HOUSE OF ASSEMBLY

Wednesday 15 March 1989

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

RACING ACT AMENDMENT BILL (1989)

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

POLICE REGULATION ACT AMENDMENT BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

PETITION: BRIGHTON INTERSECTION

A petition signed by 1 200 residents of South Australia praying that the House urge the Government to install traffic lights at the intersection of Brighton Road and Edwards Street was presented by Mr Ingerson.

QUESTION

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

BELAIR RECREATION PARK

In reply to **Mr S.G. EVANS (Davenport)** 21 February.

The Hon. D.J. HOPGOOD: The rental for the Belair golf course lease area within Belair Recreation Park is 8 per cent of green fees. The Government is not currently negotiating any changes to the lease with any party. However, the Government is aware of the possibility of an impending assignment request to transfer the lease to a Malaysian investor. The interested party is Mr Dato Cheng of Kuala Lumpur. The lease prescribes restrictions on public access relating to the activities of Belair Recreation Park Golf Club Inc. As there is no proposed change to the provisions of the lease the current arrangements will continue as detailed in that lease. The lease contains no fees price control provisions. As a consequence, rises or falls in green fees charged cannot be anticipated or guaranteed by the Government.

PAPER TABLED

The following paper was laid on the table:

By the Minister of Transport (Hon. G.F. Keneally)—

Department of Local Government—Report, 1987-88.

QUESTION TIME

INTERNATIONAL FLIGHTS

Mr OLSEN (Leader of the Opposition): I address my question to the Premier. In view of the South Australian Government's repeated calls to Qantas to increase international flights into Adelaide and, in particular, to give us greater opportunity to benefit from the rapidly increasing number of Japanese and American visitors to Australia, will he, as both Premier and National President of the Labor Party, support the move by the Prime Minister for at least partial privatisation of Qantas so that the airline can adequately service its capital needs and meet the rising demand for its services?

The SPEAKER: Order! The Premier can answer only that part of the question which relates to his portfolio and not in any other capacity he may have that is not directly related to his responsibilities to this Chamber.

The Hon. J.C. BANNON: In that capacity, I do not have a policy role, unlike the *quasi* Leader of the Liberal Party, who is also the managing director of one of our biggest international companies. The situation is quite different in our case. The Prime Minister articulates national policies on behalf of the Government. However, in reply to the Leader's question, I certainly support any means whereby Qantas can ensure that its capital base is strong and that it can expand its operations. Indeed, that has been the situation. Of course, we are not dependent on Qantas. In our bid to attract greater air traffic to Adelaide, we believe that much greater rights should be given to a whole series of international airlines. What is decided in that regard is a matter for national policy.

In our case the more airlines travelling here the better. Therefore we are talking about not just Qantas nor, indeed, the current operators, Singapore Airlines and British Airways. We are talking about Thai International, JAL and other airlines that do not have major services or even fly to Australia—and I refer to airlines such as Scandinavian Airlines. We would like to see those airlines using Adelaide Airport as an appropriate entry port. In that connection, I remind members of the task force which was established by the Government to investigate air access and which will work very hard to ensure that Adelaide Airport is used far more frequently by both cargo and passenger carriers. It will also ensure that there is greater investment in order to promote the airport. Indeed, some considerable success has been achieved in that area. Therefore, I am prepared to support anything that will help increase traffic to and from Adelaide. The exact capital requirements for Qantas and how they will be met are appropriate matters for Qantas and the Federal Government.

RAIL DELAYS

Mr ROBERTSON (Bright): Is the Minister of Transport aware of a succession of difficulties which arose on the Adelaide suburban rail network this morning? Shortly after 9 o'clock this morning I was contacted by a constituent who reported having left Hallett Cove on the 7.15 a.m. train out of Hallett Cove Beach only to find himself climbing an embankment on Henley Beach Road at 8.45 to catch a bus to town. Other constituents reported having missed doctors' appointments and, in one case, a court appearance. On their behalf, I would like to know what can be done to avoid a repetition of this morning's events?

Members interjecting:

The Hon. G.F. KENEALLY: I put clearly on the record that I as Minister, speaking on behalf of the STA, apologise to our commuters for this morning's delays. Before dealing with that matter, I will respond to some of the interjections from across the Chamber. Members opposite, particularly the shadow Minister, have severely criticised the quality

and cost of the signalling equipment. I want to defend the quality and integrity of the system and put the cost factor clearly on the record.

The Tonkin Government entered into a contract with Westinghouse to purchase the signalling equipment, acting on the best possible advice available to it at the time. The then Minister of Transport (Michael Wilson), in signing the contract, had every reason to believe that South Australia was getting a good signalling system, and so it has. I will not join members opposite in criticising the decision taken by the Tonkin Government, because on this particular occasion its decision was appropriate.

The cost of the system in 1981 dollars, as agreed to by the Tonkin Government, was $25.1 million. Using the implicit price deflator, that converts in 1990 equivalent values to $51.9 million at the completion of the contract. Rather than being in excess of the original contract, the signalling system will come in within budget.

Members interjecting:

The Hon. G.F. KENEALLY: I do not know who is the member for Bragg's accountant because, although I am led to believe that he is a successful businessman, he has never understood what constant dollars are. He does not understand that 1981 dollars do not convert readily to 1990 dollars unless the implicit price deflator is used. It is about time the honourable member stopped trying to make political points on that issue. It should be put to rest. The Tonkin Government made the right decision, and we have good signalling equipment.

Some time overnight, an essential part of the safety equipment was vandalised, affecting the computing systems. Members must understand that the new signalling equipment has a fail-safe capacity, and that this is a fully integrated system. If essential safety equipment is vandalised, that information is fed to the computers. Rather than take a chance with the safety of the commuters on our public transport system, the computer closes down the system until we are able to give a clear guarantee to the commuters that we can transport them in safety. That is what happened this morning.

As Minister of Transport I state quite clearly that I am more prepared to accept criticism from our customers for lengthy delays, such as those this morning, which have serious consequences for some of them, rather than put them at risk of a serious accident on our rail system. If any member of this House disagrees with the order of priority that I have established, let him or her say so now. A responsible Minister and a responsible authority give first priority to the safety of consumers. Secondly—

Members interjecting:

The Hon. G.F. KENEALLY: Members opposite do not want to hear this because they are more interested in point scoring and in trying to convince the commuters of South Australia that the signalling system is unsafe. That is not the case. Members opposite get a lot of joy out of trying to convince South Australian commuters that they are at risk if they ride our system. They would be more responsible in understanding what has taken place and in promoting the safety of the system, because they can do that with confidence.

This was a totally unexpected occurrence and no-one could have expected the sort of vandalism that has occurred. I totally condemn in the strongest terms this irresponsible vandal who hopefully will be caught and suffer the consequences of his or her action. Now that we have identified what could occur if that sort of vandalism was repeated, we are able to reactivate the system within a few minutes rather than there being a lengthy delay such as occurred this morning.

I cannot give any categorical undertaking that there will be no vandalism anywhere in the STA or anywhere else in South Australia. But I can given an undertaking that, in cooperation with the computer consultants and the manufacturers of the equipment (Westinghouse), the STA will be able to isolate such occurrences in the future and to override them so that the system can continue. The bottom line is that we do have a fail-safe system. If there is any threat to the security or safety of our passengers, that fail-safe system will come into play. Whilst I apologise to all those people who suffered severe delays and inconvenience this morning, as the Minister I have the responsibility of preferring that rather than putting any of our commuters at risk by continuing with a system which may, in any way, be thought to be unsafe. I point out once again that we have a good, safe system and the proof of that lies in what happened this morning.

AMBULANCE VOLUNTEERS

The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition): Will the Minister of Health confirm that it will cost well over $10 million a year to meet union demands to replace St John volunteers in the metropolitan area? The figures for the past financial year indicate that the duties carried out by St John volunteers totalled 1 685 992 hours, two-thirds of this figure being for work undertaken in the metropolitan area. I understand that, on average, a paid worker in the ambulance service costs $10 an hour. This means that in order to meet union demands it would cost well over $10 million. Will the Minister confirm the position?

The Hon. FRANK BLEVINS: I thank the Deputy Leader for his question. I would have liked a question from the Opposition yesterday and I was quite upset that it ignored me.

Members interjecting:

The Hon. FRANK BLEVINS: He creamed you four times. The short answer is that that is approximately the amount it would cost and I do not really see why the Deputy Leader required confirmation in Parliament as that fact was printed in quotation marks on the front page of the *Sunday Mail.*

The Hon. T.H. Hemmings: Perhaps he can't read.

The Hon. FRANK BLEVINS: He cannot read—I see. I welcome the question because there are a number of things about the current dispute, the volunteers and the cost of replacing them which I would like to mention. The cost of $10 million would come about by a deliberate Government act to phase out the volunteers and replace them with paid staff. One of the difficulties in handling the present dispute is that the Government's position is absolutely non-negotiable.

There being a disturbance in the Strangers' Gallery:

The SPEAKER: Order! The honourable Minister has the floor.

The Hon. FRANK BLEVINS: I have always responded to interjections, but I feel on this occasion that the interjection is even more out of order than normal.

There being a further disturbance in the Strangers' Gallery:

The SPEAKER: Order! The honourable Minister has the floor.

The Hon. FRANK BLEVINS: As I was saying before I was upstaged, the Government has a non-negotiable position on that part of the claims of the Ambulance Employees Association and the Federated Miscellaneous Workers Union

of Australia. The Government has stated quite clearly and has repeated on a daily—sometimes on an hourly—basis that under no circumstances would it turn away volunteers who wanted to work within the system. But we do have a very real problem which is that, by and large, there is a great decline in volunteers in very large areas of the country, including in the electorates of a number of members opposite, where, with increasing frequency, the ambulances are almost entirely operated by paid staff. The Ambulance Employees Association must be the fastest growing union in Australia, because over the past year it has had something like a 25 per cent increase in membership. That has not been as a result of any deliberate act but, rather, simply because, particularly in country areas, volunteers are just not turning up. I think that that is a great pity.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: I can talk about the volunteer effort in your electorate, if you wish.

Members interjecting:

The SPEAKER: Order! I call the Leader and the Deputy Leader to order. The honourable Minister has the floor.

