goods purchased at the time. There could be any quantity, and that is why it is set here. There is no analogy between marijuana and this: marijuana is illegal and is caught under legislation. It is illegal to trade in it and the penalties are enormous—they are not $200, but very high indeed.

Mr Lewis: We are talking about consumption.

The Hon. J.C. BANNON: Yes, I am simply pointing out that the two are unrelated; we are dealing here with a legal drug, and it is a different treatment of course with an illegal drug, which marijuana is.

The Hon. E.R. GOLDSWORTHY: If a person flies into South Australia from overseas (some of the hordes of tourists that we hope to attract as a result of the Grand Prix, and so on), is that person guilty of an offence if he were to buy cigarettes at, say, unlicensed premises at Adelaide Airport, which of course is Commonwealth property?

The Hon. J.C. BANNON: People could buy cigarettes as long as they did not smoke them. Once they smoke them they would be liable to the laws of the State. A tourist does not fly in and simply get in a car, for example, and say, 'Well, I come from Europe, where they drive on the opposite side of the road, so that is what I am going to do,' but complies with the laws of the State. However, I think that the honourable member will find that the outlets at the airport, and so on, are all licensed retailers, anyway.

The Hon. E.R. GOLDSWORTHY: If it is Commonwealth property, I guess a sign indicating whether the premises are licensed or unlicensed does not have to be displayed. It is Commonwealth property, and in those circumstances I would think that it would be absurd to suggest that tourists buy cheap cigarettes there but not smoke them: they will certainly not buy them unless they can smoke them—so that sort of technical distinction is quite meaningless.

The Hon. J.C. BANNON: The Deputy Leader was not concentrating or listening to what I said.

Members interjecting:

The Hon. J.C. BANNON: The point is that I have to keep repeating things again and again.

Mr Olsen: You keep giving answers that are different.

The Hon. J.C. BANNON: No, I do not; I will give exactly the same answer. The member for Elizabeth has already dealt with this very point, and I drew attention to the Commonwealth Places (Application of Laws) Act, which is relevant in this circumstance.

Mr OLSEN: I ask the Premier how he intends to advise interstate business people and visitors and overseas visitors of the need to comply with this law? Does he intend to give every person arriving at an airport, a railway station or bus station a notice of the licensed and unlicensed premises?

The Hon. J.C. BANNON: No. Again, clearly, the Leader has not read the legislation. For goodness sake, if we are going to deal with a Bill, why will he not read it?

Mr Olsen interjecting:

The CHAIRMAN: Order!

Members interjecting:

The Hon. J.C. BANNON: Why waste our time?

Mr Olsen interjecting:

The CHAIRMAN: Order! I call the Leader to order.

The Hon. J.C. BANNON: Now he tries to bluff his way out of it. He asks a really damn fool question which is answered by the Bill itself, and then blusters, bluffs and shouts because he has been found out. Other clauses in the Bill provide that one has to display signs. It is an important part of the Bill. It defines these. Have not you read it? For goodness sake, stop asking such questions. I presume that people from interstate will be able to read, and if they can read they will see the signs.

Members interjecting:

The CHAIRMAN: Order! The member for Mitcham.

Members interjecting:

The CHAIRMAN: I call the Leader to order for the third time; the next time I will issue a warning.

Mr Olsen interjecting:

The CHAIRMAN: I hope the Leader is not reflecting on the Chair, because I will take action.

Mr S.J. BAKER: Can the Premier please inform us, after that last answer, how an interstate or overseas visitor is to know, if there is a packet of cigarettes on display, that he is not allowed to buy from unlicensed premises?

The Hon. J.C. BANNON: He can buy them. He must not consume them.

Mr S.J. Baker interjecting:

The Hon. J.C. BANNON: The Bill provides that signs must be there. Read the Bill, and stop asking stupid questions.

Mr M.J. EVANS: I have to support the Premier's comment there. It is quite clear that that is answered, and I would like to address the Premier's mind to something not so obviously covered in the Bill as was the question just

asked. There are two matters I should raise with the Premier. First, in relation to his comment on the previous matter about marijuana, it seems to me that we have to address this relationship here, because obviously the community will address it and it should be addressed in the Parliament. If I grow two or three tobacco plants at home and choose to dry and roll my own tobacco and smoke it, that is clearly consuming untaxed tobacco, and that would be an offence against this provision unless I obtained a licence. If I in fact breached that provision, having grown my own, I would be liable to an expiation penalty of $200 or, if I did not pay that, to a court case and a criminal record with a $10 000 penalty.

If I grow two marijuana plants at home, that, of course, is illegal but the penalty for that, according to the Minister of Health, is to be $50. It seems to me that that is the juxtaposition which the Premier must address, not the matter which was raised in relation to trading and which I completely agree with him is apples and oranges—not to be compared at all—but it is quite feasible to grow two tobacco plants next to two marijuana plants, suffer an expiation offence in relation to smoking both, and in respect of smoking the one I consider to be the less evil, where the Premier is missing out on his taxes, pay a penalty of $200, but where I deal in a drug which we all agree to be illegal and wrong, the penalty is $50. That is the comparison I would like the Premier to address, if he could.

The Hon. J.C. BANNON: I do not know how much backyard tobacco growing there is—

An honourable member: Or how much backyard marijuana?

The Hon. J.C. BANNON: Obviously the State would be seeking to pursue it. There is no distinction in this Bill as to quantity. There is as far as marijuana is concerned. The relevance is whether it is one or two plants or hundreds. Here one could have fields of tobacco or a very small amount, and the penalty is the same. As I say, I think there can be quite a considerable distinction drawn between the illegality in this instance, which can be easily solved by the obtaining of a licence, and the illegality in the other instance which cannot be solved by any means other than being fined.

Mr M.J. EVANS: As I understood this, the penalty is not to possess an untaxed cigarette, but to consume it. Quite clearly, a person may purchase kilograms of untaxed cigarettes, but providing they do not consume them, they do not commit an offence. Therefore, as it is drawn, I had assumed that it would be an offence each time an untaxed tobacco product was consumed. In other words, if one has a packet of 20 cigarettes, one commits the offence by smoking the first cigarette and another offence by smoking the second one. I understand now from the Premier's answer that it is only a single offence in fact to possess all of that tobacco, even if one consumes it one cigarette at a time. I understood the offence to be consumption. That to me would mean an offence was committed each time consumption occurred—not one offence in respect of all tobacco in the possession of a person.

The Hon. J.C. BANNON: I am concentrating not on the offence but on the legality or illegality. For your licence, you can consume as many cigarettes as you like, as much tobacco as you want. You are not able to get a licence to consume marijuana. On each and every occasion that you do so, you are liable to a fine.

Mr M.J. Evans interjecting:

The Hon. J.C. BANNON: It is drawing a long bow, really. You can get a licence and consume and grow as much as you like.

Mr S.G. EVANS: We are talking about two Acts here. I know that we perhaps should not be, but the Premier has lost me after the member for Elizabeth's comments, so I want to clarify it. I have always believed it to be an offence to grow marijuana in any quantity. It is not an offence to grow tobacco, but if the marijuana is processed and you use it yourself, once it is processed and used, that is not an offence; you buy a non-conviction. With the tobacco, once you start smoking it, you are gone for a bigger penalty. However, it is the reverse for the actual growing of it. It is an offence to grow marijuana but it is not an offence to grow tobacco.

The Hon. J.C. BANNON: You can buy a $40 licence and smoke as much as you like. In the case of marijuana, it is illegal to grow and to smoke, and you are penalised accordingly. I do not think it is an analogy—I do not see why we are discussing one Bill in the context of another.

Clause passed.

Clause 8—'Consumption licences.'

Mr OLSEN: Referring to subclause (4), other than the statement provided, how will the commission determine that any applicant for a consumption licence is over the age of 16?

The Hon. J.C. BANNON: They will just ask for a birth certificate. They will get a certification.

Mr OLSEN: Anyone asking for a consumption licence would have to supply a birth certificate that indicates that they are 16 years of age?

The Hon. J.C. BANNON: A declaration to that effect.

Clause passed.

Clauses 9 and 10 passed.

Clause 11—'Application for tobacco merchant's licence.'

Mr D.S. BAKER: Subclause (1) *(e)* provides that an applicant for a tobacco merchant's licence must declare that during the period of two months preceding the date of the application the applicant has not sold tobacco products other than tobacco products purchased from licensed tobacco merchants. If this comes into law, as I read it, it would be retrospective in that anyone who had been dealing with the alleged major offender for two months cannot apply for a licence to start trading. Is that correct?

The Hon. J.C. BANNON: This is a retailer's licence. The people dealing with those who are alleged offenders are dealing directly with consumers. That is the difference.

Mr D.S. BAKER: As I understand it, there would be people and clubs buying in bulk from him to resell because he is cheaper. Under clause 11 (1) *(e)*, they would not be able to get a licence for two months.

The Hon. J.C. BANNON: If you have evidence of this individual selling to clubs or anybody for resale, I would like to have their names because we can prosecute them.

Mr D.S. BAKER: Is it a fact?

The Hon. J.C. BANNON: In that case, yes, because he has been in breach. I would appreciate any advice that the honourable member or anyone can give of resale, because if there is resale anyone is gone a mile. If you are directly selling to a consumer, then this does not apply and you would not have to.

Clause passed.

Clause 12—'Licence fees.'

The Hon. J.C. BANNON: I move:

Page 8, line 43—After 'in force' insert 'or $10 whichever is the lesser'.

This again is a simple drafting amendment. At the moment the retailer fee is $10 per year and we want to preserve the situation as it exists now. The inclusion of this clause will maintain the current $10 per annum retailer licence fee.

Amendment carried.

The Hon. J.C. BANNON: I move:

Page 9, after line 37—Insert subclause as follows:

(10) If the Commissioner determines that this subsection should apply in relation to a particular licensed tobacco merchant then—

(a) sales of tobacco products to that tobacco merchant by any other licensed tobacco merchant will be disregarded in assessing the vendor's licence fee;

but

(b) the purchaser's licence fee will be assessed as if those tobacco products had not been purchased from a licensed tobacco merchant.

This subclause deals with the wholesaler who sells to wholesalers. I cite the example of companies like Independent Grocers and other such companies that can also sell to wholesalers. This subclause ensures that their situation is protected.

Mr OLSEN: I need some clarification in relation to the licence fees and the fees that will apply to consumption licences. Does the Government intend to police this measure, and does it intend to undertake random spot checks through the community to establish whether people are buying from licensed or unlicensed dealers?

The Hon. J.C. BANNON: The simplest and practical way to police it is at the point of sale and the consumption that may lead from sale. There are certain requirements on unlicensed retailers with which they will have to comply, and their customers will also have to comply if they purchase for consumption.

Amendment carried.

Mr OLSEN: In relation to the amount of a licence fee established at $40 per quarter, the Mixed Business Association indicated to the Opposition that it believes that the $40 is totally inadequate. In fact, if one takes out figures on what an average or moderate to heavy smoker would consume, it appears that taking the consumption licence for each quarter they may well be at least $100 per year better off through buying from an unlicensed trader. People in that category would be better off to go down that track rather than to operate under the current system.

The Hon. J.C. BANNON: Clause 12 applies to the fees which are payable by tobacco merchants; namely, $2 plus 25 per cent, etc. The Leader of the Opposition is asking about the $40, and that is the amount that is paid by consumers under clause 8, which we have already passed. The amount has been fixed with a view to ensuring that it is seen as a reasonable payment.

Clause as amended passed.

Clause 13 passed.

Clause 14—'Declarations to be obtained from purchasers.'

The Hon. J.C. BANNON: I move:

Page 10, lines 26 to 28—Leave out subclause (4).

This amendment is consequential to the one relating to the insertion of new clause 5a.

Amendment carried.

Mr M.J. EVANS: It seems that the offence that is created here is in respect of the merchant who does not obtain the declaration and that it is not in respect of the consumer who does not sign it. What is proposed to be done in relation to a situation where the consumer refuses to sign the declaration? How is the merchant to obtain a signature on the declaration if the consumer does not wish to give it? Where is the offence in respect of the consumer?

The Hon. J.C. BANNON: The unlicensed retailer will not be able to sell if he does not have the declaration so, if his potential customer refuses to sign it, he has to say to him, 'Sorry, I can't sell to you.'

Mr M.J. EVANS: But it does not quite say that. It says that a declaration must be obtained from the purchaser before the purchaser leaves the tobacco merchant's premises; it does not say 'before he sells the goods'. It seems to me that the offence is created only after the sale has taken place. Given that that has occurred, how does the tobacco merchant physically prevent the consumer from leaving before he has signed?

The Hon. J.C. BANNON: That is really in addition to what I was saying. There can be a defence on the part of the retailer if he can show that he has made all reasonable efforts to obtain such a declaration. In other words, he can erect a defence; otherwise he is in breach.

Mr M.J. EVANS: There is no offence by a consumer who refuses to sign?

The Hon. J.C. BANNON: No, that is correct.

Mr D.S. BAKER: In relation to clauses 14 (1) and 14 (2), should not the penalty be contained in clause 14 (2)? I wonder whether the penalty of $20 000 should not be provided for after:

The declaration must be obtained from the purchaser before the purchaser leaves the tobacco merchant's premises.

The Hon. J.C. BANNON: The offence is contained in clause 14 (1), and the penalties attached to it. Clause 14 (2) explains how the offence is committed.

Clause as amended passed.

Clause 15—'Notice to be displayed for the information of prospective purchasers.'

The Hon. J.C. BANNON: I move:

Page 10, after line 44—Insert subclause as follows:

(4) This section does not apply to premises situated outside the State.

This amendment is a minor refinement. We are not suggesting that there be a requirement to display signs in premises outside the State. Other appropriate forms would be required.

Amendment carried; clause as amended passed.

Clauses 16 to 20 passed.

Clause 21—'Powers of inspector.'

Mr OLSEN: How many inspectors does the Government intend to employ under the new Act, and will the Premier explain how inspectors have attempted to enforce the existing legislation as opposed to the new Act?

The Hon. J.C. BANNON: We estimate that we should be able to do it from within existing resources.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.C. BANNON: Yes.

The Hon. E.R. Goldsworthy: How many have you got?

The Hon. J.C. BANNON: Enough at this stage. One can only anticipate it. A fairly high level of inspectorial effort has been made over the past 12 months, as members would be aware.

[*Sitting suspended from 6.1 to 7.30 p.m.*]

Mr OLSEN: Is it the intention that inspectors will have the power under this clause to visit homes with a view to putting questions to individuals if it is reasonably suspected that they have contravened the Act?

The Hon. J.C. BANNON: No, we will not get involved in that sort of thing.

Mr OLSEN: Therefore, the powers of the inspector will relate only to licensed and unlicensed premises? The clause will not allow them to take the next step of checking with individuals in relation to whether or not they have a licence?

The Hon. J.C. BANNON: There is no intent to pursue individuals unless there is reason to believe that they are deliberately flouting the law, in which case reasonable inspection activities will take place. As I said before the dinner break, the inspection procedure will focus on those persons who are purchasing from an unlicensed retailer to ensure that the terms and conditions under which one can

purchase and consume are observed. That is the most sensible way of doing it. It is not a witch-hunt or anything like that.

Mr D.S. BAKER: It appears to me that the powers of the inspectors under this Act are the most draconian that I have ever read in legislation in my short time in this House. Clause 21 (2) provides:

> An inspector may not use force to enter premises under subsection (1) *(a)* . . .

I agree with that, but it is completely negated under subclause (2) *(b)*, which states that when an inspector has reason to suspect that urgent action is required he can use force. That is a pretty draconian power to give to an inspector. Subclause (5) states:

> If an inspector has reasonable grounds to suspect that a tobacco merchant has committed an offence against the Act, the inspector may seize all tobacco products—
>
> *(a)* on or adjacent to the merchant's premises . . .

Can I read from that that 'adjacent' means that he can inspect the next door neighbour's property?

The Hon. J.C. BANNON: Yes. It is a fairly strong power, but the honourable member will notice that the inspector must have reason to suspect: he has to justify that, and therefore appeals will lie. Subclause (5) is a reflection of the Victorian Act, which the Opposition has already raised as being the most appropriate way of dealing with it. In fact, our legislation including the amendments we made earlier this year, reflects that Victorian legislation, with this exception, which was not in the legislation that we put into effect earlier this year. So, again, all I am saying is that it is not without precedent in this area of enforcement. It will obviously be used judiciously. If the honourable member looks at the overall pattern of the legislation, he will see that there is nothing to be concerned about.

Mr D.S. BAKER: It is draconian that he can not only search the merchants' premises but, without authority, can go into the next-door premises. If one is to accept what the Premier says, clause 22 states under 'Miscellaneous'—

The CHAIRMAN: Order! The honourable gentleman is now dealing with clause 21. He will get his opportunity to deal with clause 22.

Mr D.S. BAKER: I was reading that in conjunction with clause 21.

The CHAIRMAN: I am sorry, but I cannot allow discussion on clause 22 to take place while we are on clause 21.

Clause passed.

Clause 22—'Immunity from civil liability for the Crown and officers.'

Mr D.S. BAKER: Clause 22 states that, if an officer acts honestly in the exercise of powers conferred by this Act or acts in the honest but mistaken belief that the act is authorised by this Act, no civil liability can be attached. If I am allowed to turn back to clause 21, it means that they can act with a power that is not given to the police or any other persons in this State and that, if they act honestly in their belief, there is no civil liability: that is absolutely draconian. It is absolutely unheard of in this State. If one gave this power to the police they would wrap up the drug problems and many of our other problems in this State in no time. However, the Government is giving this to an inspector, and it is totally draconian.

The Hon. J.C. BANNON: The honourable member should not get too excited about the power: it is a protection to the Crown.

Mr D.S. Baker interjecting:

The Hon. J.C. BANNON: The honourable member might do, but he has to look at the actual damage that is caused. The honourable member has referred to the way in which this clause relates to clause 21. In instances where that action has taken place there can be a requirement, which the Supreme Court can direct, under clause 21 (6) *(d)* whereby the tobacco products seized in these circumstances can be returned. In other words, if it is unreasonable and if the goods have been seized—they are the things of value that have been affected—those goods would be returned. So, there is that protection to somebody who is faced with this most unusual situation.

Clause passed.

Clause 23—'Secrecy.'

Mr D.S. BAKER: Clause 23 carries on with these draconian powers, providing as it does that an officer shall not divulge or communicate information obtained except to the Commonwealth Commissioner of Taxation. It is unheard of in this State; that these inspectors can go around obtaining information on tobacco products and any other information. They can go through one's books and records, obtain the information, and then ring up the Commissioner of Taxation without the person being allowed any recourse whatsoever. They can also give it to an officer in this State, another State or a Territory who is employed in the administration of laws relating to taxation. Surely that is the most draconian provision that has ever been introduced in this State.

The Hon. J.C. BANNON: In most legislation this clause applies. For instance, it is in the FID Act in South Australia. Indeed, there have been discussions on a national basis to import these provisions, which can involve also an exchange of information, on an Australia-wide basis. The honourable member might object to it as being an unreasonable power, etc., and in general terms he can certainly voice that objection. But, in singling it out in this Act he is not being reasonable. This is regarded now as the sort of provision that is necessary in this type of legislation.

Mr S.J. BAKER: Can the Premier confirm that the FID tax relates to financial institutions that are regulated under Federal Acts? If so, we are dealing with a totally different animal in this situation.

The Hon. J.C. BANNON: Financial institutions are also regulated under State Acts. The honourable member is not correct. We are simply talking about—

Mr S.J. Baker interjecting:

The Hon. J.C. BANNON: No, we are simply talking about a secrecy protection, which is quite reasonable. As I say, the honourable member can object to that, but it is not unusual.

Clause passed.

Clause 24 passed.

Clause 25—'Commissioner may require verification of information.'

Mr D.S. BAKER: Surely clause 25 is a denial of natural justice. An inspector can, when he suspects that an offence has been committed, go through anything, including a neighbour's house. Any statement made must be by way of a statutory declaration. The inspector does not have to have an excuse: he is exempt. If the suspect has no excuse, a fine of $20 000 is imposed. Surely that is draconian.

The Hon. J.C. BANNON: The honourable member should read the precise words. This clause provides that the Commissioner 'may' require certain things: in other words, that does not have to be done, and in most cases I am sure that it would not be required. However, where there is a major dispute or resistance to the supply of information, the Commissioner can implement his powers under this clause. That would seem to be reasonable. It obviously applies to those situations where there is a major dispute. I draw the honourable member's attention to the words 'may require'. That

does not mean that the Commissioner 'shall' require in all cases: it means that, where there is some reason to so require, that action will be taken. If the individual does not comply, the penalty applies.

Clause passed.

New clause 25a—'Keeping of records.'

The Hon. J.C. BANNON: I move:

Page 15, after clause 25—Insert new clause as follows:

25a. (1) Subject to subsection (2), a tobacco merchant—

(a) shall keep records containing prescribed particulars of the merchant's dealings in tobacco products; and

(b) shall preserve any such record for at least 5 years after the date on which the last entry was made in it.

Penalty: $10 000.

(2) The preservation of a record is not required under this section if the Commissioner notifies the tobacco merchant to that effect.

This is the last of the amendments in relation to the keeping of records. It clarifies the conditions and the requirements for record keeping, and for how long they shall be preserved. Presumably, if the Commissioner is satisfied that the keeping of records is satisfactory or the merchant is complying with the general legislation, he can so rule and action will not be required. In all other cases, such a prescription can be made.

New clause inserted.

Clauses 26 to 30 passed.

Clause 31—'Regulations.'

Mr OLSEN: Will the Premier explain precisely how tobacco products sold by unlicensed traders will be marked to distinguish them from products sold by licensed traders?

The Hon. J.C. BANNON: There is no present intention to do so. It may prove necessary, and at that time a decision will be made about the appropriate way to proceed.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.C. BANNON: We have been through that in discussing previous clauses. There is already provision in the Act for declarations to be made, and we believe that that coupled with the licence system will be sufficient. This is, if you like, a reserve power if there is obvious non-compliance.

The Hon. E.R. Goldsworthy: A reserve power?

The Hon. J.C. BANNON: Yes, exactly. If there is obvious non-compliance, this will be required. At that point we will determine how they shall be marked appropriately. There is no question that the power is there, but we do not intend to put it into effect unless it proves necessary because people are not complying with the Act.

Mr OLSEN: The Government has not considered how, if in the event that must be done, to distinguish between a packet of cigarettes from an unlicensed trader and a packet of cigarettes from a licensed trader.

The Hon. J.C. BANNON: We require the seller to have that notice displayed.

Mr Olsen: Attached?

The Hon. J.C. BANNON: Yes, indeed. Perhaps every cigarette.

Members interjecting:

The Hon. J.C. BANNON: There are already labels on cigarettes: they are printed.

The Hon. E.R. Goldsworthy interjecting:

The Hon. J.C. BANNON: Yes, sure. As the honourable member says, cigars carry tags. Quite frankly, we do not believe that this will be necessary if people comply with the Act. It is as simple as that.

Clause passed.

Schedules passed.

Preamble.

Mr D.S. BAKER: I believe that clause 1 of the preamble is unprecedented in preambles to Acts in this State. It is a blatant misrepresentation. This is a straight-out tax raising measure. The health of the citizens of this State is not the only factor involved in this measure: the object is to raise taxes. If we are to believe clause 1, will the Premier introduce a Bill in relation to road accidents because cars cause problems? Will he introduce a tax gathering measure because alcohol causes problems? One of the greatest problems in this State in the future will probably be caused by that dreaded disease AIDS which is going around: perhaps the Premier can tell me how he will raise a tax in relation to that matter.

The Hon. J.C. BANNON: There is no question that tobacco related illness and disease imposes a major burden on the health of the community. I believe that smokers themselves accept that they are making a contribution by the taxes raised. In fact, we earmark a proportion of taxes in the motor vehicle area for road safety programs: we recognise that. And there is a liquor franchise, which raises taxes in that area. I am not quite sure what the honourable member has in mind in regard to AIDS. If he would like to elaborate, I would be prepared to consider it, but it is probably not relevant. I simply make the point that the honourable member is burying his head in the sand if he believes that smoking does not impose cost burdens that are picked up by the community. That has been proved, it is done, and that is one justification for the tax. It is spelt out in the Act. It is not dishonest at all.

Preamble passed.

Title passed.

The Hon. J.C. BANNON (Premier and Treasurer): I move:

That this Bill be now read a third time.

Mr OLSEN (Leader of the Opposition): The Opposition still cannot support the Bill as it comes out of Committee, because we do not believe that it will be enforceable or achieve the objectives set out by the Government.

The Hon. J.C. Bannon interjecting:

Mr OLSEN: We have given a number of measures introduced by this Government a go. We found that the beverage container legislation failed, and the native vegetation clearance controls have also failed. For the Premier to say, 'Why not give it a go?' despite the fact that we have highlighted a number of flaws in the legislation is to ignore reality. Shortly after I spoke in the second reading debate, the Premier issued a press release saying that the Opposition and I supported tax cheats. With statements like that it is no wonder the debate escalates and members seek to interject and put their viewpoints. At times the debate on this Bill has indeed been heated. I and the Liberal Party do not support tax cheats. We support legislation that will work and will close loopholes rather than replace one inadequate Act with another inadequate Act, yet that is what this House is being asked to do. The press release indicated that the Opposition had not put forward any positive alternatives. The lie was given to that statement by the Premier when he referred to the alternatives put forward by the Opposition during the course of this debate. We put forward some positive alternatives and proposals—better alternatives than the proposals in this legislation.

When we questioned the Premier during the debate, he said that we should not do so, because we were showing future tax cheats how to circumvent the Act. That was an endeavour to bluff us out of asking legitimate questions. I reject that reaction; because the Premier was obviously

embarrassed by some of the questions and by the lack of detail that he had at his disposal to answer those questions. The democratic process is structured so that the legislation has to pass through question periods, so that we can ensure that, before it becomes law and affects people's lives, we can assess its impact on them. We will not as an Opposition abrogate that responsibility in this House, even with comments such as that from the Premier that we should not ask questions because we would expose the loopholes. We are exposing loopholes in this legislation.

When highlighting the difficulty of interstate visitors and others coming to South Australia, the Premier retorted by saying that we had not read the Bill, or the schedule at the back of the Bill. That is simply not accurate and was said in a condescending tone. Uncharacteristically, the Premier's response today has been at times a little bitter and personal. They are the signs of a person not confident in the argument at hand and an attempt to divert attention away from the debate before the House. It was a desperate attempt and simply did not work. I have referred to the fact that the Government's response has not been adequate in our view. There have been a number of failures to which I have referred, such as the beverage container legislation, which, with other measures, has not withstood the test of time. We have on-the-spot fines and double standards being applied in South Australia now with that legislation being passed through this House several weeks ago, as they are being applied with this legislation which it appears will pass this House tonight. It is all the more reason for the Opposition to carefully assess and analyse Government legislation and to pose questions, in order to obtain intelligent answers on how the legislation will work in practice and affect South Australians.

This legislation will be unenforceable in our view. It will not be much better than the current Act. It requires some people to purchase a licence to smoke, and it will lead to confusion in some quarters as it applies double standards. The Tony Baker column in tonight's *News* clearly puts forward the view that we have gone mad in legislative terms in this State when we propose such legislation. The column 'A smoke screen on logic' is clearly the way we ought to approach this legislation. For that reason the Opposition will be opposing the third reading.

Mr S.J. BAKER (Mitcham): This Bill diminishes the Parliament and uses this institution merely as an excuse. It is not good legislation and does not have the fundamentals of good legislation. It breaks the rules that we ourselves hopefully all lay down, namely, that the rights of individuals in the system should be protected. This Parliament should be a positive influence in the community, but the Bill does not support that notion. There is nothing that enhances our system by having a $10 000 fine for smoking a cigarette. There is nothing in this Bill that would tend to confirm our belief in the rights of individuals. It takes them away and provides draconian powers, to which the Premier has referred as somehow being needed in these special cases but will not necessarily be used.

It is important for the Parliament to understand what it is doing. If we allow this legislation to pass we are then saying that we can use whatever methods we wish to crack any nut. That is against the democratic processes in which we believe so dearly. It is against everything that I hope at least the Government Whip, who seems to be making a lot of noise on the other side, believes in. We must ask ourselves whether this is the way we believe legislation should be heading. It is a disgrace to Parliament. It sets a precedent for legislating for the use of whatever means are available, irrespective of their logic or legality. The Bill sets a new precedent in the parliamentary process within this State. We should all reject this legislation and tell the Government to go back and seek better advice.

Bill read a third time and passed.

CORRECTIONAL SERVICES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 2271.)

Mr BECKER (Hanson): The Opposition is not impressed with the short notice it has been given to research this legislation and to present the debate this evening.

Mr Tyler: Get on with it.

Mr BECKER: It is about time that the honourable member who interjects grew up. He will not be here very long. He fluked it in here and he will be out that fast it will not matter.

Members interjecting:

The DEPUTY SPEAKER: Order! Interjections are out of order.

Mr BECKER: That is right! I do not have to put up with the nonsense he carries on with.