The Hon. FRANK BLEVINS: There is no doubt that increasingly in some areas the ambulance service is becoming a paid service not as a result of any deliberate act on the part of the Government but, rather, in this day and age in certain areas the volunteer effort is not as strong as it used to be. However, in the main, that is not the case in the metropolitan area where, in most instances—

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: That is not true. There are sufficient volunteers in most areas within metropolitan Adelaide. There is no doubt that, whilst those volunteers are prepared to do the work, we will accept them. That item was non-negotiable, and that has been a principal sticking point in this particular dispute. I am delighted to say that, at a stop work meeting this morning, the Ambulance Employees Association and the Federated Miscellaneous Workers Union decided not to pursue that part of the claim, because they understand they can pursue it for as long as they like but this Government will not force volunteers out of the system. I hope that in their country electorates members opposite—

Mr Olsen: We will support you in that.

The Hon. FRANK BLEVINS: The support of the Leader of the Opposition is the only thing that makes me nervous. It does not inspire me with confidence and I will tell you why—Sir. If we had wanted to solve this dispute on the first day, we could have done so in a way that the Liberal Premier of Western Australia and the Liberal Premier of Victoria did, and that was to dump the volunteers. That is exactly what they did, but we will not do that. Further, we will make it perfectly clear that we will not do that.

The Hon. E.R. Goldsworthy interjecting:

The Hon. FRANK BLEVINS: Your Liberal interstate colleagues did.

The Hon. E.R. Goldsworthy interjecting:

The SPEAKER: Order!

The Hon. FRANK BLEVINS: In my view, the industrial claims are very ordinary. I agree with some and disagree with others. However, now that the bans have been lifted, the claims are before the Industrial Commission. I believe that those claims will be sorted out very quickly, because there is no doubt that it is too much to expect a person to work 90 hours a fortnight over and above ordinary hours. Because of the lack of volunteers, that is what is happening in some country areas, so there is no doubt that that problem must be dealt with. I believe that it can be dealt with very quickly.

The figures appear to demonstrate that in the metropolitan area extra day shift crews are justified. I would not negotiate that matter until the bans were lifted but, if those figures produced by St John—not the unions—stand up to closer scrutiny, obviously additional crews will have to be appointed. But we had a sticking point on, first, the principle of not negotiating before the Industrial Commission's order was obeyed and, secondly, we would not follow the precedents of Liberal Premiers in Victoria and Western Australia and dump the volunteers whilst the volunteers wanted to come.

On the question of integration, it is already occurring, and it is occurring because of this lack of volunteers. It is occurring to a very significant and worrying extent, and I know that it is worrying the Ambulance Board. I know it is worrying St John. At some stage the possibility of the ambulance force not having sufficient volunteers to staff it properly in the metropolitan area has to be faced. At that time the Government will face it, but what we will not do is push out the volunteers. Again, I thank the Deputy Leader for his question.

RAIL DELAYS

Mr ROBERTSON (Bright): Will the Minister of Transport say whether it is possible to provide any mechanism to warn STA patrons in advance in the event of a breakdown in the signalling system on the suburban rail network? It has been put to me that there are two groups of commuters to which this can apply: those people who could be warned before embarking on a journey and those who could perhaps be warned while in transit. I am advised that people who were warned in advance could take their cars to work. Where it is impossible to warn commuters in advance, what system can be made available to advise them while they are in transit, to enable them to get off the train and take an alternative form of transport to work?

The Hon. G.F. KENEALLY: I thank the honourable member for his question. He has raised a very critical point, and I have instructed the STA to take account of this matter. First, the only way we can warn prospective commuters in advance is by using the very good radio system we have in Adelaide. As soon as the STA is aware that there might be a lengthy delay, it is required to advise the radio stations so that that information can be broadcast. I am pleased to say that when that information is given to the radio stations they do broadcast it widely. This should be done at the earliest possible time, and it requires all the systems in the STA to react appropriately when stoppages occur.

It is an operational requirement that when there is a stoppage the commuters on the rail cars or on the buses be advised as quickly as possible of the stoppage, the reason for the delay and, if possible, they should be given some idea of the length of the delay, so that commuters who wish to do so can make alternative arrangements or be assisted to make alternative arrangements for travel. One of the difficulties in the morning peak period is that when all our rail cars and buses are in service we cannot stream buses in to back up the rail cars. That is always a difficulty that we will have in peak periods.

With the management information system, which is the third part of the signalling equipment, there will be greater capacity for the STA to provide information to its units in the field. It is proposed that we will provide VDUs in certain railway stations within the system, and PA systems will also be available in railway stations that are not staffed.

However, of course, this does not overcome the problem of contacting people within the rail cars themselves. I have

instructed the STA to investigate the possibility of using the new computer signalling communications equipment that is part of the system to override, at any given time, all systems in order to provide communication within the rail cars. This is not possible within buses, although the same problems do not arise in relation to buses. If this can be done in rail cars, commuters will know exactly what is going on.

I have been told that this morning a significant number—and I would expect the majority—of commuters were told of the problems, that there had been a computer breakdown in the signalling equipment. We were not able to give them any further information than that. However, a minority of commuters were not advised at all and were just left sitting and pondering their fate. That is not good enough at all, and I must say that I am very angry about that, because it disregards the needs of commuters.

As I said earlier, it is an operational requirement that these people be informed. Where they have not been informed, an investigation is under way, and appropriate action will be taken in relation to anyone who has offended in this way. It will certainly be my intention as the Minister of Transport to provide better communications in the future.

Mr INGERSON (Bragg): Does the Minister of Transport consider there is sufficient security and deterrents against vandalism of the type that apparently brought Adelaide's train system to a standstill this morning? Will the Minister ensure that the procedures he has just outlined will actually be carried out?

The Minister said the trains were stopped this morning by vandalism of the new signalling system. In January, I raised the issue of security at the Adelaide railyards after rail cars were vandalised. The Minister said then that security and penalties were adequate. However, this morning a signalling system which cost $42 million to install—$20 million more than original estimates—put the rail system into chaos due to another act of vandalism. I understand that this is not the first time in recent weeks that the signalling system has been faulty. I also understand that it has caused a number of recent major delays, and that suggests inadequate testing of the equipment to ensure its compatibility—

The SPEAKER: Order! In drawing inferences of that nature as distinct from simply outlining a chronological sequence of events, the honourable member is clearly beginning to comment. If he continues along that line, leave will be withdrawn.

Mr INGERSON: Thank you, Mr Speaker. Further, thousands of people coming into the city for work this morning were left in limbo, being given no advice on how long it would take to resolve the delays. Many were well over an hour late for work after being forced to walk from near city stations. Scores of passengers have contacted the Opposition this morning to complain about a hopeless breakdown in communication (and I understand that the Minister has made comments about communication, but I am just expanding on what happened this morning) with STA staff at stations and on the train being unable to give any advice to the public. The events demonstrated that no contingency plan is in place to deal with major inconveniences to passengers—

The SPEAKER: Order! The honourable member is clearly commenting and drawing inferences. Leave is withdrawn.

The Hon. G.F. KENEALLY: I have answered the comments that the honourable member has made but he obviously wanted to get them on the record. In relation to a better performance in communicating to our patrons, I have instructed the STA to ensure that that is a priority, and so it should be. I also advise the House as to the STA's capacity if a similar vandal attack upon important safety equipment was to recur. This morning, because this was the first occasion on which it has occurred, it took some time for the software equipment to be corrected. In fact, the system itself reactivated of its own volition once it was able to clear out some of the bugs, but that took some time. Also, the system has a back-up. It is highly integrated, state of the art signalling equipment. All of the protections are built in. It has also an in-built fail safe capacity which was activated this morning and which I would support in any event, and I hope all other members of the House would support it. I can give no guarantee that we will not have future vandal attacks. However, I can give a guarantee that our capacity to respond will be better.

The honourable member draws a comparison. The vandal attack that occurred overnight was not in the Adelaide Railway Station but in one of the outer stations. I do not want to say in this place or elsewhere just where it took place, because there is some lunatic vandal out there who would get a great deal of enjoyment from knowing that he or she has been responsible for all this confusion. I do not want to make that public. Nor do I want to describe in detail the equipment affected, because that would also encourage vandals to think that that is a fair area of attack.

The honourable member says that over the past month breakdowns have occurred in the signalling equipment, but that is wrong. There have been two major interferences with passenger traffic, one occurring yesterday, when there was a technician error, and the other today, as a result of the vandal attack. During the heatwave experienced last week, the difficulties that we faced related to rail spreading and the expansion of rails in the heat. However, the honourable member is not expected to know that because his background would not alert him to that, whereas, with my background of 20 years in the railways, I know how heatwaves can affect the permanent way.

That has been the cause of the problems that we had in the STA last week: the cause was not computing and signalling problems interfering with commuter traffic. However, we are now three months into a 12-month warranty period for the new system and today I have told Westinghouse, together with our computing consultants working with that organisation on behalf of STA, that these problems are not expected to occur and that we are most anxious for them to use every effort possible to ensure that our software capacity can react to emergency situations. They are in the process of doing that work with the software.

Mr Ingerson interjecting:

The Hon. G.F. KENEALLY: It is all right for the chemist to say that they should be able to do that now but, whenever bedding in a new system, we often encounter unforeseen emergencies and do not know the immediate solution. It is easy for Opposition members to continue their program of denigrating the STA and the public transport system of South Australia, but I have the utmost confidence in South Australia's public transport system: it has done—and is doing—very well, and it is getting better. The Bannon Government's capital and operational programs are bearing the fruits of that expenditure. Inevitably, when lunatic vandals are around we will have problems, but we will deal with them quickly.

FORMULA HOLDEN

The Hon. R.K. ABBOTT (Spence): Can the Minister of Employment and Further Education report to the House on

the financial and other aspects associated with the construction of a formula Holden racing vehicle by the Croydon Park TAFE College? Yesterday, the member for Bragg read to the House a letter making allegations concerning the project. In summary, the letter raised questions about funding of the project and the benefits accruing to TAFE.

The Hon. LYNN ARNOLD: I thank the honourable member for his question, which gives me the opportunity to give the House some answers. In yesterday's grievance debate the member for Bragg read a letter into *Hansard* and said, 'I direct that question to the Minister.' Well, someone should tell the honourable member that this is Question Time when we answer questions, not in a grievance debate. If the honourable member has an issue in respect of which he wants an answer, he should ask it during Question Time and not in a forum where I cannot stand up and answer it. Alternatively, the honourable member could have sent me the correspondence asking me directly for my answer.