The DEPUTY SPEAKER: Order! I ask the honourable member to resume his seat. I do not expect to receive from honourable members any reflection on the Chair. Interjections are out of order. I would expect members of the House not to interject after that call to order has been made, otherwise I will have to take action. I would not expect the member on his feet to comment on that proposition. The honourable member for Hanson.

Mr BECKER: A little more respect should be shown to the Opposition by some members of the back bench of the Government. After 16½ years here, I believe we are at a low ebb with some of the behaviour that is occurring.

The DEPUTY SPEAKER: Order! The honourable member will resume his seat. I will determine what is the behaviour of this House and remind the member for Hanson that he should be very careful about reflecting on the Chair. I ask him to address the Chair, to ignore any interjections made and to get on with the debate.

Mr BECKER: I object on behalf of the Opposition at the lack of time that has been given to research this subject. I received a draft copy of the Bill at 6 p.m. last Friday, and I did not receive the explanation until it was presented in the House yesterday afternoon. It is fair and reasonable that we should be given an opportunity to study what the Government proposes. This type of legislation is not something that one throws up in the wind and hopes that it comes down and everything will be all right. The home detention program, as outlined by the Minister, is not as simple as it sounds.

The Minister mentioned that the program has been operating in Queensland and the Northern Territory. It has been operating in Queensland for six months as a pilot project, 148 persons having gone through that program and, regrettably, five have had to be returned to prison for some minor breach of the rules. In relation to the Northern Territory, the best that I could ascertain is that only six persons have been admitted to the program. It was started by a magistrate in Alice Springs. There is no legislative backup whatsoever in the Northern Territory. The Queensland Government will soon receive an evaluation of its program and a decision will be made, after the new Government Ministers are sworn in on 1 December, as to whether the Queensland

Government will continue with that program. So far as Australia is concerned, this is a comparatively new program but one that can work. It is operating in some of the States in North America. Let us go back in time to just before the last State election. The Liberal Party's correctional services policy stated:

There is a considerable need for more research to be carried out into the treatment of offenders and in the area of prediction studies (statistics). In the light of available knowledge a high priority will be given to programs aimed at the prevention of crime and also to keeping offenders within the community for sentence as much as possible without in any way minimising the intention of the sentence. These programs will take the form of deprivation of leisure time through weekend detention and for compulsory evening activities, community service orders aimed to provide particularly for the needs of the disadvantaged, handicapped and elderly.

The high cost of maintaining, prisoners demands and assessment of the relative effectiveness of incarceration and community treatment programs. It is now recognised that alternatives to imprisonment are not only safe but also effective and economically sound in some cases.

In relation to the Liberal Party's parole policy, we had this to say:

A Liberal Government will also ensure that greater use is made of non-custodial punishment and daytime release towards the end of a period of incarceration being served by a prisoner where the prisoner has shown that he or she can be trusted.

The reason given for the introduction of this legislation is the overcrowding of our prisons. In 'Australian Prisoner 1985—results of the national prison census 30 June 1985', John Walker and David Biles, of the Australian Institute of Criminology, report at page 8 that in South Australia as at June 1985 some 766 persons were in our prisons. The national census in June 1985 gave a number of 783. In July 1984, the number of persons in our prisons was 599 and it steadily increased to 706 people in November 1984. In February 1985, it was 728, in March it was 759, and then of course the number increased from there on in. So, from a statistical point of view they are the latest figures that we have.

The report shows not only the number of persons in the various institutions in South Australia but gives us the breakdown of the numbers and the steady increase in the various areas. For argument sake, as at June 1984, there were 236 prisoners in Adelaide Gaol and as at June 1985 the number had increased to 315. We know that considerable overcrowding occurred in that prison. In Yatala Labour Prison 112 prisoners were gaoled as at June 1984, and the number increased to 133. The Northfield Security Hospital had 17 in 1984, and the number increased to 24 as at June 1985. The number at Northfield prison complex went from 31 to 70; at Cadell Training Centre it went from 49 to 97; at Port Augusta Gaol from 62 to 78; at Port Lincoln Gaol from 34 to 37; and at Mount Gambier from 23 to 29. That gives members some idea of the breakdown and of the pressure areas that built up during that period covered by the census statistics.

The interesting point related to the number of persons sentenced from various serious offences, certainly in relation to those who were sentenced for terms of 12 months of less, and that is a statistic with which we must concern ourselves. At page 81 of the report is a table headed 'number of sentenced prisoners by most serious offence, aggregate sentence and jurisdiction'. It shows that 78 people were in those categories for sentences of six months and under 12 months, and provides a breakdown of types of offences including assault, sex offences, offences against the person, fraud and misappropriation, break and enter (which of course was the most prevalent), and property damage. So, in studying this report one can appreciate the difficulties and the problems faced by our correctional services authorities, and the number of people who are being sent to our prisons. The idea of this legislation is to tackle the problem in the safest way possible. The community does demand that penalties handed down by the courts be more severe—that the punishment suits the crime—as far as the community understands the type of crime.

The community is expecting a tougher approach by Parliament. Because of that, and because of the demands and pressures that are placed on the courts, we suddenly find that we have this overcrowding situation. But one contributing factor that does also create the situation that prevails concerns the number of people being sent to prisons for nonpayment of fines. As at the end of July 1986, some 340 people in South Australia had been sentenced to prison, and, of that 340, in 205 cases it was for the nonpayment of fines. In August 1986, the number of persons sentenced for that month was 265, 216 of whom were sentenced for the nonpayment of fines. The daily average number of prisoners increased to 819. The latest figures available show that, at the end of September 1986, 243 people were sentenced to prison in September, 121 for the nonpayment of fines, and a daily average number of prisoners was 825. That, of course, is an increase from the previous year of 108 prisoners on average. So, that is further evidence of the buildup of the number of persons in our prisons.

During the past few months a considerable number of allegations have been made to me (and no doubt to other members of Parliament, and certainly to the Minister and his departmental head) on the question of health, welfare, safety and working conditions of correctional services staff. It is difficult to know whether or not all these allegations are correct, but certainly anyone who is concerned with our correctional services must be worried about undue pressure placed on the staff—and this of course is caused by this overcrowding in our prison system to which I referred.

When the new Adelaide Remand Centre was commissioned, many people thought that it would solve the problems and ease the situation. However, what worries me is the recent allegations (and those involved want the Minister to know about this) that the system at the Adelaide Remand Centre is obviously not working all that well. I understand that two weeks ago two officers were hit by inmates at the Adelaide Remand Centre and two serious attempts to escape were made. I understand that the prisoners have sprung the windows by taking out the screws and using the aluminium to cut through a single brick wall to an adjoining cell. The outside wall is only two bricks thick, with no material between the walls to prevent the prisoners cutting through, and there is the distinct risk that before long prisoners will be able to cut their way out of the prison. I do not know whether or not that is true, as, of course, the composition of the outside wall would be confidential to the Government and those who built it. I would have thought that those who built the centre would ensure that it was not possible to cut through the outside wall.

A further allegation was that in that one area some 24 prisoners were preparing to escape into the courtyard to prove that it could be done. However, after a few had got through, the staff were able to act and stop that situation. It is a distressful situation that occurred. No doubt by instinct, the only desire of some of the hardened criminals is to escape, and it puts pressure on the system that we are trying to establish and develop in South Australia. I believe that it is impossible for two officers to control up to 28 prisoners at a time. Whilst one would expect prisoners to behave reasonably, it only takes one or two ringleaders—as we had in one situation—to make it very difficult, and the prison riot squad and other additional staff have to be

brought in, all adding costs to the running of our correctional services.

I believe that six staff have left the Remand Centre or are on stress leave and that another officer has taken sick leave, so it is disappointing that this situation is developing with stress necessitating the taking of sick leave. I received a call from a person who was in the City Watchhouse over the weekend and who complained that, although some 51 persons were in the watchhouse, they had been told that six more prisoners were being brought in from surrounding gaols. Nobody wanted to share their cell. Those on the top floor are let out and at least get some exercise but those on the ground floor were let out for an hour a day. At one stage they ran out of coffee and the prisoners were being given the police rations of coffee. I understand that Offenders Aid took down about $30 worth of coffee, which did not last very long. By the time the meals were brought up from the Adelaide Gaol, they were cold. Apparently the hotbox system was not working.

It was leading up to quite a tense situation, with the persons held in the watchhouse, three of whom have been sentenced, while the remainder were awaiting sentence. The person who complained to me had not had a proper wash or shower since Friday and he was not to go to court until Tuesday. He had no change of clothes, and was extremely uncomfortable in that situation. That is one of the problems, and we are criticised for being a little inhuman in some respects with our treatment.

At the other end of the scale is an elderly person who was sentenced to prison for stealing a $1.20 block of chocolate, and who, because of his age and health, had to visit hospital several times. It cost somewhere in the vicinity of $5 000 to provide escorts to take him backwards and forward to hospital, since the rules and regulations provided that at least two prison officers must accompany a prisoner to hospital.

I do not know the situation with country prisons, but the suggestion has been put to me that we ought to look at some of the country gaols used many years ago. I have not been to Angaston for many years, so I do not know the condition of the Angaston gaol and whether it could be refurbished and used. I do not know what the cost would be, or whether that is the answer, and I do not know whether the real answer is building more gaols. We could get to the situation that prevails in Florida, where a new prison is built every eight months, but still some 4 000 prisoners live in an overcrowded situation. Florida also has the home detention scheme. I believe that this type of scheme needs to be very seriously considered, and that the time has come to look at the financial statistics. The Minister has mentioned in his second reading explanation the cost of keeping a person in our prisons.

At page 56 of the Auditor-General's Report for the financial year ended 30 June 1986, the average cost of keeping a person in prison in South Australia was shown as $35 800. The Minister says in his explanation that the home detention program should reduce the cost substantially, and to supervise a person under home detention would cost round about one fifth of the existing. Therefore, we are looking at about $7 160 per annum per person under that program.

I thought it was interesting to note some further statistics of the number of persons in prison as at 30 June 1986 compared with the number of staff. The Adelaide Gaol, with a staff of 219, had a daily average of 295 prisoners or remandees. The average cost was $23 000 per annum. Under the home detention scheme, using people from Adelaide Gaol or the Remand Centre, we could reduce the cost of prisoners to about $4 600. The Yatala Labour Prison, with 285 staff, had an average daily number of prisoners of 164. That is an unfair statistic as it has come out in the last 12 months and it includes the provision and training of staff for the new Remand Centre along with the alterations and development in progress at Yatala. Even though, it is a frightening statistic, because it costs round about $75 000 per annum to keep a prisoner there. The bulk of those costs comprised capital expenditure, and that is where it is unfair. It is very nice to quote these figures, but the bulk of those costs would be capital costs.

Under this program, if somebody from Yatala qualified for the scheme—and I am not sure about that—we could reduce the costs to about $15 000 per annum. Places such as Cadell, with a staff of 50 and a daily average of 107 prisoners, cost an average $23 000, which is a more realistic figure. If we took someone from Cadell, under this scheme it would cost $4 600 per annum. When we consider the money expended in the prison system, with a budget of some $39 million in the last financial year, and the amount required from the capital works program to build the new Mobilong prison (where a lot of facilities and equipment are not made in Australia but are imported—and I will have more to say about that at later), the time has come to look at alternative schemes.

The home detention program has been up and running in Queensland. The 3 November 1986 edition of *Time Australia* contained a detailed article, headed 'Porridge Among Friends—Detention at home—but fishing is barred', relating the story of a person who was selected under the home detention program for the last part of his sentence. He feels an entirely different person. The article states:

> Thanks to an innovation known as the home detention program (HDP)—he was freed. Well, almost freed: like about 120 'minor offenders' released under the program since May, Gilders was sent home and ordered to stay there. Except for travelling to and from work (and to various rehabilitation classes at night) the first batch of 'home porridge'—

I do not like that expression 'home porridge', and I hope it does not get accepted in South Australia—

> prisoners in Queensland are as housebound as grounded teenagers. They cannot drink alcohol, gamble or—as Gilders discovered—go fishing, even if the tide is on the make and the whiting are suicidally co-operative.
>
> Any deviation from the rules, supervised by a special group of plain-clothes prison officers, can mean a sudden, unceremonious return to the lock-up.
>
> At first glance, this radical attempt to alleviate dire overcrowding in Queensland jails appears to have all the ingredients for disaster: supervision is limited by manpower and obvious logistic considerations and, though closed to prisoners convicted of violent or sexual crimes, the program could be destroyed if just one participant—however piffling his or her past criminal deeds—were suddenly, for example, to commit murder. That the scheme went ahead in pilot form despite such unsettling possibilities shows how grave a situation prompted it. Not only in Queensland but throughout Australia and most of the western world, prison overcrowding is becoming a big spanner in the judicial works. (In Florida, where a new jail is built every eight months, prisoners continue to exceed bed-capacity by 4 000, and this despite a home-release arrangement whereby prisoners wear computer-linked wristlets that sound alarms when they leave home without authorisation.)

Heaven forbid that we should ever have that system. The article continues:

> In Queensland, where the system operates more on trust (and at least initially, on hope) encouraging signs are emerging of 112 prisoners who had completed or were still serving home detention in early October only three defaulted. None re-offended, recidivist backgrounds notwithstanding. Partly due to careful screening of HDP applicants and their home environments by Prisons Comptroller-General Alec Lobban and Terry Dorey, a clinical psychologist who manages the program, the early success rate is such that Lobban and Dorey—joint initiators of the idea—are emerging from the jitters to a state of cautious optimism.

I spoke to Terry Dorey the other day on the telephone, and he informed me that of the 148 persons who had been accepted for the home detention program, only five have had to be returned as a result of very minor breaches. However, not one person has been detained, arrested, charged with or convicted of any other offence; in other words, not one of those 148 people has committed an offence anywhere serious enough to cause any concern or for them to be brought before the courts. That proves that, with very careful screening and the right type of program, that system will work.

How do we get to that sort of situation? First, it is extremely important that the people who conduct the programs are appropriate for the job. I understand that Queensland prefers to use prison officers. It uses those persons because of their skills and experience, and they obviously have a lot of commonsense that has been obtained from dealing with prisoners in the past. The Northern Territory Government uses probation parole officers, with whom it is quite satisfied. I tend to agree with Mr Dorey that perhaps prison officers, with a considerable amount of experience in dealing with the type of person that they can expect, may well be the appropriate sort of person for the job. We hope to develop that later in this legislation.

As I said, Queensland has undertaken an independent valuation of its pilot scheme. I understand that the Minister, or somebody from his department, may have a copy of that report, but it has not been made available to me, and it cannot become public until it has gone before the Queensland Government. It would certainly be very interesting to know what was contained in that report. I think that it would support statements that have been made in this article in *Time Australia* and also the information that Mr Dorey has supplied to me.

The Northern Territory is looking to set up what it considers to be the ultimate of schemes. I was advised that the crucial areas that that State wants to enshrine in its legislation include the assessment. In selecting the type of person to be included under this program, it is most important that there be a nominated residential address. The success of the application to be included in the program will depend on the persons who are residing at that nominated residential address (whether it be a spouse, parent or friend) and whether those people are capable of assisting, and prepared to assist, in the home detention program. The level of support from these people is extremely important.

Another factor that must be taken into account is the offender's attitude to the conviction, to the penalty that he has had imposed upon him, any previous convictions, and the person's general attitude. It is very important to understand and to appreciate the medical history; the psychological and psychiatric attitude of the person involved; whether they are dependent on prescribed drugs; whether they have at some stage been dependent on narcotic drugs or alcohol and still have a dependency; or whether they are addicted to gambling. The level of stability of the individual is also important, as is the impact of the absence from their normal lifestyle. Each person who is selected for the program will have had to serve some part of a prison sentence, so they will have been deprived of their normal lifestyle within their home environment or within the community.

Other factors are their employment: their type of employment; whether the employment and the employer is able to support the program; and whether the employer will cooperate in the normal checking process of these people. Of course, the suitability of the premises in which the offender will reside is another important factor: the type of property, be it a flat, town house, unit or house is a matter that must be considered. The offender would be required to remain within the boundary of that property.

The general mental attitude and the approach of the offender is taken into account. They would be required to agree, before being released and accepted into this program, to all reasonable requests and to the rules and regulations that are set out and established under these programs. It is very important that the total cooperation of the offender is obtained. It is all very well for them to agree to go onto the program, but they must abide by certain rules, which are very strict. There will be no alcohol, no drugs, no going off to fish, and no going down the street to do this or that. The rules are extremely strict, and the offender is required to abide by them. Of course, the supervision is such that these people must have access to a telephone at all times. They must agree to somebody coming in unannounced to their home or to their place of employment at any time, and they must also agree to submit themselves to a urine test to enable a check to be made for alcohol or drugs. That is fair and reasonable.

There must also be the availability, within the offender's locality, for specific treatment, be it medical, educational or counselling. I refer to counselling programs in relation to drugs, alcohol, family, gambling, and so on. The negative factor in relation to the impact on that offender must also be taken into account. All these things are taken into consideration and are considered by the Northern Territory experience to be very crucial to the success of this program.

I also believe that there is no admission to the scheme if there is no telephone or telephone access or if there is no suitable residence for these people. So, it then comes down to the surveillance staff who are required and the number of staff who would also be needed to commence and maintain such a program.

Then we get to the selection of those who may expect to come onto that program. These would be persons who have not offended against a person or persons and who through their behaviour and treatment within the prison system prove that they can be trusted once they are put onto this type of program.

In view of the situation that has occurred in our correctional services institutions, the pressure that is being placed on the Government by the police, the situation in our watch-houses and police prisons, the unsatisfactory working and health conditions at the Adelaide Gaol, which was built in 1841 (whilst it would be nice to see it closed down and turned into a museum, it will not be possible for some years to come, even though we will open Mobilong later next year; the pressure on the system will be such that we will need to have that prison) the Minister and the Government must look at alternative schemes, but I, on behalf of the Opposition, consider that the Government should proceed very slowly indeed. Our approval to this type of scheme depends on many questions that will have to be answered in Committee.

Within a short period there must be some type of evaluation of the scheme. For those reasons, I will support the second reading so that we can obtain from the Minister in Committee further explanations and assurances that the home detention program will be one of many programs that have been looked at, will be looked at and will continue to be looked at with a view to reducing the overcrowding in our prisons.

At the same time, we will want an ironclad guarantee that the community will not be put at risk by those who participate in the program, that their spouses, parents, relatives and friends also will not be put at risk, that the whole program will proceed in a very cautious and conservative

manner, and that the rehabilitation programs will also be of benefit to the persons whom we are trying to assist. For those reasons the Opposition supports the second reading.

Mr BLACKER (Flinders): I am not quite so receptive to the views expressed by the member for Hanson. However, I realise that the Government has a problem with overcrowding. This problem has emanated from decisions made six or seven years ago, and probably goes back before that when successive Governments were not prepared to grasp the nettle in relation to prison accommodation. As a result of that, a catch-up set of circumstances has arisen. Now the Government is embarrassed by the lack of accommodation and is looking for alternative means by which to farm out some of that problem and those responsibilities.

About six years ago or a little more a proposal was before the Government of the day for a maximum security prison. For political reasons that project did not go ahead. We are now suffering from that, for if the maximum security prison had been introduced at that time the present prison system might not have to be treated in the way that it has been and could have had a little more of an open door (although that is probably bad terminology) approach, with less security and more of a medium security type of prisoner rather than a combination of the maximum security prisoners whom we seem to have.

I question this project. I know that a couple of pilot projects have operated in this country and that preliminary reports indicate that they are encouraging: maybe they should be looked at. But, the whole thing could fall foul and could bring distaste to the Government with just one bad decision in the screening, for if one of the persons who was allowed out on the home detention scheme did the wrong thing and, more particularly, committed an offence, the whole system could break down. The whole thing relies heavily on the ability of those screening officers to make those decisions without question; in other words, every decision that they make has to be correct, and there is no room for error or compromise.

My other concern is that, at least for the phase-in period, any decision that is made to put out prisoners on the home detention scheme would be yet another reflection on the judiciary because at this stage it has not had the ability to make that judgment, allocate sentences commensurate with the crime or to take this into consideration. Over the past few years we have had, first, the parole system by which consideration was given by the Parole Board to prisoners on good behaviour having their sentences effectively reduced. Then one has the community service orders, and now the home detention scheme. In the eyes of the public each seems to be a back-off from the correctional services program that in the main it is looking for. To that end I express my concern, for I do not believe that this project will be well received by the general community.

The second reading explanation was given only yesterday, and it is with some disappointment that I say that I have not had the opportunity to take it home and discuss it with any of my constituents to ascertain their reactions to the program. The only feedback that I have had to the program as announced by the Government on Tuesday 18 November on the front page of the *Advertiser* was disgust because the person believed that it was yet another back-away from proper correctional services, as wanted by the public.

In defence of that, the general public probably does not know and understand, and I am the first to admit that I do not know and fully understand. I have had only the Minister's second reading speech, and without the time to properly digest it one is hardly in a position to make a valid decision on it. I trust that the Government, on getting this measure through, will apply all due caution. Commonsense will not only have to apply, but will also need to be seen to apply; otherwise the public will surely react against it. Because past Governments have been reluctant to take on correctional services as a matter of importance, we are now paying for that dearly in the inability to handle offenders in the conventional way.

Mr S.G. EVANS (Davenport): I have some reservations, but I see no alternative. My concerns are perhaps different to those of some others. We as a society are admitting that there are now so many criminals, or people committing crimes, that we cannot handle them in the usual manner. We are admitting that there is a serious problem in our community in that regard. Further, the courts are now more lenient than they were, say, 20 years ago. There has been a considerable increase in the number of people appearing before the courts, even given the slow growth rate of the population in this State. The figures indicate that there has been an increase in the crime rate. If we add those whom the courts have released on bonds or suspended sentences, we see that there is a massive problem in our community.

One of the arguments put forward in favour of home detention by Governments of all persuasions throughout Australia is that the cost of keeping prisoners is too high. The cost of looking after a sick person in hospital is also too high. We cannot accommodate people. The solution to the problem of keeping in gaol a person who has offended against society, one whom the court believes should be in gaol, is a home detention scheme. Of course, only those people whom the authorities believe are likely to be trusted to do the right thing will be involved. In the early stages there is no doubt that extraordinary care will be taken to ensure that nothing goes wrong, so that when a reassessment is undertaken within six months or 12 months the scheme may appear to have all the credibility it is possible to attain.

However, inevitably those who make the decisions will take more chances. That is human nature. If we let out one person where we believe there is a reasonable chance that nothing will go wrong, and if nothing goes wrong, then we will try a little further. We will move the line—as Parliaments, Governments, Ministers and heads of departments do, for cost reasons—so that more offenders are let out. People who perhaps are less likely to abide by the rules will be let out. I do not blame anyone for that. Again, it is human nature. Eventually, however, some people will go over the line and cause concern in the community, and the whole scheme will be at risk because of public reaction.

We know that it will not take much for something to go wrong. It does not matter which Party is in Government: the Opposition will blow up the issue. I can recall the Hon. Mr. Virgo just about crying his eyes out when he was in Opposition about schoolchildren and the price of icecream. I can imagine that, if in the future things go wrong, whichever Party is in Opposition will have a sense of responsibility to ensure that the Government faces up to the situation. The Opposition will play up the emotional aspect. We have reached the stage where it is too expensive to keep offenders in prison, so we will put them into the community.

I know of people who have worked for me or who have been closely associated with me who were guilty of what we refer to as 'petty crime'. In the old days, a prison term of one month, three months or six months would have been imposed, but these days they get out on a bond or a suspended sentence. I am sure that those people would cause no problem to the community if they were part of a home detention scheme. I have no doubt whatsoever that they would be so scared of going through the situation again—

they would be afraid of the embarrassment and would fear the costs and what they would have to face up to—that they would cause the department no embarrassment. Just knowing that they had made that one bad error in their life (although that error would not be classified as bad in comparison with other errors), they would not cause the department any embarrassment if they were given the opportunity to live at home and perhaps work from there.

There is one area in which I would perhaps go further than the Government, if one could know all the individual details, and that is where a person who has been given a sentence of, say, six months or 12 months has a fairly reasonable job, not in terms of money but in terms of the employer's need: if that person served a significant time in gaol—one month or more—that employer could not keep the job open and would have to train someone else or, say, look interstate for a replacement. In some odd circumstances, I believe there could be an argument that that person need never go to gaol: he could go straight to home detention under the supervision of an officer and thus he could continue his employment.

The Bill provides for people to have an income and to go to work where they are involved in home detention. I raised with the shadow Minister a slight doubt about that but, after talking to him briefly, I am satisfied that there is some merit in it, and that is why I have put foward this argument. Once again, I raise a concern in relation to the correctional services area which the Minister could answer in this debate, and I refer to prisoners who cannot be accommodated in our gaols, which are registered or licensed under the Act. Those people are left in places such as the City Watch-house, which accommodates 52 men and seven females, I believe. The police officers then have the task of doing work that I believe the Act clearly provides is not their duty. The Minister of Correctional Services is pandering to the correctional officers: he is bending to their wishes and is not putting offenders in gaol but is asking police officers to carry out a duty where the court has instructed the Minister of Correctional Services and the head of his department to take charge of those prisoners.

Some of those prisoners would be considered for the home detention scheme—there is no doubt about that. Some of them are held at the City Watch-house, or the Port Adelaide cells, supervised by police officers, against the provisions of the Act. I believe that I am right in that view. Those are the offenders who will be put out into the community, because they are the ones the department cannot handle. In fact, that is probably contempt of court, because the court has determined that the person has been found guilty and will be under the control of the head of the department: that is what should happen, according to the Act.

If offenders go into a home detention situation, they are under the control of the head of the Department of Correctional Services, and therefore they are being held lawfully, once this Bill passes. However, I do not believe that that is the case where offenders are held at the City Watch-house or the Port Adelaide cells. I would like the Minister to answer that point, because it has not yet been answered, and I believe it is critical that it be answered in this debate. They are the prisoners whom we cannot accommodate, those who will be involved in home detention schemes. That appears to be the only way in which the Minister can handle them lawfully, because his correctional officers will not handle the 300-odd prisoners at Adelaide Gaol as they have done in the past.

They want to get it back to 224, and they have got it back to 225 at the moment. So, I am not thrilled with the proposition. Unless we can find more accommodation for prisoners at Government expense where the buildings and beds are provided by the Government, then home detention seems to be the only answer. It may work for a few prisoners.

I ask the House to take into consideration the fact that those who are now given gaol sentences have committed much more serious offences than may have been applied in the past. Those who commit minor offences nowadays in the main are released on a bond, given a suspended sentence or receive no conviction even when found guilty. We need to consider that, because we are contemplating putting on home detention schemes people who have committed reasonably serious offences attracting a sentence of 12 months gaol or more.

I will support the Bill through the second reading to see what comes out in the Committee, but I would like the Minister to tell me on what basis he can refuse to take people who have been convicted, found guilty by a court, and given a penalty with the law clearly stating that they are his responsibility and not that of the Minister of Emergency Services with police officers looking after them.

Mr GUNN (Eyre): I support the second reading. When considering a measure of this nature we must do so carefully. Society has to determine whether it wants to continue to incarcerate people in prison for lengthy sentences, and we have to assess clearly what will be the long-term effects on society and on those people who are so locked away. One of the features in a difficult economic situation, with high unemployment and deprived sections of the community, is that the crime rate will increase. That is one of the many unfortunate features of a situation where we have unemployed people and those with nothing to do, along with deprived groups. I have that problem in my electorate, and we have to make judgments on how we will handle those situations. There are many ways of looking at it.

If this scheme is going to be a success (and I certainly hope it is) it will need the most careful administration and assessment and will have to be reviewed on a regular basis. The officers charged with the task of administering it will have a very heavy responsibility placed on their shoulders because, when they make a recommendation to release some of these people in the community again, they have to be fully aware that people become nervous very quickly. I always agree that people who commit serious offences against society should be dealt with firmly.

It is unfortunate that we have been given very little time to consider this matter, as the community at large should have the opportunity to make assessments and provide an input in considering this legislation. The foreshadowed amendment of the member for Hanson is most important. I would hate to see a situation where people who have been involved in violent crimes are released on some of these schemes as there is no use in that. Where people have committed relatively minor offences and been convicted, the community at large has to consider whether there is any benefit to society in continuing to keep them in gaol at great cost to the taxpayer. Are they willing to spend a great deal more money creating more prisons when the cost of administering such prisons is expensive and, in many cases, little purpose is served by keeping these people in gaol? In many cases they come out worse citizens after being in gaol than before they went in. A scheme of this nature has some merit in that sense.

The community often has the wrong idea about these schemes. I do not believe that many people would like to be confined to their home for six months—they would find

it a fairly trying and difficult situation. It would not be quite so bad if they were gainfully employed or could continue in their occupation. I hope that the scheme is successful but again stress that careful consideration be given to the people who will have responsibility for administering and assessing those prisoners who will benefit from it. I believe that where crimes of a violent nature are committed the law should apply quite firmly. However, little or no purpose is achieved by unnecessarily keeping people in gaol who have committed fairly minor offences. It does society no good and only makes people bitter, and I therefore hope that the scheme is successful. We will watch its operation carefully.