Mr Ingerson interjecting:

The Hon. LYNN ARNOLD: The honourable member says that he gave it to me. Well, he did, after I raised by interjection the fact that he should have asked the question in Question Time. I acknowledge that.

Mr Ingerson interjecting:

The Hon. LYNN ARNOLD: Oh, he intended to give it to me. Well, I can see what is going on here. There is a degree of embarrassment on the part of the member for Bragg. He does not know where he wants to stand on this issue.

Mr Ingerson interjecting:

The Hon. LYNN ARNOLD: Now, he says that I am not telling it as it is and mouthing a word that I should not repeat in this place. That means that obviously he supports the content of the letter that he read into *Hansard.* The honourable member clearly has got it substantially wrong, and his correspondent has clearly got it substantially wrong as well. It seems to me that there are still some sore losers on the other side and that Opposition members still cannot get over the untimed practice at the Grand Prix last year for the formula Holden, when four cars started and three finished, with the TAFE car coming across first and the Liberal sponsored car not finishing. It seems that members opposite still cannot get over that.

Mr Rann: It ran out of gas.

The Hon. LYNN ARNOLD: That is quite right. Let us go through the various points which the member for Bragg did not have the guts to raise in Question Time but which, instead, he raised in a rather spurious way last night. First, he said that the car cost $100 000. Wrong! In fact, the car will cost half of that and that money will be recouped from the sale or annual fee arrangements involved in the current project. There will be no diversion of educational resources; there will be a provision of resources to education within the TAFE system. The honourable member also made the point that this is happening at the Regency College of TAFE. Wrong again! It is at the Croydon College of TAFE, and that shows how little research the honourable member undertook in this matter.

He then went on to say that Government funds are being used for this project. I have already mentioned that this is one of the commercial enterprises of TAFE—in this case, it is a commercial enterprise of the Croydon College of TAFE which has its own separate financing arrangements, and I am quite happy to answer questions about this at any time; in fact, I invite the member for Bragg to ask me a question about those arrangements in due course—if he has the guts to do so. The reality is that the proceeds from this project, which has been very carefully costed as a business plan, will generate revenue—not incur expenditure—for the education system.

Mr Ingerson interjecting:

The Hon. LYNN ARNOLD: He says now that that is all he asked: if that was all he asked it would have involved asking a very simple question during Question Time. There are a number of other points. First, the honourable member says that there is no student involvement. The reality is that three of the 1988 students are employed on temporary employment contracts to allow them to further develop their skills so that they can learn more on the basis of their experience last year. Two more are continuing as students, and a further seven students are enrolled in the project this year.

In addition, it has, of course, become a significant element in the life of the college, providing a very positive boost for educational experiences within the college involving many students. The honourable member says that the college does not have all the design skills needed and is having to employ outsiders. I would have thought that interaction between industry and TAFE would be supported by all members, but seemingly not be the member for Bragg. In fact, the college has obtained the services of a professional engineer—Graeme Burton—as a design consultant and has engaged a recognised constructor—Greg Mobbs—to assist, but he is not employed full-time on the project. The member for Bragg is wrong again.

The Hon. D.J. Hopgood: Did he get anything right?

The Hon. LYNN ARNOLD: I have yet to see the honourable member get anything right. He did get the department right—TAFE—but that is about as far as it goes.

The Hon. D.J. Hopgood: Does he know what that means?

The Hon. LYNN ARNOLD: No, I am sure he does not. It is also true that we have been seeking, and receiving, assistance from racing teams in a number of formulae, including formula one. The member for Bragg then makes the point that somehow this will undercut other manufacturers in the formula Holden field. Obviously, this is a protection bid for the makers of the Liberal sponsored car, who are obviously so beleaguered that they cannot make a car that will finish. Nevertheless, my advice is that private manufacturers will not be able to meet the demand for formula Holden. It is a new formula that has generated significant interest and that is reflected in the high level of interest in the college project.

The honourable member then cast innuendo about financial problems with the project. I can advise that the project is proceeding well. There is a demand for five cars and we expect that there will be ongoing demand. The project team has no doubt that a return will be made on this investment, and the proceeds will be reinvested into TAFE through staff development, student opportunities and new equipment. I believe that that and a number of other things clearly answer the question of benefits that will be available to the education system. It is a car that will carry, as it did last year, the TAFE logo, selling the very important message of TAFE as a provider of training skills in this country. Croydon TAFE is the home of that project, but it is really selling a message for all of TAFE. The member for Bragg has attempted to undermine initiative in the TAFE system. Yet again, he has attempted to defame or denigrate the hard work of many people in our TAFE system.

I, for one, certainly want to thank Peter Norman, Ted Noack and all the others who have been involved in the TAFE system, and those in industry who have been very active in their support. It is about time that the honourable member got his facts correct and, next time, I invite him

to raise this matter in the House so he can get the answer directly rather than in the second-hand way that he has chosen to do so.

Members interjecting:

The SPEAKER: Order! There having been six questions asked in 40 minutes, I now call the honourable member for Heysen.

ADELAIDE RAILWAY STATION

The Hon. D.C. WOTTON (Heysen): Will the Minister of Transport confirm that one of the reasons for continuing delays in peak hour arrivals at the Adelaide Railway Station is the reduction in the number of platforms which has occurred with the ASER redevelopment? The old railway station had 13 platforms. When it was redesigned to accommodate the ASER project, train scheduling officers urged that the minimum number of platforms to be provided must be 10. However, they were overruled in the design progress and only nine platforms were provided, with the result that there are continuing bottlenecks during morning peak hours.

The Hon. G.F. KENEALLY: I invite the honourable member to go down to the Adelaide Railway Station, if he has not been there, to see the magnificent improvements to the facilities that are available to the STA and, more particularly, the commuters. The honourable member might like to wander down there and have a look, as many tourists do. In cooperation with the new signalling arrangements in the Adelaide yard, we have a much more efficient rail system for commuters in South Australia, so I reject the honourable member's suggestion.

IMPORTED CARS

Mr HAMILTON (Albert Park): Will the Minister of Transport advise what actions are being taken to ensure that cheap second-hand cars, which are imported into Western Australia from Japan, cannot be registered in this State? The Australian automobile industry is reported as stating that such imported vehicles may breach Australian design rules (ADRs). I am further advised that a loophole exists in the Western Australian law which permits importers to bring vehicles into that State without ADR compliance plates. I am concerned that such vehicles can be imported into South Australia.

The Hon. G.F. KENEALLY: Vehicles have been imported into South Australia through Western Australia and, in the past, through other States, that have not complied with Australian standards. I am pleased to say that the Western Australian Minister of Transport advised last week's ATAC meeting that his Government would move to legislate to prevent the importation of these vehicles. In response to the honourable member's question, I point out that not all of the vehicles are imported from Japan. State Ministers are not primarily concerned about the competitive nature of these imports. That is very much a matter for the Federal Government, although we do share that concern. However, State Ministers are concerned legislatively about the safety standards of vehicles that are registered on our roads.

Having said that, I am aware that a number of South Australians, who have purchased such vehicles, have been unable to register them in this State because they do not have the appropriate compliance standard. As a general policy, all of these would be rejected, but I always look at each case separately to see whether there is any particular reason why an exemption would be granted. That practice will continue, although I point out that to give exemptions is against the policy agreed to by all Ministers of Australia and now, thankfully, by the Western Australian Government, as well. We should be concerned about cars on our roads which do not have appropriate Australian safety standards built into them.

MAINTENANCE OF RAILCARS

Mr S.G. EVANS (Davenport): I direct my question to the Minister of Transport. What is the maintenance schedule for red hen railcars? I am informed that when these railcars first came into service there was an A to F maintenance schedule—A being a daily check and F a full major check in a workshop. That major check was usually done after five years service or 100 000 miles. I am informed that, at the moment, under the current schedule, an F service is done after 250 000 miles and that it has been as long as 10 years before some railcars undergo this check.

Constituents in my area have the problem that it is not uncommon for trains on the Hills line—particularly the red hens—to arrive late or not at all because of breakdowns. Recently, at the Lynton, Torrens Park and Hawthorn stations trains overshot the stations by up to 40 metres. In one instance, at Lynton station a lady in a well-advanced stage of pregnancy had to walk 40 metres and climb from the ground onto the train because it overshot the station. I ask the Minister: if he does not have them now, can he supply the maintenance schedules to compare the servicing of railcars when they first came into operation with the situation that exists today?

The Hon. G.F. KENEALLY: At the outset, I point out that in a system that has the number of daily traffic movements as the STA has, whether it be by tram, train or bus, there will always be an example that some member can point to where a bus or train service has not been on time—that is inevitable. We try as best we can to make sure that all the services run on time, but inevitably there are some which do not meet that standard. It is very easy to pick these examples out of the air and quote them in the House in an attempt to suggest that the whole system is depleted. Of course, that is not the case.

As the honourable member would be aware, the STA has a program of cannibalising old red hens to ensure that the fleet is maintained to the highest standard. Red hens are being phased out and new railcars introduced of the quality of the 3 000 series. That will be of enormous benefit to all commuters. I think that even the member for Davenport will accept that, although some of his more politically minded colleagues would not.

Of course, the honourable member's request is technical, but I will get that information. Let me say quite clearly that the safety standards and security of vehicles are of primary concern in the minds of maintenance and engineering staff of the STA, and that is where the emphasis lies. In an endeavour to ensure that the red hens are maintained to the highest quality we are required to cannibalise old vehicles. Members would appreciate that, as we are not manufacturing red hens as railcars these days, we have to show a bit of initiative and do that maintenance work ourselves. I will obtain the information requested by the honourable member.

MODBURY HOSPITAL

Ms GAYLER (Newland): Will the Minister of Health advise whether Modbury Hospital has a serious problem

with respect to patients waiting excessively long periods for elective surgery? When South Australia's new Medicare agreement was announced, the Opposition implied that there was a problem with waiting periods at Modbury Hospital. My inquiries of hospital management suggest otherwise and I am advised that last year's major expansion of the hospital to provide for new ear, nose and throat surgery has added, as was expected, some 146 patients to the waiting list.

The Hon. FRANK BLEVINS: I thank the honourable member for her question. It does seem that members opposite have something against people in the Modbury Hospital and people who live in the area—and that surprises me. A couple of weeks ago the member for Morphett, who I can see smiling in anticipation, asked a question relating to treatment given by medical staff at the Modbury Hospital. I know that a doctor from the Modbury Hospital has written to the member for Morphett, who I assume sent a copy to the honourable Leader. He hasn't?