Could the Minister advise whether this scheme will operate also in country areas such as Port Augusta and Port Lincoln? It is important that we know that. What will be the situation of people released from Adelaide Gaol returning to a country town where there are no correctional services officers to supervise them? Will that duty fall on the local priest, or who will be involved? That area ought to be explained to the House, as it is important. If people are going to be let back into society after committing offences, it will cause concern to other members of the community. Will those members of the community be notified that these people are likely to be let out of gaol? That is also important.

Will the Minister advise how many people he anticipates will be needed to administer this scheme within his department? I would like to see the cost of adminstering our prison system greatly reduced. In the not too distant future we may be placed in the situation of accepting the need to spend many millions of dollars on constructing further prison accommodation. I will be watching carefully the administration of this scheme.

Mr LEWIS (Murray-Mallee): I would like to think that I could trust the Minister and the Government with introducing this legislation as a functional mode in society for all the right reasons. My assessment of what has happened since the election, the statements made prior to that election and the record we have seen since, lead me to believe otherwise. I am cynical. The Bill has been introduced into this place for all the wrong reasons. There is not, within the Correctional Services Department, a sufficient number of people properly trained to be able to administer this scheme. I am very concerned about the consequences for the respect which people in society who have a penchant for breaking the law will have for the courts' sentencing procedures after the introduction of the measure. For all those reasons I am concerned about the way in which this measure will be regarded by the broader community.

I certainly do not want to see this scheme introduced in any of the communities that I represent, least of all in the Lower Murray in general or Murray Bridge in particular, until I am well and truly satisfied that it is functioning somewhere else in the State in a way that removes the misgivings that I know people in the community have about its consequences. When people have gone through so much in the Lower Murray in the past 12 months or so, is it any wonder that such strong concern has been expressed to me?

I feel the same way as my constituents do, and it disturbs me further that the Government has not provided sufficient opportunity for the broader community to understand the fashion in which the Government suggests the scheme can work and the kinds of crimes for which sentencing in this way is considered appropriate. It is on the Government's head entirely. I reject it at this time, utterly. I have absolutely no respect for the Government in introducing this in the way that it has done at this time. There has been a substantial reduction in the kinds of penalties that apply to a number of activities which are regarded as being criminal in the broader community, and I do not have to refer to any particular instance to illustrate that. If need be, I will refer, for instance, to the way in which the Government has watered down the legislation relevant to the offence of possession and use of marijuana and, moreover, to the way in which the law has been interpreted and administered according to the, if you like, membership of a perceived subculture of the person who has been committed for trial and then sentenced. It is quite inappropriate—indeed in my judgment quite wrong—to determine the way in which sentences are meted out to those who are adjudged to be guilty of a crime according to the subculture from which they come.

So, for all those reasons I implore the Minister and the Government not to inflict this on any community that I represent until they have demonstrated that what I have said in relation to my concerns is wrong. If they cannot demonstrate that it is wrong by the way in which it is introduced in some other communities somewhere else, then let us see whether as a Parliament we can take the responsible view and abolish the measure. To that extent, I support in the strongest possible terms the necessity for the inclusion of a sunset clause in the legislation. Without that, it would be impossible to get the public anywhere to accept the measure as a responsible development of the law, and the way in which we choose to interpret it and to address the problem created in society by people who break it.

I just hope that the Minister does not see it as being a Christmas present for prison officers, all of whom the Government has not had the guts to address in any way sensibly in the past. Administration of our Department of Correctional Services at present seems to me to be more about industrial relations between a wimp Government and the union to which the prison officers belong, than about correcting the aberrational forms of behaviour of those people who are adjudged to be wrongdoers by our courts and through our justice system. I will be interested to hear the Minister's responses to several questions that I and other members of the Opposition will put to him in Committee.

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): The member for Murray-Mallee has expressed some of the feelings that I have. I think it is worth supporting the Bill to the second reading, but it is a bit unclear to me just what we are letting ourselves in for, and I am sure that there is a big question mark out there in the public arena. We live in a time when (and this is certainly evident in the circles in which I move, and I think they are the circles in which most people in this place move) there is a clamour in the community for sterner penalties to be meted out by the courts for wrongdoers. I think the Minister must recognise that the public at large are calling for stern punishments, as they are concerned about the increasing levels of crime, and that has led to more people being put in prison. To suggest that we will let them out just because the prisons are becoming overcrowded is a pretty simplistic way of approaching the needs of society. So, the argument that the prisons are overcrowded and that therefore we will let prisoners out does not cut much ice with the public, nor with me, for that matter.

We get a lot of complaints—I certainly do—that the courts are too lenient. It took the Labor Party a long time to get up to the barrier on this one. In Government, we brought in an amendment to allow the Crown to appeal against the leniency of sentences. The present Administra-

tion finds that that is a fairly convenient path for it to follow when there is a public outcry at the seemingly lenient sentences. I get a lot of complaints from the public that the courts are too lenient, but this legislation would override the decisions of the courts and let out people who have been sentenced to gaol.

I do not want to say any more except that I think there are many questions to be answered. I do not accept the simple statement, that because prisons are overcrowded, we will let prisoners out. There is a fair bit of convincing to be done out in the public arena if we are to get the public to accept what the Minister is on about here. I will say no more, but some questions will be asked when the Bill is in Committee.

The Hon. FRANK BLEVINS (Minister of Correctional Services): I would like to thank all members who have contributed to the second reading debate. I certainly convey my apologies to Opposition members for the short notice that was given, and I thank them for their cooperation in assisting in the way that they did in bringing on this debate. I would point out that last weekend I ensured that the shadow Minister of Correctional Services (the member for Hanson) had a copy of the Bill as soon as it came off the word processor. However, I concede that it was short notice—and there was a very good reason for that of course, which I will explain. A great deal of what the lead speaker for the Opposition said was factual. In the main, I could only agree with the comments made, and I refer particularly to the member for Hanson's reading out the Liberal Party's policy in this area.

The Hon. E.R. Goldsworthy: It wasn't the same as this.

The Hon. FRANK BLEVINS: It indicated quite clearly to me that the policy in this respect was very good, and if that had been the only policy that the Liberals had at the last election they might have done a lot better. The way in which that the member for Hanson quite properly, in my opinion, embraced this suggestion when it was made earlier this month has, I think, answered all that has to be said to the member for Murray-Mallee and the Deputy Leader of the Opposition. They claim it is part of their policy, and I am not one to argue.

The figures quoted by the member for Hanson were a bit dated. I am happy—no, I am not happy; indeed, I am most unhappy, but I will provide the member for Hanson with the up-to-date figures, and they quite graphically outline the problem. On this date last year we had 736 prisoners in the South Australian system. On 23 November (three days ago) we had 818 in the system, so it gives members some idea of the increase that we are dealing with. On top of those, there are probably 20 or 30 being held in the City Watch-house, so it is somewhere in the order of 100 prisoners more today than we had this time last year—a very dramatic increase indeed.

The reasons for that are many and varied. I think about 50 of those prisoners are remandees, so obviously there has been a very significant increase in the number of people being remanded in custody by the courts and, coupled with the increase in sentences required by the courts since the new Parole Act came into operation, that has given us those increased numbers.

To have the level of overcrowding that would result if we tried to cram another 100 people into Adelaide Gaol would be totally unacceptable to anybody who has seen the Adelaide Gaol. I was there again today, and I can only repeat what I have said every time I have been in that place: it is a disgrace to a civilised society. It is a disgrace not only for prisoners, that prisoners have to live in there, but it is also a disgrace on the community that we ask prison officers to work in such appalling conditions. They are really quite disgusting.

When taking part in the second reading debate, one member—and I forget which one—said that we were pandering to prison officers. That is a new one. I am usually accused of pandering to prisoners, but now certainly one member opposite suggests that I am pandering to prison officers as well. I am not quite sure how I can do the two things at the same time. It is certainly not pandering to prison officers to say that the accommodation in the Adelaide Gaol is for approximately 240 people, and not to cram an extra 100 people in a most primitive facility. That is giving some recognition that they are entitled to work in conditions which are halfway to being human.

With a prison like the Adelaide Gaol being overcrowded by at least a third, one is asking for disease, and we have had examples of that, including hepatitis. The prison has no sewerage, no running water in the cells, and no proper ventilation or windows in some of the cells. It really is just stone walls. To put people in those conditions and ask prison officers to work there is really not on. As I mentioned, diseases are a problem in those circumstances. We have had a rash of hepatitis from time to time and there has also been a rash, literally, of scabies in the gaol. I do not think that anybody would want our prisons to be in that condition. Prison officers working in that condition are in danger of contracting these diseases and have contracted these diseases, taking them home and given them to their families. I do not think any member opposite would want that. Inoculation against hepatitis B is available to our prison officers but I am not sure and perhaps I could get assistance from the member for Light—he is the only person I could think of who could help me—as to whether one can inoculate against scabies. I would imagine not, but I really do not know. It is undesirable to have that degree of overcrowding by any measure indeed. People who suggest that we can have not seen Adelaide Gaol and have not thought through the problems.

Although the City Watch-house is not ideal, we are talking of prisoners being in there for only a few days. We are not talking of them being locked up in the City Watch-house for many months or periods of that nature. It is something of a revolving door and I congratulate the police for the way in which they have cooperated with us in holding those prisoners. One of the problems that the police have is not so much holding the prisoners but having the resources to do that. We have been pleased to make further resources available to the police to enable them to assist over this period. They have very gratefully accepted those resources and I am pleased that they will continue to assist us over the next few weeks.

The cost saving measures in this program are quite significant. When we work out that it costs about $100 a day, depending how the calculations are done, to keep a prisoner in gaol, it shows it is a very expensive exercise for the taxpayer. If that cost can be reduced, as this program will achieve, to something like $20 a day, that is obviously a very considerable saving indeed. If that can be done while maintaining the security of the community, I think that makes good social sense as well as good economic sense. As was pointed out by several members, the key to this program will be careful screening of the prisoners who go out from the prison into a home detention program. The screening will be done by a Prisoners Assessment Committee, which consists of about half a dozen very senior people, including at least two uniformed prison officers who know

the prisoners and their capacity to cope with a home detention program. As I say, they are very senior prison officers.

What several members have pointed out is quite correct: there has to be a very significant degree of community acceptance for this program to succeed. If there is not that community acceptance, the program will fail. I commend the Opposition for, in its election policy, playing some part in the education of the public to get them to accept the validity of this program. The member for Flinders made a valid point when he said that the community today is paying for some of the neglect of the past concerning correctional services, and that is certainly very true.

There is an old saying that there are no votes in prisons, and I think that, until the past four years, prisons have been, without a doubt, one of the most neglected areas of our public administration. The amount of Government resources that have been allocated to prisons and community correction centres has been minimal, and I think that the person who more than anybody else reaped the cost of that neglect was the Hon. Allan Rodda when he was Chief Secretary. All the pressures that were in the system came to a head around that time and the lid could not be kept on the system. I know that in about five years two royal commissions were conducted into our system. That gives some indication of the way that the prison system in this State had degenerated, and it is no credit to the Administration, whether it was Liberal or Labor, that that was allowed to happen up until four years ago.

The member for Eyre asked two questions. The first related to whether prisoners who had been convicted of a crime of violence would be selected for this program and the answer is 'No', as was stated in the second reading explanation. It is categorical: we are not interested in commencing a program such as this and having involved in it prisoners who have been convicted of committing a crime of violence. There is no question of that occurring. I believe that the community would not accept persons having been convicted of crimes of violence entering into this program, and the Government does not want that to happen.

The member for Eyre asked also about country areas. Where it is practicable to do so, we will certainly eventually extend this program to country areas. For example, the program could be run in Port Lincoln, in Mount Gambier and in the Riverland using Correctional Services Department staff, or staff from the prisons in those areas. That could also be the case in the member for Murray-Mallee's area in relation to the Mobilong prison when it is completed.

As is the case in the Northern Territory, there can also be surveillance through the use of probation and parole officers who are spread more widely than is the case with prison officers. I believe that they could be used quite effectively. It is not our intention at this stage to extend the scheme to country areas until we have more experience with the program. As soon as that can be done—and done sensibly—then we certainly intend to do it. There is no reason why, just because a person lives in a country area, that person should not have a program such as this available to them, as do people who live in the metropolitan area.

The member for Eyre also asked a question in relation to whether or not people in the area would be notified when a prisoner was at his home on the home detention program. The answer is that generally 'No, other than where it is necessary for good surveillance of that prisoner.' We will not put advertisements in the local paper advising people that that person would be held or detained at their own homes. The member for Eyre also asked how many staff will be involved in supervision. Initially, we envisage about 10 staff being involved. We have investigated this program interstate and overseas, and we believe that for about 70 or 80 prisoners, about 10 quite senior officers would be required to supervise them.

I think that, if I answered all the questions that were raised by the Opposition, it would entail unnecessary duplication. A lot of the questions were answered and the facts stated in the second reading explanation. I am sure that, when we go to the Committee stage, those questions will be again asked and we will go through them again. I thank the member for Hanson for expressing his support for the program on behalf of the Opposition, and I thank all members who have contributed to the second reading debate. I commend the second reading to the House.

Bill read a second time.

Mr BECKER (Hanson): I move:

That Standing Orders be so far suspended as to enable it to be an instruction to the Committee of the whole House on the Bill that it consider each proposed new section in clause 3 as separate questions.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Insertion of new Division VIA in Part IV.'

New section 37a—'Permanent Head may release certain prisoners on condition of home detention.'

Mr BECKER: I realise that a lot of these points may have been raised during the second reading debate and that the Minister may have answered some of them, but the Opposition takes the view that clause 3 is the major operational clause of the whole scheme, and it wants to be assured of many of the criteria that are involved in this legislation. Has a person been appointed or selected to head the home detention program in South Australia and, if so, who is that person? At what salary and classification will that person be appointed and what qualifications are required to fill that position?

The Hon. FRANK BLEVINS: A person has been selected to work on this program. His name is Lloyd Ellickson. I do not know at what salary he has been appointed, but I will obtain that information for the honourable member.

Mr BECKER: It is very pleasing to hear that you have somebody with considerable experience. What are the criteria for selection of prisoners to the home detention program and particularly the type of offenders that you would envisage being selected, or do they apply to go on to this program?

The Hon. FRANK BLEVINS: It is our intention that it will apply to prisoners who are serving a sentence of no longer than 12 months but longer than one month. We feel that the inclusion of very short-term prisoners would be administratively very difficult. For example, about 3 000 prisoners go through our prison system in one year, of whom 2 000 relate to non-payment of fines, etc, and they are in gaol for probably less than seven days. It would be very difficult administratively to deal with those prisoners on a home detention scheme. I think that if members turn to the second reading explanation they will see that it contains some information relating to the criteria.

Basically, it is people who have served at least one-third of their sentences less any remissions that may be earned. What sentence is given for an offence depends very much on the court. I cannot give a comprehensive list of offences, but certainly it will include crimes that have attracted sentences of 12 months or less. Some that spring to mind are fraud, forgery, false pretences, misappropriation, receiving, unlawful possession, shoplifting, offensive behaviour, disorderly behaviour, liquor and licensing offences, betting and gaming, trespassing, vagrancy, breaking and entering, loiter-

ing, refusing to answer, some motor vehicle and traffic offences, and offences of that nature—certainly no offences such as arson, murder, manslaughter, wounding, assault, rape, carnal knowledge, incest, indecent assault, indecent behaviour—

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: That is what I said. The honourable member was not listening: he was attending to his seasonal greetings.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: If it is not his hearing it is his understanding, which is a bigger problem. Also, it would not include offenders who had been imprisoned for kidnapping, abduction, armed robbery, extortion, etc. They are the lesser offences for which the courts have imposed periods of imprisonment of 12 months or less.

Mr LEWIS: I direct the Minister's attention to subclause (3)(a), which reads:

> The release of a prisoner under this division is subject to the following conditions:
>
> *(a)* a condition requiring the prisoner to remain at the prisoner's residence during the period of home detention calculated pursuant to subsection (4) and not to leave the residence at any time during that period except for the following purposes:

Then there is a list of them: paid work, to see a doctor or dentist as needed in circumstances of urgency, and for any other purpose that is approved or directed by the authorised officer to whom the prisoner is assigned. I am not at this point questioning any of the conditions under which it is permissible for the prisoner to leave home, but I am questioning in the first instance the definition of the word 'residence', because no clause in this Bill defines that term. It disturbs me enormously that such a vague term has been left there, undefined, as to define where the prisoner must stay: 'residence' is the place at which the individual normally resides. There are some instances where many of the people who have been convicted of the crimes to which the Minister has referred as being crimes, for which they will be eligible to be given home detention, do not have a real permanent place of residence that they can call their own *per se*. It may be a condition of their tenancy that if they are found guilty of a criminal act that involves imprisonment they have to leave those premises.

Furthermore, and notwithstanding the implications for the Residential Tenancies Tribunal or anything like that, I direct the Minister's attention to the spectrum of the dwelling places that are broadly regarded as qualifying as residences. On the one hand one has the detached dwelling, which may be on a fairly substantial piece of land, or anything down to the conventional fifth-acre block in suburbia. Then there is the maisonette; then the sort of 'up market town houses' which have private messuage (which means private surroundings that are defined on the strata title, say, of a town house development as belonging to that tenant); then there are blocks of home units and town houses which have no external messuage—no surrounding land that is identified as being the exclusive province of the tenant owner or tenant occupier, whichever. Then one has multi storey accommodation where there is absolutely nothing except what is inside the four walls of the apartment.

In which instances does the prisoner who is eligible for home detention get, as it were, a commutation of his imprisonment to home detention? To what kind of residence, if a distinction is drawn, may the prisoner be assigned? If the prisoner does not own premises but is a tenant, in that he pays rent rather than paying off a mortgage, in what circumstances will he be released under this scheme? I am seeking from the Minister a definition of the kind of dwelling to which the prisoner will be allowed to return. Also, is there any difference between whether the prisoner owns the premises or rents or leases them from someone else?

The Hon. FRANK BLEVINS: The ordinary understanding of the word 'residence' is where the person lives. If a person wishes to go on this program he will have to nominate a place where he is living. The officers who are in charge of this program will make investigations into whether that is a suitable place and, if any other person lives there, whether they agree with the prisoner being detained in those premises. If there is any problem about that the prisoner will not go on the program. It is entirely at the discretion of the prison authorities, not at the wish of the prisoner. So, if there is any doubt at all the prisoner will not go. It is as simple as that.

Mr BECKER: Has the Minister any idea when the program is likely to commence and how many prisoners could be admitted to it in the first 12 months? Is there any target or any flexible scheme?

The Hon. FRANK BLEVINS: The answer to the first is 'as soon as possible', and I cannot be any more precise than that. It will not take us long to organise prison officers, and immediately the legislation is passed I will ask for the Prisoners Assessment Committee to start looking at prisoners who, first, would be eligible by the nature of their offence, the length of sentence, etc. It can be commenced very quickly, but it will be commenced very conservatively. I do not anticipate that the number will build up to our target, which is 70 or 80 (I would be surprised if it reached 100) inside eight or nine months.

The Hon. E.R. Goldsworthy interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: Is that a question?

The CHAIRMAN: Order! It is out of order for the Minister to answer interjections.

The Hon. E.R. GOLDSWORTHY: When will the first one get out?

The Hon. FRANK BLEVINS: I have no idea but, as I said to the member for Hanson, as soon as the machinery can be put in motion, it is our intention to move as quickly as possible to alleviate the problem of overcrowding, without necessarily building up overnight to the number that we anticipate will eventually be involved in this program. As I distinctly said to the member for Hanson (and I am happy to repeat it, as the Deputy Leader chose to ask me exactly the same question), that will occur as soon as possible. It will take eight or nine months to build up to the numbers we expect.

Mr LEWIS: I refer to the Minister's response about the kind of residence that is considered acceptable. I understand that the assessing officer will determine whether or not it is appropriate. I resist the temptation to scream as much abuse at the Minister as he is shovelling at the community by being blase or ignorant.

Ms Lenehan: What about sensitive?

The CHAIRMAN: Order!

Mr LEWIS: I did not understand the interjection, I am sorry.

The CHAIRMAN: Order! There is no reason for the honourable member to understand it.

Mr LEWIS: I want the Committee to understand the grave concern that many people feel about this measure: for instance, it is neither reasonable nor humane. Two prisoners might be convicted of exactly the same criminal offence and both would be eligible for HDP. One may live in a rented bed-sitter on the fifth floor and the other may live in a detached dwelling at, say, Ingle Farm, Glenelg or West Lakes. The detached dwelling provides a facility for

the offender to remain within earshot of a telephone and, meanwhile, to do constructive things so that that person is not bored or tempted to indulge in recidivist behaviour. However, the person who is locked up in a bed-sitter to do HDP is more likely to be 'driven bananas'. People of a similar temperament to mine could not be locked up without having to make a considerable psychological commitment to remain there. I have been locked up, and I am damned sure that the Minister has not been.

Ms Lenehan interjecting:

Mr LEWIS: I was not locked up for any good reason.

The CHAIRMAN: Order! I call the member for Mawson to order.

Mr LEWIS: I have been locked up in conditions that were a darn sight worse than the conditions in our institutions. I well understand what it is to be incarcerated. I want the Minister to understand what I and many other people regard as unsatisfactory circumstances, where no stipulation is made about the suitability of the facilities or the circumstances to which the offender is committed. That disturbs me.

I can see that a Minister of Correctional Services in the future could be 'a Jackson' and could ultimately be dismissed as Minister for intervening in what would be seen as the early release of a prisoner as a consequence of bribery or in some way his being coerced into releasing that person. This leaves the way open for gross abuse of the program. Not only might it compromise a Minister of the Crown but more particularly people might be tempted to try to influence the Minister through organisations in which they are powerful or through powerful friends.

Ms Lenehan interjecting:

Mr LEWIS: This Minister? Come on! Those people might be released to home detention. That is quite wrong. There should be more clarity about the residences and about the Minister's discretion. There should be a clearer definition in both those areas.

From where will recruitment take place of the surveillance officers from whom the Minister will presumably take advice in the event that he exercises his powers under new section 37a (2) *(c)* and who will supervise the prisoners released under new section 37a (3) *(c)*? Will they be prison officers, or probation and parole officers who, in the main, have some social work training and have developed a clear insight into how to relate to people who have committed a criminal offence and can thus encourage them to modify their thought processes and attitudes that determine behaviour so that they can avoid circumstances where they might be tempted into recidivist behaviour? I have clearly indicated that I prefer the latter. What qualifications and supervisory skills will be required?

It will be no damn good having wimps, who can be conned and manipulated. I have seen that a large number of the recent graduates from the social work course at the Institute of Technology are grossly incompetent, temperamentally ill suited and, in terms of experience, inadequate to do the job. Nevertheless, the surveillance officers should have some social work training: they should not be people who have the pathological problems which I have known some prison officers to have. What will be the academic requirements and experience of those who will manage this program? Where will they be drawn from? I and many others have concerns about the nature of the residences to which the individual will go and the kind of advice the Minister will get under new section 37a (2) *(c)*.

The Hon. FRANK BLEVINS: If the question was related to who will be supervising prisoners on a home detention program and who will be giving advice on how the program is going as it relates to individual prisoners, the answer is that it will be senior prison officers.

Mr LEWIS: If it is prison officers, then I am distressed, to say the least, and find the whole measure repugnant because prison officers just do not have what I believe to be the necessary training in how the human mind works and the way in which they need to relate. We will take the whole pathological mess that exists in prisons out into the streets and suburbs. Parole officers are different from prison officers, and I understand why they are given their job. Why do we have someone who is better trained to supervise parole than the person who will supervise home detention schemes? It is beyond me.

Is it some sleazy deal the Minister has done with the prison officers union—AGWA or whatever it is called—or will the Minister insist that before those prison officers can get these appointments they will be adequately trained and qualified so that it will not be just prison officers across the board, willy nilly, but rather those who have some specific training and qualifications in dealing with the human behaviour, and the mental processes that determine it, and how to help humans modify that behaviour or make it more acceptable. Is it prison officers *carte blanche*, or is some basic training of the kind I have referred to earlier an essential part of the selection process of those prison officers before they are appointed to that job? If there is going to be a difference between the prison officers selected, with their qualifications, and parole officers and their qualifications, then why the difference? Surely the job to be done is more important in the case of the HDP than in the case of parole?

The Hon. FRANK BLEVINS: I am not sure of the question; with the best will in the world, I have extreme difficulty in following the ramblings of the honourable member. We believe that the most successful program we have seen is the Queensland program where they use prison officers. We believe that they are best equipped to do this job. In those areas where there are no prison officers readily available, it may well be sensible to use probation and parole officers. In the Northern Territory they use probation and parole officers. We believe, on balance, that senior prison officers are the best people and the most capable in dealing with prisoners in the sense that they are incarcerated: they are contained within their own homes and prison officers are the best people to manage that kind of program. Probation and parole programs are quite different. The clients they are looking after are in a community in a normal way, with some restrictions, but and large they are free and clear. It is a totally different program. The honourable member is entitled to his view.

Mr S.G. EVANS: Who will be the senior departmental officer to whom the Prisoner Assessment Committee will report? What is the Prisoner Assessment Committee; what is the composition of such a committee, and when will it be appointed? We should know that. What is the description of a 'nominated residential address'? We have had that question from the member for Murray-Mallee. I do not wish to question the Minister but I do have concerns, although not as deeply ingrained as the member for Murray-Mallee's.

How many persons at a nominated address must agree to accept a prisoner? If there is a number of people—a family such as mine a few years ago where there were virtually seven adults living at home (teenagers, or close to adulthood, plus adults)—and there is an objection by one person in that home, what is the position? It may be a home where two families are involved. If six agree and one disagrees will that one person's objection be overridden?

The Hon. FRANK BLEVINS: As to the composition of the Prisoner Assessment Committee: the Chairman is the Assistant Director of Programs, Department of Correctional Services; the Deputy Manager of the Adelaide Remand Centre; the Assistant Director, Prison Industries; the Executive Officer of the Prisoners Action Committee, who is a uniformed prison officer; and a Supervisor of Assessments, as well as another person whom I cannot remember at the moment.

Progress reported; Committee to sit again.

The Hon. FRANK BLEVINS: I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

In Committee (resumed on motion).

The Hon. FRANK BLEVINS: The Prisoner Assessment Committee reports to the Director, Operations, Department of Correctional Services. The third question was whether there was an objection from an individual in a household and whether it would preclude the person concerned being put on the program. The answer, generally speaking, is 'Yes'. Obviously, if there is going to be some conflict in the household in relation to someone being confined in that house for possibly up to 24 hours a day, then the chances are that the Prisoners Assessment Committee would recommend that that person not go on the program. It is a very sensitive program, and if that was going to be a problem, then the chances of a person getting on the program would be remote.

Mr S.G. EVANS: I take up the point that under the home detention scheme a person is bound to stay at the premises, but they can also take on employment. There is a conflict there, as they cannot be at home if the employment is away from the home. Can a person be employed elsewhere and travel from the home to a place of employment, say on the other side of the suburbs? If I am wrong about that I am happy to be corrected. I wonder what is meant by 'remunerated employment'. If it means only within the house where the person is staying, that is fair enough, but I assume that it means more than that. Also, will a prisoner who does not have access to a telephone at a nominated address be eligible to be admitted to the home detention scheme? In other words, a person may normally reside at a place where there is no telephone and I am wondering whether that will preclude a prisoner from being able to live at such premises.

The Hon. FRANK BLEVINS: The answer to both questions is 'Yes'.

The Hon. E.R. GOLDSWORTHY: Who will interview and assess the suitability of persons residing at a nominated address to be participants in this home detention scheme?

The Hon. FRANK BLEVINS: The Prisoners Assessment Committee will make that decision in relation to interviews. It may be a social worker, as we have social workers attached to our prisons. It may be one of our prison officers who is working on this program who will go out and do the interviewing. But it is quite clear (and I repeat this, as I have said this previously in answer to questions asked in Committee) that unless the issue is satisfactorily resolved (and this is clearly in the Bill) then the person involved will not be eligible for the program.

The Hon. E.R. GOLDSWORTHY: What agreement will it be necessary for the permanent head or surveillance officers to obtain for persons residing at the nominated address?

The Hon. FRANK BLEVINS: I am not sure what is meant by what agreement will be required: their agreement will be required.

The Hon. E.R. Goldsworthy: They might happen to say they are perfectly happy with this.

The Hon. FRANK BLEVINS: Yes.

Mr Becker interjecting:

The Hon. FRANK BLEVINS: I have not worked out the details as to whether it will be verbal or in writing—but they will have to agree.

The CHAIRMAN: The honourable member for Davenport.

The Hon. E.R. Goldsworthy interjecting:

The CHAIRMAN: The Deputy Leader has now asked three questions. The honourable member for Davenport.

The Hon. E.R. Goldsworthy interjecting:

The CHAIRMAN: The Deputy Leader (and I have been keeping a very careful score) has now asked three questions on proposed new section 37a.

The Hon. E.R. Goldsworthy interjecting:

The CHAIRMAN: There have been two questions in the second burst of questions and one previously. The honourable member for Davenport.

Mr S.G. EVANS: I am sorry—the Deputy Premier asked a simple question there.