Mr Olsen: No.

The Hon. FRANK BLEVINS: I am delighted! I am surprised that the member for Morphett did not pass on that three-page letter to his Leader. I will not read it out, but it is available for anybody who wants to peruse it. It details quite clearly the treatment that was given by this doctor to the patient. I have been involved in politics for a long time and occasionally I approach it with vigour. I have copped a few pay-outs in my time and have also given a few, but never have I seen a pay-out like the one which the member for Morphett has received from this doctor. I will quote one paragraph. The letter is freely available to everybody and, as I said, I will give my own copy to the Leader of the Opposition. This doctor is still waiting for an apology, but just to give the House the flavour of the letter, which is addressed to the member for Morphett, the doctor states:

> Your actions and the subsequent media witch-hunt have cast you as a fool in the eyes of the staff of Modbury Hospital, especially as they are aware of the facts. At election time they will question the competence of the Opposition to govern.

I hope that that one paragraph has whet members' appetite for the letter, which is freely available. That doctor is still waiting for an apology.

An honourable member: He will be waiting a long time.

The Hon. FRANK BLEVINS: Probably. I am cross that Modbury Hospital comes in for such attacks from the Opposition. I cannot understand why that is the case and what it has against people who live in the electorate of Newland and other surrounding electorates that use the hospital. The fact is that the hospital is becoming increasingly popular. Last year the number of patients increased by 6 per cent and during the first seven months of this year there was a further increase of 3 per cent. I think that those figures are indicative of the quality of the care that is being given.

Whilst we are very happy to witness increasing numbers of patients attending that hospital, in some special areas it does cause some difficulties, because the more people who come to the hospital, obviously the greater the number who go on the elective surgery list. However, there is a shortage of surgeons in some particular specialties within the system. I am very happy to tell anybody who wants to have elective surgery performed at Modbury Hospital that half will be treated within eight weeks. We cannot do anything about those areas where specialists simply are not available. If someone wants a particular specialist at Modbury Hospital and they want the surgery performed at that hospital, they have to wait until the specialist can attend to them. A specialist can do only so much. I would have thought that the Coster report had put the question of booking lists to rest for a considerable period.

I was pleased to hear only the day before yesterday my Federal colleague the Minister for Community Services and Health announce some further upgrading of the Modbury Hospital. As a result of signing the Medicare agreement, funds have already started to flow and Modbury Hospital has got its act together very well. It has the finance for particular projects and, as they say, the cheque is in the mail.

Modbury Hospital will receive an extra $147 000 to upgrade its accident and emergency department. It will boost its services in speech pathology and occupational therapy. It will purchase a new anaesthetic ventilator. Also under the Medicare agreement, Modbury Hospital will receive an additional $100 000 to extend its palliative care services. Modbury Hospital will also receive $300 000 this year for new medical equipment, including an image intensifier and obstetric ultrasound. The community which Modbury Hospital services can certainly look forward—

Mr Lewis interjecting:

The Hon. FRANK BLEVINS: Ask me about hospitals near you! The community which Modbury Hospital serves can look forward confidently to continued excellence in health care for that district. I would appreciate it if the member for Newland would make those announcements for me in the electorate.

Mr Becker interjecting:

The SPEAKER: Order! The honourable member for Light.

ISLAND SEAWAY

The Hon. B.C. EASTICK (Light): Will the Minister of Marine confirm that, contrary to previous statements made by the Government, secret tank tests were undertaken on the *Island Seaway* shortly after the vessel went into service in late 1987? Will the Minister say what the results of those tests were and why they have been covered up? The Government has led the public to believe that the tank tests conducted during last year in Holland were the first that were performed and that, as a result, modifications will be made to the vessel which will iron out all of the current problems.

However, the Opposition has received further information from a most reliable source which confirms the complete failure of the Government to ensure that this vessel was properly designed and tested before construction began. I am advised that the original specifications drawn up for the vessel were so poor that a number of essential features were missing. Further, when difficulties became apparent, immediately the vessel went into service late in 1987, tank tests were undertaken in or about December of that year.

I am advised that those who performed the tests found that the *Island Seaway* was the second worst vessel that they had ever tested. Normally, tank tests are undertaken with a wax model. However, for the *Island Seaway* those people undertaking the tests perceived that the vessel design would not stand up to a test with a wax model, and so it was made of wood. In the first test it was found that the vessel circled and was difficult to control. It was as a result of this test that the addition of fins was ordered.

While further tank tests were conducted last year, I am now advised that even more tests are taking place or are about to take place to determine finally what further modifications need to be made to the vessel. Shipping experts have told the Opposition that all of this testing and all of the difficulties with the *Island Seaway* could have been avoided had the Government ordered tank tests in the first place—which is the normal procedure when shipping design

breaks new ground, as the *Island Seaway* does with its Z-drive and different styled hull.

The Hon. R.J. GREGORY: I thank the honourable member for his question. I was astounded to hear that these tank tests were supposed to be so secret. One can recall the member for Bragg talking about the *Island Seaway* steering like a supermarket trolley, I think he said. At that time I would have thought that members opposite would have listened to what was going on with the *Island Seaway*. A lot of comments were made about it. The member for Custance made some comments at the time. He had a list of 69 faults. I have said in this House before, and I will say again, that comments such as those that have been made demonstrate the honourable member's lack of knowledge of shipbuilding. It demonstrates his lack of knowledge and understanding of engineering projects. Following the building of a large vessel or following a large engineering project, when the thing is put into the water or tried out for the first time adjustments have to be made to it.

Members interjecting:

The Hon. R.J. GREGORY: Of course, they laugh. These members opposite do not understand that, because they have never really talked to anyone in the ship building industry. I am not aware of those tank tests that were made at the time being secret. Following those tank tests, fins were put on the back to assist with the steering. The honourable member can shake the head, but I can assure you that that is why they were put on. I will make some reference to tank testing that perhaps the member for Light does not understand. He might recall a vessel called the *QE2* that cost £192 million to refit in the United Kingdom. Tank testing was carried out at Marin. Veins were to be put on the back of the vessel to improve the thrust of the propellors so that they could save on fuel. However, on its maiden voyage to New York, one of these tank tested veins fell off and, when the vessel reached New York, divers were sent down with oxy torches to cut off the other one. That means the experts on the other side of the House do not really understand what is happening.

Reference was made to wax models. I do not know whether or not the honourable member was referring to something he has in his bath tub, but he ought to go and have a look at a tank testing facility. The next time he is in Tasmania, I suggest he go to the Australian Marine College at Launceston and look at the small tank testing facility there, and try to find wax models. What he will find are wooden models, plastic models and models that are and can be adjusted to take into account certain characteristics of vessels when the personnel are testing for hull design. He will find that, when they test at Launceston, it is not mainly for sea keeping but principally for friction on the hull so that the hull shape can be designed to achieve certain speeds and also to achieve certain fuel characteristics so that the vessel can go so far and so that they know exactly what size fuel tanks to put in it. That is what they do with that sort of tank testing.

When the tank testing was first carried out at Marin in Holland, it was done on the basis of finding out what was needed to correct the steering. The honourable member also made a comment about new technology on Z steering. What he does not understand is that 60 vessels operating on the Australian coast use this 'new' technology.

An honourable member: Not on the size.

The Hon. R.J. GREGORY: Not on the size! It is all the same technique. It is used in Canada on vessels a lot larger than the *Island Seaway*. It is not new.

Members interjecting:

The Hon. R.J. GREGORY: Mr Speaker, members opposite with their interjections illustrate their lack of knowledge and understanding in this area. They do, and it is annoying when you have to put up with people who do not really understand it. The only thing they know is that boats have a sharp end and a blunt end. 'It is a lot of nonsense,' I heard the member for Light say today. But when I consider some of his comments—

Members interjecting:

The Hon. R.J. GREGORY: It is not a rubber duck; it is a solid boat and it carts a lot of produce very cheaply. It benefits the Island a lot. One member opposite said that we should have refitted the *Troubridge*. I think the member for Bragg said that—and that just demonstrates his lack of understanding. If we took the *Troubridge* out of the water and tried to refit it so that it would go for another 25 years, it would be very much like refitting a 1948 215 Holden so that it performs exactly like the current Holden Commodore. He knows as well as I do that that is just throwing good money after bad. What they do not know about the *Troubridge* is—

Mr D.S. Baker interjecting:

The Hon. R.J. GREGORY: The member for Victoria cannot even work out what is the difference between 1981 dollars and 1988 dollars. He prides himself on being a businessman. He would not know where a ship was! I will get back to the *Troubridge*. There is no understanding of what needs to be done to the *Troubridge* as far as wiring is concerned. There is no understanding of what might be needed—

The SPEAKER: Order! The honourable Minister means to say, 'Not only do members opposite not understand.'

The Hon. R.J. GREGORY: Thank you. The member for Bragg would not—

Members interjecting:

The SPEAKER: Order! I ask honourable members not to try to extend the Minister. The honourable Minister.

The Hon. R.J. GREGORY: We will just get back to the *Troubridge*. Nobody has any idea of how much it would cost to redo the electrical controls or electrical wiring or what would have to be done to the engines or to the plates. Sure, you would drag it up into dry dock and start work. Every day you ripped something out, it would cost another $1 million to fix it up. You would finish up with something that cost a lot more than the *Island Seaway*, something that cost more than half as much to operate.

Mr Ingerson: Come on!

The Hon. R.J. GREGORY: Yes it does. That is something you do not understand. The fuel costs—

The SPEAKER: Order! Would the honourable Minister please restrain his reference to persons as 'you'.

The Hon. R.J. GREGORY: The member for Bragg does not understand that it costs only half the fuel expenses to operate the *Island Seaway* in comparison with fuel costs to operate the *Troubridge*. I should like to see him get the motor out of the *Troubridge* without pulling it to bits. The honourable member's statements merely illustrate the lack of understanding of Opposition members generally. Kangaroo Island residents are getting a vessel that carts more on one trip and does not have to do return trips. It operates more cheaply. In fact, it operates for about $2 million a year less, and now you are complaining and it is working on time.

The SPEAKER: Order! The Minister means that honourable members opposite are complaining. I remind all honourable members not to refer to other honourable mem-

bers as 'you' but only as 'the honourable member' or 'honourable members'.

SUPERANNUATION ACT AMENDMENT BILL

Returned from the Legislative Council with amendments.