The CHAIRMAN: It does not matter whether or not the question is simple, and the honourable member has been here long enough to know what the Standing Orders are: they provide that each member is allowed to ask three questions.

Mr S.G. EVANS: I was trying to help, Sir. I would like to ask the Minister what rehabilitation programs are available now, and in particular what is envisaged for the future, for prisoners in the categories that we are talking about who are likely to end up in the home detention scheme? We must have the home rehabilitation programs now envisaged in this type of program but if in future prisoners end up in a home detention scheme will there be any programs that will relate to them in that situation? The Minister read out a list of the types of crimes that people might be convicted for—the people who will be considered for this program. Can the Minister give an assurance that no prisoners convicted for a crime of violence will be included in any of the applicable categories?

The Hon. FRANK BLEVINS: In relation to the first question on what programs are available, I will obtain an extensive answer to that question for the honourable member. The types of programs that will be available for prisoners on this type of program will involve the normal things that are available in the community, whether education or attendance at Alcoholics Anonymous if there is a drinking problem, for example. The Offenders Aid and Rehabilitation Service also has a variety of programs. There are education programs and literacy programs—the list is almost endless—that a person may be required, if it is deemed appropriate, to attend.

Mr S.G. Evans: They will be taken backwards and forwards by departmental car?

The Hon. FRANK BLEVINS: No. I am sorry but I have forgotten what the honourable member's second question was, as he asked a third question.

The CHAIRMAN: There is no need for the Minister to canvass interjections.

The Hon. FRANK BLEVINS: I was only being polite, as I was asked a question. What was the honourable member's second question?

Mr S.G. EVANS: It related to a guarantee about prisoners who had committed crimes of violence.

The Hon. FRANK BLEVINS: That was in the second reading explanation and it was repeated in my response to

the second reading debate, although I am happy to repeat it again.

New section passed.

New section 37b—'Authorised officers.'

Mr BECKER: Can the Minister advise the Committee how many new staff will be needed to man the home detention program? What is the estimated annual cost? Can the Minister provide details of classifications and the salaries relating to those classifications and say whether an economic impact statement has been prepared or what sort of savings are envisaged in the whole program?

The Hon. FRANK BLEVINS: About 10 officers will be allocated to this program. We may not need them all from the first day, but we will build up to what we see as being about 10 officers supervising about 80 prisoners. The precise salary level has not yet been determined. It may well be that we will need a separate agreement, because there will be quite extensive out-of-hours work. It may well be that a separate industrial agreement is necessary, rather than that involving a straightout eight hours in overtime. We are still having discussions about that. We do not envisage any problem with it; it just involves arriving at an appropriate means of paying people who will work those irregular hours. It will not be regular shift work or overtime; by the very nature of the program it will be a very irregular occupation.

As regards the savings, we estimate that it will cost about $20 a day to supervise each prisoner. If there is one officer supervising between eight and 10 prisoners, it will amount to about $20 per prisoner per day. In relation to the average in-gaol figure, I accept the comment that the member for Hanson made in his second reading contribution. One does have to look at the figures very closely to see precisely what it does cost. I know that the Department of Correctional Services would be delighted by the explanation given by the member for Hanson, as they are very quick to take it up with me when the Auditor-General's Report comes out and the figures are revealed and I faint; they revive me by saying, 'Well, it is capital costs and it is costs that the Government says that we have to apportion in a certain way.' It is an accounting problem more than paying, for example, $75 000 a year for each individual prisoner at Yatala. We are paying off capital costs. It is about $100 a day to keep a prisoner, and of course there is a saving in capital costs when a prisoner is on home detention, so I think the figures have some validity in this area.

Mr BECKER: Concerning the industrial agreement required to employ the authorised officers in this program, is the Minister able to inform the Committee of the experience in Queensland, what agreement was made there, and the conditions of employment of these personnel?

The Hon. FRANK BLEVINS: I cannot give the honourable member any information about how prison officers in Queensland are paid.

Mr LEWIS: New section 37b (4) provides:

> Any authorized officer may, at any time—
>
> *(a)* enter or telephone the residence of a prisoner serving a period of home detention;
>
> *(b)* telephone the prisoner's place of employment or any other place at which the prisoner is permitted or required to attend;
>
> or
>
> *(c)* question any person at that residence or place as to the whereabouts of the prisoner,
>
> for the purposes of ascertaining whether or not the prisoner is complying with the conditions to which the prisoner's release is subject.

I am anxious about aspects of that provision and seek clarification in relation to the question of the telephone. Will a prisoner who does not have a telephone in his residence, as defined in the legislation and determined by the authorised officer, be ineligible for admission to this home detention program?

The Hon. FRANK BLEVINS: Yes.

Mr LEWIS: Then really, that makes a farce of this provision, because one of the means by which it is possible to make random spot checks of where the prisoner is—

The Hon. FRANK BLEVINS: You said, 'Will they be ineligible?' I said 'Yes'.

Mr LEWIS: I thank the Minister for that clarification. I am sorry, I misunderstood—

The Hon. FRANK BLEVINS: I said only one word. How can you misunderstand one word?

Mr LEWIS: I did not misunderstand you—

The CHAIRMAN: Order! I want the Committee to come back to a question and answer situation. The honourable member for Murray-Mallee.

Mr LEWIS: I take it that these authorised officers to whom the clause refers in every instance will be recruits from the ranks of prison officers. Will they have any specialised training at all in social work? I believe they should have, and of a specific kind. I have said before that I do not think the majority of people who graduate from the South Australian Institute of Technology would be suitable if only because of their age and inexperience. However, some of them certainly are mature age students with a genuine commitment, understanding and insight into the human condition and the experience to back that up. Other people who have qualifications in South Australia from institutions like Flinders University and Adelaide University in psychology and then, say, a major in sociology would, in my judgment, be equally well qualified. I am really trying to discover whether the salary range payable to these people would be adequate to attract people from the categories I have referred to, or will they simply be people from amongst the ranks of prison officers who want the jobs outside the prisons?

The Hon. FRANK BLEVINS: I do not think I can add anything further to the answer I gave to the same question some time ago.

Mr LEWIS: I do not know whether I am being dumb or the Minister is being arrogant, because the answer the Minister gave a while ago did not address the matter of qualifications at all. It simply said, 'from amongst the ranks of prison officers.' I presume that what he has just said really means he does not care about their qualifications at all. If that is the case, then I ask him to explain the reason why parole officers in recent times have been recruited from amongst the ranks of the kind of people who are qualified in the fashion that I consider to be desirable, whereas home detention program authorised officers do not have to be.

Surely the next phase for the HDP before final release from the sentence provision is parole, so that at the beginning there is someone who is not qualified as a parole officer at a more crucial time in the rehabilitation of a prisoner, taking charge of the prisoner, and as the necessity for qualifications and experience is diminished towards the end of the sentence period, when the prisoner goes onto parole, a more qualified person supervises the prisoner's activities. To my mind, the logic of that approach is back to front and makes the whole program really suspect. I worry about that aspect and do not think in all fairness that the Minister has given the Committee a reasonable explanation for that.

The Hon. FRANK BLEVINS: When I answered that question previously I finished up saying that the honourable member is entitled to his opinion, and I can only repeat that. He sees it one way; the Government sees it another way, and that is not unusual.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: I really wish the honourable Deputy Leader would engross himself more fully in the business at hand or pay attention more fully to the debate.

The Hon. E.R. Goldsworthy: I am hanging on your every word.

The Hon. FRANK BLEVINS: Then the problem is not hearing, as I said; it is understanding. In the home detention program it is appropriate, we believe, to have people supervising it who are experienced in detention, and that is prison officers and senior prison officers.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: They are qualified and trained as prison officers and, whilst they may have no formal qualifications in social work, I am sure all members opposite would have to agree that people can develop great skills in human communication without necessarily having a formal qualification. A great number of my prison officers (if not all of them) have developed skills in communication, certain skills in their primary job, which is the detention of persons and the protection of the community—they are very highly skilled. We believe they are the most appropriate people to supervise this program. However, as I said before, the member for Murray-Mallee disagrees, and that is his prerogative. I certainly respect his right to have that view.

The CHAIRMAN: Unfortunately, the member for Murray-Mallee has now utilised all his opportunities under this new section.

New section passed.

New section 37c—'Revocation of release.'

Mr BECKER: The information I seek from the Minister dealing with this section is how the permanent head will decide whether a prisoner has breached a condition of the home detention program. What penalties are there for such breaches?

I refer to the article in *Time Australia* of 3 November 1986, in which Frank Robson states:

> During a standard (unannounced) visit to his home in South Brisbane by HDP Supervisor Darryl Burns, Noel Gilders--

that is the person about whom the article is written--

> described what for him were the worst elements of incarceration: watching his three-year-old daughter crying and hitting the security glass between them in the visiting section, and the unworthy nature of his own idle thoughts. 'There are too many hours to think about things,' he says. 'You worry about the kids and the wife: is she playing up? It's not that I don't trust her, but when you're locked up, well—it's hard, you get irritable, touchy.' With considerable public relations flair, Gilders complimented Burns on his gentlemanly conduct as a program supervisor.

Members must recall that Mr Gilders has been imprisoned on several occasions previously, according to this article, which further states:

> 'With most of these blokes (supervisors) you feel like you're worth something . . . it's first names and you're in your own house, you're not just a nothing who has to call every one "Sir?" A few weeks ago, a different supervisor called and found Gilders at work in the kitchen—a cold stubbie at hand. 'I didn't try to deny it,' Gilders says emphatically, 'It was a sweltering day and I just had the one stubbie, didn't I love?'

He turned to his wife. The article continues:

> His wife, Evonne, agreed. Her obvious enthusiasm for helping Gilders stay on the straight and narrow is not uncommon. Dorey and Lobban say most 'support' families are wholeheartedly behind the program. . . .

The point made in that article is that the supervisor has an ability to communicate with the prisoner, and I do not believe that social workers are in that category. Unfortunately, in this case, the prisoner breached one of the conditions by having a cold stubbie on a stinking hot day. Returning to the original question, I ask: how will the permanent head decide whether a prisoner has breached the conditions of the home detention program and what penalties are there for such breaches?

The Hon. FRANK BLEVINS: If the supervising officer suspects or sees a breach of the conditions, he will report that to the person in the Correctional Services Department who heads this program and a judgment will be made, if necessary, by the Director of Operations of the Correctional Services Department and also, if necessary, by me. If the breach is so serious that we feel it warrants the person being placed back in gaol, then that will be done straight away. If it was New Year's Eve and the person involved had a port after dinner when he was not supposed to touch alcohol, there would be some discretion, but not a great deal. It is a very tough and serious program, and any breaches of any consequence will not be tolerated. We make no apologies for that.

It will be explained to prisoners and other people who may be in the home or residence where the prisoner is staying that this is not a game and that, if we state that the prisoner must not have alcohol and must not do this or that, we mean it. Although they may deal with the offender on a first name basis, the senior prison officers will be very skilled in communication with and control of people. Also, they are not easily conned. As I say, there will be some discretion, but very little. Obviously, some sensible discretion will be available. All incidents will be reported. We will be informed by the supervising officers of every incident, no matter how trivial.

Mr BECKER: Will the home detention program supervisor insist on urine tests of prisoners to detect alcohol or drugs, as I believe is the case in either Queensland or the Northern Territory?

The Hon. FRANK BLEVINS: The conditions are at the absolute discretion of the Executive Director of Correctional Services and, if that person feels it is appropriate to call for a urine test and if the prisoner refuses, then the prisoner is taking the chance of being placed back in gaol. There is no doubt that, on this program, the power is all one way, and we make no apologies for that; that is the way that it must be. If a prisoner cannot take that, then he has the option of returning to gaol.

Mr BECKER: If a prisoner is not at home when required, will that absence be considered to be an escape and will the prisoner be charged accordingly? If not, why not?

The Hon. FRANK BLEVINS: The answer is 'Yes', and that is contained in the Bill.

New section passed.

New section 37d—'Sentences extinguished upon expiry of period of home detention.'

Mr LEWIS: If the Bill is passed in its present form, presumably the introduction of this program will mean a reduction in the number of parole officers required by the Correctional Services Department, because this clause provides:

> Upon the expiry of a period of home detention, the sentence (or sentences) of imprisonment are, subject to section 37c, wholly extinguished.

New section 37c sets out those circumstances, none of which provide for someone to be paroled, so those people who would otherwise have earned parole will ultimately not be given parole, because they will be placed on the home detention program. Does that mean that, if this scheme is finally introduced, the department intends to phase out parole officers?

The Hon. FRANK BLEVINS: It has nothing to do with parole officers, who are not involved with these prisoners, anyway.

An honourable member interjecting:

The Hon. FRANK BLEVINS: There is not now. If the prisoner serves his full time in gaol now less remission, parole officers are not involved. The prisoners are free and clear after they have served their term of imprisonment. That same situation will apply when they enter the home detention program. Parole officers are not involved in the present system and they will not be involved in the home detention scheme.

Mr LEWIS: With respect, that is nonsense. I am talking about circumstances where prisoners are currently paroled. If this legislation is passed, a large number of those prisoners who would otherwise be paroled will enter the home detention program and will be discharged without ever having gone on parole. So, presumably, not as many parole officers will be required. If this scheme is to be as successful as it should be (but within this framework I do not see that happening), what will happen to the parole officers?

The Hon. FRANK BLEVINS: It is not nonsense; it is fact. We are talking about prisoners who are serving sentences of 12 months or less. There is no parole for those prisoners in the present system. Parole officers are not involved with them. For a prisoner with a sentence of 12 months or less, which is the type of prisoner whom we are talking about in this program, there is no involvement at all with parole. That is a fact: it is not nonsense. If the same prisoners, if elegible, go on this program, there will still be no contact with parole officers, as there would not be if this new system did not exist. So, the position as regards parole officers is exactly the same: there is no involvement, and there can be no unemployment or excess number of parole officers, because they are not involved under the present system or under the new system. That is not nonsense: it is fact.

Mr LEWIS: By way of explanation, I said that if this scheme is as successful as it should or could be, if only the framework were stronger and there were greater definition to the kind of responsibilities that people have and better qualifications for those people who are involved, I see circumstances which should and could apply to people who have sentences beyond 12 months. It would be dead easy within this Bill to change that 12 months cut off point and extend it so that a fairly substantial group of prisoners would ultimately come under the home detention program and a very much reduced number of prisoners would still remain, because of the kinds of felonies that they had committed, under provisions of sentencing where they could earn parole in prison. So, one would end up with the need for a much reduced number. I am not talking of next year or the next five years: I wonder whether the Minister and the Government have contemplated what I have contemplated: that is, the ultimate reduction of the number of parole officers required by the department.

It seems to me, from what the Minister has said as to who will be recruited to run this scheme, that the Government will be substantially providing 'parole on the cheap', because it will use prison officers instead of parole officers to do the job. I know that this Bill as it stands does not permit that, but I bet that it envisages it. It would not take more than the amendment to one clause to make it possible for that to happen.

The Hon. FRANK BLEVINS: That was a reasonable attempt by the member for Murray-Mallee to cover up his previous ignorance.

New section passed.

New section 37e—'Expiry of this Division.'

Mr BECKER: I move:

Page 4, after line 22—Insert new section as follows:

37e. (1) This Division expires one year after the commencement of the Correctional Services Act Amendment Act 1986.

(2) Notwithstanding subsection (1), this Division shall continue to have effect in relation to any prisoner who is, immediately before the expiry of the Division, serving a period of home detention.

This adds an expiry to this division. The Opposition believes that it is necessary to incorporate a sunset clause. There will always be an ongoing evaluation program, although in Queensland, after six months of operation, a professional and independent evaluation of that program was taken. We are the beneficiaries of what has already happened in Queensland and are able to legislate accordingly, but there is that feeling in the community and even in this House that community security is one of the most important things that people value. To put in that safety valve will assure the public that we have seriously considered this issue, and those who are involved in the system—the members of the Department of Correctional Services, the prisoners, their families, relatives, and so forth—will understand what is being achieved in some respects. But that large section of the community will still view this program with some uncertainty. The Minister has assured us that probably 70 to 80 persons will go through the program in the first 12 months. I envisage that the program will build up slowly. Therefore, we are not being unreasonable in seeking a sunset clause for this division of the Correctional Services Act. For that reason, I commend the amendment to honourable members.

The Hon. FRANK BLEVINS: I oppose the amendment. I do not believe that a sunset clause is necessary. The program will be under constant evaluation, the results of which, and any questions related to the program from the member for Hanson or any other member, will be made available by me. Without the confidence of the community or of the Opposition, I do not believe that this program could operate, anyway. As I have stated publicly, if the program appears to be failing, there is no question that the Government itself will terminate it, whether after one year, one month or 10 years. In our correctional services program we are trying not to score political points but to get the best possible correctional services.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: I agree with that, actually.

An honourable member interjecting:

The Hon. FRANK BLEVINS: 'Rank hypocrisy' is unparliamentary.

The Hon. E.R. Goldsworthy interjecting:

The CHAIRMAN: Order!

The Hon. FRANK BLEVINS: I can certainly assure the Committee, as I have assured the community outside the House, that if this program is failing, whether it is one month, as I have said, one year or whatever, it will be terminated: there is no question of that whatsoever. The names, offences, and all the circumstances surrounding the people who go on the program—will be made available to the Opposition. Any reports or anything that goes on in this program or any other program in the gaols, as well as any briefings that are required, are certainly available to the member for Hanson as the Opposition spokesman in this area.

Apart from security reasons, the same applies to any member of the community or the media. That is the way in which we run our correctional services system in this State. It is a system that we insist is completely on view to the community, as it ought to be. It is part of the community. The community ought to face and deal rationally all the time with the fact that it has errant members under the Department of Correctional Services care from time to time. That will not happen 100 per cent, but by and large it is happening. So, the protection of the community is there

in the openness with which we run our correctional services programs.

The Hon. E.R. GOLDSWORTHY: I am disappointed with that response, because one way in which the community can be reassured that this experimental program is either satisfactory or unsatisfactory is for it to be reviewed in Parliament, which is what will happen if this amendment is carried. It is all very well for the Minister to say that the operations of this Government are an open book: that is just not the case. This Government is the most secretive that I can recall. Day after day we ask questions in this place and are not given answers. To suggest that we have open government is an absolute farce. To suggest that we can find out everything that is going on in prisons and how the system is working simply by asking questions is not borne out by the track record of this Government.

If the Minister wants to reassure the public at the start of the program, he will agree to this amendment. The whole system will be scrutinised and, if the Minister dodges questions, he will be seen to be dodging them, in this place. The public and the Opposition will be reassured and can ascertain how the program is working.

The Bill was introduced in a hurry. It suddenly came out of the sky to the member for Hanson on Friday, and we saw it today. This Bill will be rushed through Parliament. It introduces a new scheme about which people have considerable and justified doubts but which the Minister says will work only if the public accepts it without doubt. One of the ways in which to allay fears is to reassure people that Parliament will probe the whole system thoroughly in this place.

To suggest that the operation of the Minister and his department are an open book is absurd. We do not have the opportunity to ask the necessary questions or to obtain information on which to make a proper assessment of how the system is working by telephoning the Minister or asking questions in the normal way in this House. We cannot even find out how much the ASER project will cost: the Government will not tell us, because it might be embarrassing, so will the Minister answer questions in this place if it might be embarrassing? Of course he will not. That is not his track record or that of the Government. It will not wash. This amendment will reassure the public and will go a long way towards helping the Minister sell the new scheme, which is to be brought in at very short notice.

Mr LEWIS: I urge the Minister to reconsider his position instead of behaving in the way in which many of the public have seen him behaving in recent times—like a little weasel. We never know where he is. He has the gall this evening, nine hours after saying in Question Time that what he said about the bread legislation was a mistake and that he chose to change his mind, to take this attitude. It is all right to tell a joke on oneself and parody that sort of thing to get oneself out of an awkward and embarrassing situation in the mood of the moment, but that does not change the fact that the Minister conned people and they believed him, as the Premier conned the public before the last election.

Why cannot the Minister understand the disquiet of the public about this proposition, which was brought in with undue haste and is to be rushed through the Parliament? He should allay fears so that people will not be apprehensive and oppose the proposition, as I believe to be the case given my contact with people since the matter surfaced on the front page of the morning newspaper recently. If the Government understood that and agreed to the inclusion of a sunset clause, people would know that there would be a debate and a review if necessary, and there would be a greater measure of acceptance. What has the Minister to cover up? We know that he is good at that—he is clever. He makes it seem to the bird he is trying to catch that he is not really interested as he stalks by with apparent indifference, and then reaches out and snatches off its head at the last minute. That is what a weasel does, and the Minister would well understand the behaviour of such animals, given the part of the world from which he comes.

The Minister should not deal capriciously with the strong feelings that are abroad, because those feelings are justified. People are disturbed and worried about the direction in which law enforcement is going. They were given no information about this scheme until a few days ago, and they do not understand the principle on which it will work. The Minister has given no reassurance that those who will be responsible for the administration of the program will be trained satisfactorily or selected other than by rote. It will be a subjective decision, based not on merit which can be assessed objectively by an outside authority as being satisfactory. The criteria for appointment are not spelt out or explained. It looks too much like jobs for the boys in the AGWA, the prison officers union, being dished out by the Minister, an old union favour, for the benefit of union members, not prisoners or the community. They are ignored. If the Minister accepted a sunset clause, we might believe that he was sincere and that he had no need to obscure why he introduced this program.

From my limited experience in this place, it seems that, first, the Minister does not want the matter to be scrutinised. He does not want to have to be honest in case it backfires and does not work and he will be seen to have brought it in too hastily. Secondly, it seems that the Minister introduced this Bill for no other reason than to take the heat off the Government in the debate on on-the-spot fines for marijuana possession. If the two issues are put to the public, people will be confused and confounded: the heat and anger will be worked through in the pre-Christmas period, and the Government and the Minister hope it will all be forgotten after Christmas. The bitter pills are being peddled quickly without adequate thought and planning for the structure. By opposing this sunset clause, the Minister denies the Parliament and the public the right to be reassured.

That makes it impossible for me to support the Bill for no other reason than that the framework and the operation of this new innovation will be too detached from the Parliament which introduced it. There is too much indifference and too much executive prerogative, and not enough accountability.

Mr BECKER: I am disappointed that the Minister will not accept the amendment. I firmly believe the Parliament should have the opportunity to review separately the legislation and operation of the HDP in 12 months. This scheme is comparatively new in Australia in the rehabilitation and treatment of a certain class of offender. I want to be absolutely sure that the community will not have any apprehension whatsoever about what we are doing.

For that reason I would have thought that the Minister would take one cautious step and agree to this amendment so that he could say to his staff and to everyone else that an opportunity exists to perform and present to Parliament the review that is neccessary. I accept the fact that the program will be under close scrutiny but still believe that Parliament as the overruling body in the State should have the opportunity to look at the legislation. The inclusion of a sunset clause has always been, in whatever legislation, a safety valve and it appears to tidy up the true role of Parliament. I am disappointed that the Minister has seen fit to reject it on this occasion.

The Committee divided on the amendment:

Ayes (14)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker (teller), Blacker, Chapman, Eastick, Goldsworthy, Gunn, Ingerson, Lewis, Meier, and Oswald.

Noes (23)—Mr Abbott, Mrs Appleby, Messrs Bannon, Blevins (teller), De Laine, Duigan, and M.J. Evans, Ms Gayler, Messrs Gregory, Groom, Hamilton, Hemmings, and Klunder, Ms Lenehan, Messrs Mayes, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Ms Cashmore, Messrs S.G. Evans, Olsen, and Wotton. Noes—Messrs Crafter, Hopgood, Keneally, and McRae.

Majority of 9 for the Noes.

Amendment thus negatived; clause passed.

Remaining clauses (4 and 5) and title passed.

The Hon. FRANK BLEVINS (Minister of Correctional Services): I move:

That this Bill be now read a third time.

Mr LEWIS (Murray-Mallee): As the Bill comes out of Committee I find it in principle admirable, in framework deplorable and in prospect a disaster. There is no assurance whatever that the inadequacies contained in the construction of the Correctional Services Amendment Act will indeed achieve the kind of result that the Government has set out to achieve—at least that is what it would like the public to believe it set out to achieve. The Government merely set out to bring this measure into the Parliament and slam it through at this time because it is a controversial matter which the public have not heard about in sufficient detail or yet understood or digested. Their concern and anxiety will be heightened as days go by.

The Government believes that by bringing it in at this time it will be able to get rid of yet another bitter pill before Christmas and it hopes and believes that the electorate will forget it in the New Year. It distresses me that I have to make remarks so cynical about the Government's motives in connection with this proposition. I utterly reject the Government's attitude as I perceive it and therefore cannot support the measure as it stands. However, I have no intention of calling a division since the Government has already indicated its intention to use the numbers and it would only waste the time of the House.

Bill read a third time and passed.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

Consideration in Committee of the Legislative Council's message (resumed on motion).

Mr GUNN: In relation to the Legislative Council's alternative amendment in lieu of its amendment No. 2, I move:

Delete the words 'endeavour to'.

As far as the Opposition is concerned, the Legislative Council's amendment is unacceptable. The Australian Democrats have again excelled themselves in completely messing up what would have been a sensible arrangement. If the Hon. Mr Elliott considers himself an expert in other things, he is certainly not an expert on drafting amendments to Bills which have an effect on agriculture.

The CHAIRMAN: Order! The honourable member must not reflect on another member. The honourable member for Eyre.

Mr GUNN: Mr Chairman, I do not think it would be possible to reflect on the Hon. Mr Elliott.

The CHAIRMAN: Order! This is a very serious matter; the Standing Orders are quite clear, and I ask the honourable member not to reflect on another member.

Mr GUNN: Perhaps I can leave it at saying that the Hon. Mr Elliott has excelled himself on this occasion—he has supported the Government in putting in an amendment which makes the penalties for wrongdoings under this Act quite draconian and quite unacceptable and which will ruin the whole import of the legislation. People will not be prosecuted because the officers who have to administer this legislation will know that the penalty to be imposed will be quite draconian. What happened in the other place is quite ridiculous. The proposed amendment provides that the 'Minister should, in nominating members for appointment to the Commission, endeavour to ensure...'. How in the hell in legislation is one supposed to 'endeavour to ensure' something? This is an absolutely terrible and stupid proposal.

Mr Blacker interjecting:

Mr GUNN: No, it is not clear. What the Hon. Mr Elliott has done (and the Minister can smile) is to just hand over to the Minister the responsibility for the nomination of all these people. At one stage we had it organised so that a bit of commonsense—

The CHAIRMAN: Order! I ask the honourable member to resume his seat. We are talking about a very important principle: the honourable member must not under any circumstances reflect on a member in another place. This is the third time that I have drawn this matter to the attention of the member for Eyre. If it happens again, I am afraid I will have to take action. The honourable member for Eyre.

Mr GUNN: Golly, I did not think I was reflecting on the honourable member: I was only being critical of these silly amendments. I cannot help it if the Hon. Mr Elliott is the author—I cannot help that at all. I believe that anyone who reads these amendments in future will be fully aware of the ability of the person who moved them. I think that will be quite clear to everyone. All I want to say is that the Opposition is most unhappy about this proposal. The measure to which the amendment relates has taken many years to bring to its present stage. We had a reasonable and sensible debate in this place, with a number of amendments being agreed to. When the Bill left this Chamber some sensible amendments had been made to it, but then the stage was reached when there was some manoeuvring by some people and the situation was arrived at where in relation to one amendment that the Legislative Council should have insisted upon it did not do so and it inserted this amendment that we are considering, which does not make sense. Therefore, in an endeavour to try to improve this measure I have moved my amendment. If the Committee accepts the amendment it will make the measure somewhat more sensible, but of course the Democrats in the other place have made the operation of this legislation far more difficult than would have been the case. I will have much pleasure in telling the rural community who the culprits are in this matter and I will be loud in my criticism across the whole of South Australia in relation to this matter—because it is foolish.

The Hon. M.K. MAYES: I oppose the amendment. I do have some support for some of the comments made by the shadow Minister. It seems to me that there has been some difficulty with the whole application of the Bill in the other place, and certainly some of the Legislative Council's

amendments have not assisted the smooth passage or debate on this Bill. However, in respect of the amendment received from the other place, I do not see how it will in any way affect the operation of the Bill and its application in the community. In order to get on with the process of seeing it administered I am more than happy to accept the legislation as it is, and I oppose the member for Eyre's amendment.

Mr GUNN: I am disappointed that the Minister will not accept it. I will not force a division at this stage of the evening. I think I have made the Opposition's position very clear. I reiterate that this amendment and the other amendment which was inserted by the Democrats are unacceptable to the Opposition and it will be a matter addressed when we become the Government after the next election.

Mr Gunn's amendment negatived.

Motion carried.

STEAMTOWN PETERBOROUGH (VESTING OF PROPERTY) BILL (No. 2)

Returned from the Legislative Council without amendment.

PAROLE ORDERS (TRANSFER) ACT AMENDMENT BILL

Returned from the Legislative Council without amendment.

ADJOURNMENT

At 11.8 p.m. the House adjourned until Thursday 27 November at 11 a.m.