FRIENDLY SOCIETIES ACT AMENDMENT BILL

The Hon. J.C. BANNON (Premier and Treasurer) obtained leave and introduced a Bill for an Act to amend the Friendly Societies Act 1919. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The purpose of this Bill is to allow friendly societies in South Australia to broaden their investment powers and at the same time to redress some inadequate and inappropriate areas of the Act.

Friendly societies have traditionally been restricted in their investment powers to fixed interest securities which have trustee status, purchase of freehold property in South Australia and other investments approved by the committee of management of a society and consented to by the Minister after recommendation from the Public Actuary. Investment in company shares, debentures and notes has been precluded.

These restricted investment powers have probably resulted in lower long term returns than could have been achieved from a wider range of investments.

Victorian friendly societies now enjoy wider investment powers than their South Australian counterparts and are selling market-linked bonds where funds are invested partly, or wholly, in shares and were bond values rise and fall in line with the market values of the underlying assests. Share investments also have advantages due to the imputation benefits that accrue from franked dividends.

The Bill allows for investment in such shares, debentures or other securities as the committee of management of a society may request, but only with the consent of the Minister on the recommendation of the Public Actuary (who is the Registrar of Friendly Societies in South Australia) and subject to such conditions as the Minister may impose.

This broadening of investment powers will allow South Australian societies to provide a spectrum of market-linked investments to their members.

The Bill gives the Public Actuary the authority to have misleading advertising material withdrawn or suitably amended. This will be particularly important if market-linked products are developed by societies in this State, but in any event it redresses a gap in the existing legislation.

The Bill also gives the Public Actuary the authority to allow a society to defer the payment of benefits if he is of the opinion that payment would be prejudicial to the financial stability of the society or to the interests of its members. A similar provision is contained in the Commonwealth Life Insurance Act. It is a provision that hopefully will never be needed but it will be a useful safeguard in the event that there is a run on a friendly society.

The term 'capital guaranteed' is used almost universally to describe insurance company and friendly society policies and bonds that accrue interest or bonuses on capital that is secured by mainly fixed interest investments. However, without the ability to defer payments this 'guarantee' would be worth very little if interest rates were to rise quickly and there was then a run on a society.

The Bill removes from the Act the section that limits to $1 000 the amount that may be paid by a society to a nominated beneficiary. This section has little or no practical relevance in the current environment of no death or succession duties and its removal will avoid unnecessary delays in payment of benefits.

The remaining parts of the Bill provide for the replacement of the term 'Chief Secretary' by 'Minister' throughout the Act.

Clause 1 is formal.

Clause 2 amends section 10 of the principal Act by deleting references to 'Chief Secretary' and substituting 'Minister'.

Clause 3 amends section 12 of the principal Act which sets out how a society's funds are to be invested. The amendment authorises a society to invest, with the consent of the Minister given on the recommendation of the Public Actuary and subject to such conditions (if any) as the Minister may impose, in such shares, debentures or other securities as the committee of management of the society requests.

Clause 4 inserts new section 22a into the principal Act. This provision empowers the Public Actuary, on application by a society, to authorise the society to defer the payment of benefits to its members if the Public Actuary is of the opinion that payment would be prejudicial to the financial stability of the society or the interests of its members. The Public Actuary can determine the period of deferral and impose conditions.

Clause 5 amends section 23 of the principal Act which deals with the payment of money on the death of a member or a spouse or child of a member. The amendment strikes out subsection (3) which provides that the general laws or rules of a society cannot provide for payment to a nominated person of an amount exceeding $1 000.

Clauses 6 to 10 amend sections 27, 27a, 27b, 30 and 30a of the principal Act respectively be deleting references to 'Chief Secretary' and substituting 'Minister'.

Clause 11 inserts new section 35a into the principal Act.

Subsection (1) empowers the Public Actuary to require a society, by notice in writing, to withdraw or cause the withdrawal from publication of, or take other specified remedial action in relation to, an advertisement relating to the society that is, in the opinion of the Public Actuary, false or misleading in a material particular.

Subsection (2) provides that if a society fails to comply with a requirement of a notice it is guilty of an offence. The maximum penalty is $4 000.

Subsection (3) provides that where an offence against subsection (2) is committed by reason of a society's failure to comply with a notice under subsection (1) by which the society is required to do something within a specified time, that offence continues so long as the thing required to be done remains undone after the expiration of the time for compliance and this society is liable, in addition to the maximum penalty of $4 000 for that offence, to a maximum default penalty of $400 for each day for which the offence continues. If the thing required to be done remains undone after the society is convicted of an offence against subsection (2) the society is guilty of a further offence against subsection (2) and liable to a maximum penalty of $4 000

and a maximum default penalty of $400 for each day for which the offence continues.

Clause 12 amends section 37 of the principal Act by deleting the reference to 'Chief Secretary' and substituting 'Minister'.

Mr OSWALD secured the adjournment of the debate.

MARINE ACT AMENDMENT BILL

The Hon. R.J. GREGORY (Minister of Marine) obtained leave and introduced a Bill for an Act to amend the Marine Act 1936. Read a first time.

The Hon. R.J. GREGORY: I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

This has two principal objectives. One is to empower regulation of commercial floating establishments such as drilling rigs or platforms used for industrial, scientific or tourist activities as to their adequate construction and safety equipment with regard to seaworthiness and the safety of persons using these establishments.

Honourable members may be aware of a proposal to moor an underwater viewing platform adjacent to Dangerous Reef in Spencer Gulf. As this is the first such proposal received in this State its construction and operation are not provided for in existing legislation.

This Bill proposes to correct this situation and in so doing protect the public who visit any such facility by ensuring its construction and equipment meet the safety standards required by survey.

The second objective of the Bill proposes the adoption by regulation of various national and international codes, standards and rules that are used widely throughout the maritime industry.

This approach will provide for uniformity with other Australian States with respect to the construction, equipment, manning qualifications and requirements within the maritime industry and is the approach taken by the State Governments of Western Australia, Queensland, New South Wales, Victoria and Tasmania.

The adoption of international codes or rules is consistent with provisions adopted nationally and internationally and is consequently understood by coastal and overseas shipping interests. I commend the Bill to the House.

Clause 1 is formal.

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

Clause 3 amends section 5 of the principal Act which sets out definitions of terms used in the Act. The clause adds a new definition of 'floating establishment'.

'Floating establishment' is defined as a vessel or structure not used in navigation that—

(a) is designed to float in or on water;

and

(b) is used while anchored or moored at sea or in a port for dredging, mining, industrial, scientific or commercial operations or purposes.

Clause 4 amends section 14 of the principal Act which provides for the making of regulations. The clause adds to the section provisions allowing the regulations to adopt or refer to codes, standards or similar documents, to make varying provision according to specified factors and to provide that any matter or thing under the regulations or a code may be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Director of Marine and Harbors or any specified officer or person performing functions pursuant to the Act.

Clause 5 inserts a new Division XC into Part IV of the principal Act relating to floating establishments. New section 67i provides for the making of regulations relating to the manning, survey and inspection, construction and equipment of floating establishments and other matters relating to the safety of floating establishments and persons working or admitted on board them. New section 67j applies the provisions of Part V of the Act (relating to investigations and inquiries into casualties, incompetency and misconduct) to floating establishments.

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

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Consideration in Committee of the Legislative Council's amendment:

Page 2 (clause 4)—After line 26 insert new subsection as follows:

4a. Where a person drives a vehicle in this State pursuant to an interstate licence or foreign licence, the licence will, for the purposes of any contract or policy of insurance relating to the vehicle, be taken to be a licence issued under this Act notwithstanding that the driver last entered the State three months or more before driving the vehicle.

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

That the Legislative Council's amendment be agreed to.

In another place, the Hon. Mr Griffin expressed concern about what he saw as the potential risk concerning third party insurance to people who might be driving in South Australia for over three months. My advice was that there was no risk, but in order to make this absolutely clear in the legislation the Attorney-General in another place, on behalf of the Government, has accepted this amendment and I urge the Committee to do likewise.

Mr INGERSON The Opposition thanks the Government for recognising that there is a need at least to clarify the position. When the Bill was in Committee in this place, the Minister said that such a provision was not necessary but, after discussions between the Attorney-General and the shadow Attorney-General in another place, it was considered that this amendment was required. Principally, it provides that, if one was outside the three-month period and did not have a licence under this section of the Act, one would be covered for all third party contingencies. We on this side believe that this is essential and therefore we support the amendment.

Motion carried.

HOLIDAYS ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 8 March. Page 2248.)

Mr S.J. BAKER (Mitcham): The Opposition supports the Bill, which gives the Government the facility to proclaim that banks may open in certain localities outside normal working hours. These would include such occasions as public holidays and bank holidays, and I imagine that

they could also extend to opening after 5 p.m. From that point of view, Opposition members believe that this is a step in the right direction. Occasionally, banking facilities are needed for special events. For instance, it is appropriate for banks to open on the occasion of the Grand Prix so that interstate and international visitors can have access to ready money. This is especially the case as regards international visitors who may wish to exchange foreign currency. The recent boy scouts jamboree at Woodhouse would have been another appropriate venue at which to have banking facilities operating so as to help those scouts who ran short of cash over the weekend.

There are many occasions when it would be appropriate for banks to open beyond the prescribed hours and in this regard I hope that Adelaide would one of these days become international and that at least one or two banks would provide an outlet to allow people who are on the streets of Adelaide to conduct normal currency transactions. I believe that that state of affairs is not in the far distant future and that we may then see a further deregulation of banking hours so that banks may open when customers desire to use their facilities. Although that is not in the total demand of the Bill, this legislation is another step in that direction and Opposition members support it.

Bill read a second time.

Mr M.J. EVANS (Elizabeth): I move:

That it be an instruction to the Committee of the whole House on the Bill that it have power to consider new clauses relating to Australia Day.

The Hon. R.J. GREGORY (Minister of Labour): The Government opposes the motion, because at this stage the method of dealing with a holiday on Australia Day is a matter between the social partners who are basically involved—the trade union movement and the people who operate and own the shops. Already the Industrial Relations Advisory Council is considering what to do with the Australia Day holiday in 1990 and, when that council has considered the matter and when its constituent members have discussed it within their organisations and considered interstate movements, the Government will make an announcement at the appropriate time. Therefore, the honourable member's amendment would unduly hamper the operations in this State and the actions of the Government to ensure that holidays are held at the appropriate time.

Mr S.J. BAKER (Mitcham): It is a pity that the member for Elizabeth did not alert me as to the amendment, because I would have then looked at the Act and considered whether the amendment was coherent and would perform the task required of it. Although I have not had the opportunity to look at the provisions of the Act, I understand that what the member for Elizabeth is trying to achieve is that the Australia Day holiday shall be celebrated on 26 January of each year.

The DEPUTY SPEAKER: Order! We are not debating the substantive amendment at this time. We are merely debating the contingent notice of motion, so the honourable member may direct his remarks only to the motion.

Mr S.J. BAKER: I completely understand that I can only do that. Given that, the Opposition supports the motion.

Mr PETERSON (Semaphore): I am amazed that we do not at least debate this motion. Members are being denied the opportunity to debate it.

The DEPUTY SPEAKER: The Chair is constrained by the Standing Orders. If the member for Semaphore wishes to move amendments to the Standing Orders, he may do so.

Mr PETERSON: I am protesting about the procedure that denies debate on this motion. The Minister handling this portfolio has moved that this issue not be debated. Discussing these things is what Parliament is all about.

Members interjecting:

Mr PETERSON: Well, why not discuss it? That is in the Standing Orders. The Government is using the Standing Orders to gag this debate. That is not what Parliament is all about: Parliament is here to debate issues raised by members. Why cannot this issue be debated? That is all I wish to say. Parliament is the forum for debate on any fair and valid issues raised by members. However, this is a direct move to gag debate and that is not right.

Mr RANN (Briggs): The member for Semaphore seems to forget that this issue was extensively debated during private members' time. By saying that this is an abuse of Standing Orders he is, of course, reflecting on the Chair.

Mr M.J. EVANS (Elizabeth): Of course, this proposal has not been extensively debated in this House or in private members' time, as the member for Briggs would seek to suggest in his brief contribution. After all, members would well know that private members' time is usually taken up quite extensively with either resolutions from this side of the House congratulating the Government or resolutions from the other side of the House condemning the Government. Very rarely do we get the opportunity in this House to debate reasoned matters to alter the laws of this State.

It is for that reason that I am forced to take the perfectly reasonable and ordinary step within the Standing Orders of proposing to attach this matter to a Government Bill. In fact, I gave notice of this in the House a number of days ago. That resolution has been on the Notice Paper of this House for days—almost as long as the Bill. Therefore, if inadequate consideration has been given to this notice of motion, that is because the Government has sought to bring it on for debate only days after it was introduced.

The proposition will never be considered properly in private members' time—for the obvious reason of which members are aware. I believe it is important that this matter be considered by the House and quickly resolved. Obviously, there are those in the community who are promoting this issue, not the least among them being the Prime Minister of this country and the Leader of the Opposition, both of whom for once agree on a matter, namely, that this proposal should be considered by the States, and should be considered favourably. What the Minister is proposing to deny here is not the question 'Yes' or 'No'—

The DEPUTY SPEAKER: The honourable member must come back to the debate before the Chair, which is contingent notice of motion No. 2.

Mr M.J. EVANS: The Government is denying not the question but the opportunity to debate it. By seeking to deny me the option of successfully carrying contingent notice of motion No. 2, the Government wishes to prevent the debate from taking place at all. Yet, on frequent occasions in this House, the Opposition, the member for Semaphore and I have been permitted the opportunity to move resolutions which the Government, with its numbers in this place, sometimes chooses to accept and sometimes chooses to reject. I have not yet seen in recent time in this House the opportunity even to debate an issue denied members of this Parliament.

I believe that this sets a new low standard in debate in this place, because members are entitled to put forward

these kinds of propositions. To be denied the very opportunity to move that resolution is an unfortunate trend in Government abuse of members in this House. I, for one, will strenuously resist this. I do not oppose the Government's right to accept, reject or defer the resolution which I seek to press on this House. I will make that case if given the opportunity and that opportunity is not now. I am sure that other members will wish to contribute to that debate as they have tried to do so far in these proceedings. However, the Government does not propose to take us to that part of democracy in which we put our case and then take a democratic vote on it. The Government does not even wish to listen to the arguments at this stage. I find that a very unfortunate attitude on the Government's part and one that I will certainly resist with every opportunity available to me in the forms of this House.

The House divided on the motion:

Ayes (20)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, Becker, and Blacker, Ms Cashmore, Messrs Chapman, Eastick, M.J. Evans (teller), S.G. Evans, Goldsworthy, Gunn, Ingerson, Lewis, Meier, Olsen, Oswald, Peterson, and Wotton.

Noes (26)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, Crafter, De Laine, Duigan, and Ferguson, Ms Gayler, Messrs Gregory (teller), Groom, Hamilton, Hemmings, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Plunkett, Rann, Robertson, Slater, and Tyler.

Majority of 6 for the Noes.

Motion thus negatived.

Bill taken through its remaining stages.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 March. Page 2252.)

The Hon. JENNIFER CASHMORE (Coles): This Bill is about power. It is not about the balanced distribution of power in a modern industrial and technological economy but about abuse of power, an abuse which is condoned by the Government and has been developed by the Minister in response to the demands of trade unions. The Government's intention is to increase the power of unions at the expense of employers, the public and the economy. It is about the legitimised use of power by unions rather than the proper balance of power that should exist between employers and employees. It is very important that the House see the Bill in this context because it is in this context that the public should understand what the Labor Government of South Australia is doing in relation to industrial matters and what are its ultimate goals.

It is worth looking at the Bill as a stage of the evolution of industrial legislation. Such legislation had its roots in the nineteenth century, when the original purpose of unions was to attempt to redress what was seen as, and what was, an unequal contest between capital and labour. The rise of the union movement has been supported at all stages by those of liberal persuasion in the Western democracies and liberals in Australia can hold their head high in respect of their support for the responsible development of a union movement and the exercise of aE_responsiblebalance of power between unions and employers.

However, some people in the Labor Party and in the union movement retain the nineteenth century view of a divided society in which conflict must be sustained and in which at all times the union movement must attempt to gain supremacy over employers and capital, as they see it. On the other hand, the Liberal Party believes that employers and employees have common interests and should work cooperatively to further those common interests for the benefit of society as a whole and for the prosperity and advancement of every individual in society. Along with responsible unionists, the Liberal Party believes that the creation of profits to sustain investment is a desirable goal, that this leads to the creation of jobs and that job creation leads to joint reward for the mutual contribution of employers and employees to the economy.

Legislation such as this must be seen in the context of the relationships that currently exist between employers and employees. The economic and social realities of South Australia in the late twentieth century are very different from the economic and social realities that gave rise to the union movement and to the development of industrial legislation in this country. For a start, we should acknowledge that employees today are better educated and better informed than they have ever been. Therefore, they are better equipped to represent their own interests and are less reliant in the main upon having their interests represented by an elite few who are given the power to do so.

The composition of the work force has changed and legislation should reflect that change. Legislation should not be based on outdated conflicts and outdated dogmas. The Opposition believes that this legislation has such a base. Our aim should be to develop a system in which cooperation, not conflict, is the goal; yet the conception and birth of this Bill has been surrounded by conflict, which could have been avoided had the Minister exercised a responsible role rather than that of a union heavy to require employer groups to hold their peace, under who knows what threats, and ensured that before the Bill was introduced there was widespread, well-informed debate, which could have resulted in a better outcome.

There is no doubt that the silence which surrounded this Bill has been to the detriment of public debate. Equally, there is no doubt that it is unfair and unjust for a major piece of legislation to be introduced into this Parliament in the middle of one week and to be required to be debated precisely one week later. With a normal weekend intervening, the Opposition has had barely five days to consult with the extensive number of groups who have a legitimate interest in this legislation. That is not a great deal of time in which to inform ourselves not only of the views of interested parties but of the potential impact on those interested parties and on the community as a whole.

During that relatively brief time we have done our best to consult widely. I can only give thanks for the existence of a bicameral system of government which permits a certain period to elapse between the passage of a Bill through the House of Assembly and its introduction into another place. That lapse of time will enable an opportunity for further consultation; it will also allow deeper and more wide ranging debate in another place than is permitted under the guillotine procedures which operate in this House.

In referring to the intentions of the Government and the union movement in the development of this legislation—features of which are utterly obnoxious to the Liberal Party, employers, a large number of trade unionists and the general public—it is important to look at the hidden agenda which governed the Minister's policy when developing the Bill.

Some of the features of the orginal Bill, about which we have read but which do not appear in this piece of legislation, are even more obnoxious than those features which do appear. One of them married to several others would

have been a further extension of the compulsory unionism concept which the Labor Party and unions have been seeking for decades and which has become substantially entrenched in our industrial and economic system. A number of surveys over recent years have consistently shown that over three-quarters of Australians oppose compulsory unionism and believe that union membership should be voluntary.

Compulsory unionism is enforced partly by law through preference clauses and partly by muscle. That muscle is evident when one passes any building site in this State where the large printed words 'no ticket—no start' can be seen. This simply means that anyone who wants a job is forced to join a union before they can obtain one. To Liberals that represents a fundamental attack on our civil liberties. It is an odious concept which entrenches inequality before the law and puts force and might ahead of natural human rights and natural justice. It is a concept which the Liberal Party strenuously opposes and one which has obviously carried some weight with the Government in an election year. If this Bill had been on the agenda immediately following a Labor victory, I have no doubt whatsoever that the more obnoxious provisions which have been removed from it in this election year would have been retained, that is, the Bannon Government believed that it could get away with such an attack on the civil liberties of South Australians.

This concept of compulsory unionism is, we believe, an infringement on the rights of citizens to freedom of association in one of the most significant areas of their lives—their working life. It becomes even more obnoxious when we realise that unions can undertake activities which are totally opposed to the interests of individual members. I refer again to the hidden agenda in this Bill, notably that which seeks to bring subcontractors into the ambit of employees and, by so doing, to increase union membership.

There is an obvious and simple reason why the Labor Party and the unions want to do that, and it lies in the fact that the trade union movement is affiliated with the Labor Party. The fees of the union movement go to the Labor Party to finance its political objectives. As Liberal Governments of this country are only ever elected on the substantial votes of trade unionists, it is no wonder that the majority of Australians, however they vote, are opposed to the concept of compulsory unionism.

This Bill contains some technical amendments with which the Opposition has no argument. It also contains some goals which in their general intent are laudable, but which in their proposed implementation we believe will have extremely undesirable and far-reaching effects. I refer particularly to clauses 3 and 4 of the Bill which attempt to bring outworkers under the definition of employees. That attempt could have—and the Opposition believes will have—a profound effect upon the accepted, traditional, legal place of contractors in our economy.

All over the world outworking is a contractual position. In all industries the nature of the contract is the same; it matters not whether the contract is undertaken in Adelaide, Alice Springs, Broome or another country. A contract is a contract and once you change the concept of that contract in the way in which this Bill proposes, to develop what is essentially an employer/employee relationship, you change the whole nature of the supervision of work, bring into question whether an employer could be in breach of an award because work is not supervised in the case of outworkers, and ignore the fact that contractual matters have always been and should be under the exclusive jurisdiction of the civil courts. They have been fundamental to our legal and industrial system from the foundation of this State and this country and this Government proposes to change that.

Whatever its reasons for change, the nature of the change and not the purpose for which it has been introduced, will, we believe, have a detrimental effect on the whole contracting system which has served South Australia so well in respect of many of its major industries, notably the housing industry.

In addressing the question of the Government's attempt to bring outworkers under the definition of 'employees'—as in clauses 3 and 4—the Opposition wants to also address the question of outworking, the abuse which has undoubtedly occurred and is occurring in that area, and the necessity to come to terms with that abuse through whatever mechanism we can devise. We believe that we have an effective mechanism and one which is infinitely superior to that proposed by the Government. The notion of exploitation is totally alien to our philosophy and one which we cannot in any way condone.

In the limited time available, I have attempted to identify the nature and extent of abuses of the outworking procedures in South Australia. Even the Government at this stage is apparently unable to identify the full extent of those abuses, as evidenced in the November 1988 issue of the South Australian Department of Labour newsletter *Workplace*, where a report is given of the grant provided to the Working Women's Centre for a publicity and fact finding campaign to help tackle the problem. The campaign has two aims, both of which are laudable. The first is:

> To provide information to outworkers, particularly those in the clothing industry, on their rights, entitlements and responsibilities under their award, under the Occupational Health, Safety and Welfare Act, and under the Workers Rehabilitation and Compensation Act.

The second aim is:

> To gather quantitative evidence on the extent of outwork in South Australia to assist in the process of future award on legislative change.

The project is not yet completed and the entire information is not yet to hand, so at this stage it is impossible to be absolutely definitive about the nature and extent of exploitation in the outworking industries.

However, the information that I have been able to obtain indicates that outworking is most common in the clothing industry, that is, in the production of garments; in the textile industry (which includes knitting); in the furnishing trades industry (which includes lampshade making and the making of what are known as floppy toys); in the packaging of food, confectionery, surgical supplies and leaflets; in the assembly of products, such as gun sights; in telephone work from home relating to sales and surveys; in some forms of delivery; in clerical, computing, proof reading, editing, drawing and tracing; and in projects known as party plans under which women's underwear is sold in private homes at a very high cost per garment.

As far as I have been able to ascertain, the nature of this outwork is being extended and a couple of examples will serve to indicate the degree of exploitation which is occurring. Although in the time available I have not had the opportunity to check the allegations with the principal contractor who is said to impose these conditions on outworkers, I have been advised by the Working Women's Centre that recently one knitting company advertised for 200 knitters and indicated that one year's work would be available.

One successful applicant for the outworking job obtained a contract to knit a designer jumper for which she was paid $45 and the product retailed for $240. She was allowed 18

days in which to complete the garment. She considered herself to be a skilled and competent knitter. She took eight hours a day to complete the garment and ultimately the remuneration for that garment amounted to 36c per hour. If those facts are correct (and, as I stress, I have not had the opportunity to check them), I do not believe that any honourable member would dispute the claim that that is exploitation.

The Hon. H. Allison: It is less than the cost of a postage stamp.

The Hon. JENNIFER CASHMORE: Exactly—per hour. Some of the workers are provided with base materials, but not with their tools, whether they be knitting needles, pliers, or whatever else is required. Some outworkers provide their own machinery, which is sometimes purchased from the principal contractor to whom repayments are made by way of deduction from their pay. Many of the outworkers come from migrant non-English speaking backgrounds, from low socioeconomic groups: they often include the aged; and they are mostly female. Their opportunities for mainstream employment are low, and they tend to be heavily reliant on their income.

The dilemma of the outworker is found in several factors. Many of these women have a commitment to their skills and wish to maintain their craft. If outwork were not available, in many cases it would be very difficult for them to obtain work in the mainstream labour force. They produce a quality garment at a price that does not recompense them for their time or skill. The dilemma arises in the situation where, if they were recompensed for their time or skill, would that work be available for them in this State, or would it—

Members interjecting:

The Hon. JENNIFER CASHMORE: I hear cries from the other side and I am about to address the very issue—

Members interjecting:

The Hon. JENNIFER CASHMORE: I am well aware that that argument has been used through the decades by some people to justify the creation and maintenance of low paid jobs and, if members opposite would wait for me to acknowledge the reality of that, obviously that argument cannot be justified. However, the dilemma in ensuring that these people retain fair remuneration for their work but still in a job is one that has to be addressed very carefully. In New South Wales and Victoria, where the question of exploitation of outworkers has been addressed, I have been informed that many sources of that work have dried up. A lot of that work has then come to South Australia. After addressing the situation here, it will be interesting to discover where that work then goes.

I commend some of the groups, notably the Hand Knitters Guild, for their enterprise in clubbing together and attempting to promote their work directly to the public in order to obtain fair remuneration for their efforts. That is one side of the coin which has to—and we believe can—be addressed and which we recognise. The other side of the coin is the question of what could happen if this issue is addressed in the form proposed by the Government. The whole notion of altering the contractual arrangements between the principal contractor and the subcontractor (in this case the outworker) if drawn into the wide ambit of this Bill could lead to the destruction of the subcontracting system in the South Australian housing industry.

Mr Lewis: It is intended to.

The Hon. JENNIFER CASHMORE: Indeed, as the member for Murray-Mallee says, the hidden agenda is that that is the intention; and, if it is achieved, thousands of people who currently work for themselves will be forced to become employees. Having been forced to become employees, they will then be forced to become members of a union and, as a result, they will then be forced to contribute their fees to the Labor Party and to the advancement of socialist governments throughout this State and nation. That is the hidden agenda. That is where the balance of power lies in the drawing up of this Bill, and we believe that that is the purpose of the Government's introducing legislation which is designed to alter dramatically the traditional, well established and well regarded contract system that has operated to the benefit of South Australia. It is worth looking at why people choose to be independent contractors.

The Hon. H. Allison interjecting:

The Hon. JENNIFER CASHMORE: As the member for Mount Gamber says, in the main, they choose to be independent—the answer to the question is very simple. The motivation to become self-employed arises out of a commitment to the free enterprise philosophy, the desire to be independent and to achieve self-fulfilment as an entrepreneur, the desire to avoid union membership, or it could be the highly legitimate desire to obtain more favourable tax benefits. That is why many contractors enter into a legal body corporate arrangement with their spouses, in order to minimise tax and to maximise family income, for the advancement of their family and indeed for the advancement of the economy, and thus society.

The overriding consideration, particularly in the case of small contractors, is the attraction of independence. That independence could well be destroyed by the proposals outlined in clauses 3 and 4 of the Bill—which catch bodies corporate and which extend beyond the universally accepted definitions of outworkers, where no master/servant relationship exists. The clauses lack definition. They could sweep up an enormous number of industries including, by way of example, the horticultural industry, where families quite often establish corporate body arrangements in order to, as referred to in new section 7 (1) *(a)*:

> . . . work on, process or pack articles or materials;

This provision could directly catch within its ambit a vast number of people in the horticultural industry, most of whom in this State are involved in small family businesses. They would simply find themselves in an employer/employee relationship, and in the Industrial Court. The Opposition has grave concerns about the issue of exploitation of outworkers. We want to see that issue addressed. We do not believe that the way that the Government proposes to address the issue is the correct way, and we will propose alternatives.

The next aspect of the Bill that we find to be obnoxious concerns clause 11, which places restrictions on the rights of parties to have legal representation before the commission. Most of us would find it repugnant to think that in a court of any kind a party was not entitled to legal representation.

The Hon. H. Allison: Discrimination in its worst form.

The Hon. JENNIFER CASHMORE: It is indeed discrimination in its worst form. It is discrimination which is loaded against the employer and which is in favour of the employee. It means, for example, that a company, whether large or small, whether it be BHP or the local greengrocer, may not be entitled to engage legal representation, be it silk or the local solicitor, to represent its interests before the Industrial Court. To the Opposition that seems totally discriminatory, unjust, unfair, unwarranted, and designed simply to ensure that the balance of power resides with the unions and not with the employers.

Mr Lewis: In short, un-Australian.

The Hon. JENNIFER CASHMORE: Exactly. I have before me a letter from the Law Society of South Australia which states that the society:

> . . . of course would be most concerned about legislation which restricts the rights of organisations to seek legal advice and to be legally represented before the Industrial Commission, or indeed before any court or tribunal. The present position is that an individual or organisation may, not must, be represented by a legal practitioner before the commission. There is no obligation to do so, and such persons may be represented by agents who are not legal practitioners.

In our opinion, the present position should prevail. Clause 12 of the Bill allows for intervention by the Industrial Commission in disputes arising from contracts of carriage and contracts of service. It allows the commission to review and overturn any contract that is allegedly unfair and allegedly contrary to the public interest. Again, we come to the essential question of contracts. Quite clearly, all contractual matters should take place in the civil court. This is an industrial Bill; it deals with industrial matters, not civil matters.

Contracts are essentially civil matters of agreement between the contracting parties and, in the opinion of the Liberal Party, industrial commissioners have no place in contractual matters. There have always been, and there should always continue to be, real boundaries in jurisdictions. The proposed blurring of the boundaries that is foreshadowed in this Bill would lead, we believe, to uncertainty and, without doubt, to increased costs. If this Bill is enacted in the form in which it has been presented to this House, it would mean that in future no contract could be undertaken (and I refer particularly to contracts in the housing industry, where contractual arrangements between subcontractors and principal contractors are an everyday fact of life) without the potential for that contract to be either declared void or varied by a third party, namely, the Industrial Commission.

The prospect of the effect of that upon costs is horrendous. It means that no home owner could in future place any reliance on a cost given for the price of a house. It would mean that no principal contractor would in future be able to budget with any degree of certainty whatsoever about the cost of a house and the cost of subcontracting arrangements. It would mean that any militant person would be able to, halfway through a contract entered into in good faith by the principal contracting parties, say, 'Hey, you are not paying me enough for laying these bricks. It has been pretty hot lately and you didn't take that into account, so I think I will whiz off to the Industrial Commission to see whether I can get a better deal.' That is an untenable position. It is one that is bound to have both industrial repercussions and, more importantly, economic repercussions, which will be very serious indeed for South Australia. The whole notion of a contract is that it is binding upon both parties, but this Bill completely breaches the bond that has always existed in the contract situation, and, consequently, it will lead to uncertainty and increased costs.

A further clause that the Opposition finds to be totally unacceptable is clause 13, which gives the right to the United Trades and Labor Council to intervene in any proceedings before the court without first obtaining leave. That right is opposed totally by employers, and it is opposed by the Liberal Party. The court deals with existing rights; it adjudicates between parties, and we do not see that there is any role for the United Trades and Labor Council in such proceedings.

Certainly, there is no special role which would justify intervention by the council without the need to demonstrate a *bona fide* interest. That right to intervene has been abused in the past in the shop employees superannuation case before the Industrial Commission. The council at that stage argued against its own affiliated union, the SDA. It had no business to intervene and it just simply did so in order to promote its own superannuation scheme. That kind of abuse should not be permitted and it is the kind of abuse that the Liberal Party most strongly opposes.

Clause 18 is one, among others, that is designed to bring the State further to its knees in an economic sense. It enables workers to extend their long service leave if they are ill for more than seven days while taking leave, provided they have not previously used up their leave entitlement. If anything was open to gross abuse, it is that proposition. How could it be possible for anyone to have a responsible check of any kind on someone who has taken long service leave, quite possibly and very likely out of the State, if not out of the country, and to prove whether or not sick leave had been taken on a justified basis.

In any event, whether one is talking about the abuse by employees of such a provision, we are talking about an extension of an existing right which is already sufficient in our opinion. Sick leave is a right. It is contained within the annual entitlement to leave. The long service leave provision is over and above that annual entitlement and one cannot begin piggybacking one benefit on top of another in order to create a structure which will cause the whole to tumble.

Mr Ferguson interjecting:

The Hon. JENNIFER CASHMORE: Who is talking about interest on interest?

Mr Ferguson: On the one hand you are accusing the Labor movement of piggybacking. What about the piggybacking by the employees? I will give you examples if you like.

The ACTING SPEAKER (Mr Rann): Order!

The Hon. JENNIFER CASHMORE: The right to sick leave has been fought and won. The right to long service leave has been fought and won. To oppose one and blend it with the other in addition to both those existing rights is, we believe, unreasonable and it is a proposition which we oppose.

Finally, I turn to clauses 26 and 27 which impose penalties and render unlawful threats to dismiss, injure, alter detrimentally or threaten to alter detrimentally the position of an employee. On the face of it, the notion of threat is not pleasant and it sounds as if that is a reasonable protection, until one looks at what is the subtle wording of those clauses and the implications behind it. It represents a very substantial change to the employer/employee relationship, and its actual intent and result is to remove the fundamental right of an employer to dismiss an employee regardless of whether that employee is behaving in a fashion that justifies dismissal.

The employee has the right to strike and the right to resign. At the moment, the employer has the right to dismiss but no right to lock out. There is no dispute on this side of the House with those existing rights. However, what is being proposed in this Bill means that the alleged threat by an employer to dismiss an employee for whatever reason can then be taken to the commission in such a way that the employer simply cannot dismiss the employee. It means that, if employees are threatening to strike, are conducting 'go slow' campaigns or are using any kind of industrial means to limit the employer's legitimate right to run his or her business, the employer has no right to warn—and I use the word 'warn' as distinct from 'threaten', because the two have entirely distinct meanings. One wonders how the commission and the trade union movement will interpret those two entirely distinct meanings. The employer under this clause will be deprived of any right to warn employees of the consequences of their continued action.

One could envisage a situation where employees in a certain business may be conducting 'go slow' campaigns, meaning that a business cannot meet its contractual obligations. It therefore cannot fulfil its orders for either goods or services. An employer in this situation would be entitled to warn the employees—and it would be irresponsible if he or she did not—that a continuation of this activity would mean a loss of business and the ultimate closing of the business because the cash flow could not justify the continued employment of the workers. Under this clause, the employer will be deprived of that right. Clause 26 provides:

(1) An employer must not—

(a) dismiss an employee from, or threaten to dismiss an employee from, his or her employment;

That is a complete reversal of the present situation which allows employers that right. Further, it provides:

(b) injure an employee in, or threaten to injure an employee in, his or her employment;

We have no difficulty with that aspect. Further:

(c) alter detrimentally the position of an employee in, or threaten to alter detrimentally the position of an employee in, his or her employment.

That word 'threaten' carries enormous ramifications. How can one disprove a threat? Very often a threat is implied not in the words used but in the tone of voice used. The words, simply repeated in court in any other tone, could carry quite a different meaning.

An instant statement can be construed as threatening by one person while certainly not intended as such by the person making the statement. I might say to a child, 'If you continue to kick the window you will break the glass and it will cut you.' Is that a warning or a threat? It is a statement of what will happen if a certain course of action is continued, and that is precisely what is likely to be the case and what has been the case for many decades in terms of employers warning of the consequences of industrial action by employees. You might even say that the employees' right to be informed of the consequences of industrial action is being threatened by the inclusion in this Bill of clause 26.

There are other aspects of this Bill with which the Liberal Party has argument. Because the Bill is essentially a Committee Bill, I do not propose to deal with them in any detail in the second reading debate. My colleagues no doubt will cover them in any event. I return to the central point. This Bill is about power and the abuse of power by the trade union movement aided and abetted by a Minister who is acting more like a union organiser than a Minister of the Crown in these circumstances.

The nature of the Bill is such that employers have recoiled against it. They and we have genuine concerns about its impact on the South Australian economy. Our concerns relate strongly not only to the economy but also to the fundamental rights which are age old and which have been developed under our judicial and parliamentary system: the jurisdiction of the courts; the role of the civil courts in contract matters; the essential role of the subcontractor and his relationship to the principal contractor; and the basic nature of the relationship between the employer and the employee, which implies a supervisory responsibility that is reflected in awards. The foregoing and a whole host of other issues cause us to warn that, if the Government cannot see the justice of the amendments to be moved by the Opposition in Committee, we will have no option but to oppose the Bill on third reading.

Mr FERGUSON (Henley Beach): We have just heard what I believe would probably be one of the most disappointing speeches that I have ever heard about the industrial climate and industrial legislation in South Australia. Having listened in this House to the member for Coles over the past 6½ years, I have always had a great admiration for the way in which she can grasp the subject matter that she is debating. However, this time I have been extremely disappointed, because she has been talking on a subject about which she knows absolutely nothing. She has never been on the factory floor, into the Industrial Commission, or into the Arbitration Court. She has never attended an industrial conference or been in a situation where disputes have been settled. I doubt whether the honourable member has ever attended a trade union meeting and she is suffering from that lack of experience.

The honourable member appeared to be reading from a script that had been presented to her probably by an employer body. The disappointing thing about all this is that I expected to hear from the Opposition, especially from the lead speaker for the Opposition, about at least some of the things in the Bill with which members opposite could agree. I can understand Opposition members opposing certain provisions because of their traditional need to look after their electorates and the people who have put them into Parliament. However, from my understanding of the remarks of the member for Coles, the Opposition opposes the Bill holus bolus. At the opening of the honourable member's speech we heard a long philosophical proposition as to why this Bill should be opposed. She said that it was a response to the trade union movement and she talked about power and the balance of power. The honourable member referred to the nineteenth century in conflict and made a long philosophical speech about profits.

However, from my experience in the trade union movement, I believe that not many trade unionists have been upset about the profits made by their firm, unless they did not receive a proper share of those profits. People in industry want to see the firm for which they work making profits: they do not want to see the firm go under. Indeed, they know that, if profits are being made, they should in due course receive a fair share of those profits. So, to say that this Bill is an attack on profits is absolute and complete nonsense.

In her explanation of this new philosophy, the honourable member talked about a new era in which everyone was well educated and in which we should be looking towards cooperation between labour and management. I was in the trade union movement for about 28 years.

Mr Duigan: And you still are.

Mr FERGUSON: Yes, but not in an official capacity nowadays. In my experience as a trade unionist I never saw any gain that was made by the trade union movement for its members or for any people working in industry that did not come out of conflict somewhere along the line. So, it is absolute nonsense to advance the proposition that through sweet reasonableness we have no need to legislate further to support and help people. The conflict in the industrial area comes about in several ways. It does not necessarily mean that people must be out of the door or must stop work, or that overtime bans or limitations must be imposed. That conflict can be settled in the commission. Indeed, the commission was set up in the first place to settle disputes.

Most of those disputes are settled peacefully. That is why we have a commission and why we should be spreading the net to get things into the commission, because the further we can spread the net the more we can not only stop the exploitation of those people who are being exploited but also get disputes into an area where they can be settled peacefully.

The member for Coles referred to what she called the 'traditional, well regarded contract system in South Aus-

tralia'. However, I pose the question: well regarded by whom? After all, I should have thought that the Opposition would join the Government in supporting the provision in the Bill that deals with the protection of outworkers. We do not need another inquiry. How many more inquiries do we need on outworkers so that they may be told what are their award rights? They have no rights under awards, so this move is being made to tell them what are their rights as regards workers compensation and WorkCover.

At present, they have no cover and I should have thought that the member for Coles, as the only woman member of the Opposition in the Lower House, would be glad to do something to help outworkers because 90 per cent of outworkers are female. Further, outworkers are not those well educated members of the work force about whom the honourable member was talking.

Mr Lewis: They can read and write.

Mr FERGUSON: They cannot. The honourable member should go back to his dairy farm or he should go into a factory to learn what is going on. When I was a union official, some of these workers would come up to me so that I could fill in their forms for them. That is one reason why I finished up in Parliament. That is the track on which I started out. Many of them cannot read instructions. They cannot write, so they cannot fill in taxation forms. They cannot do anything.

In this instance, we are talking about a new wave of outworkers; a lot of them are Chinese and Indo Chinese. I know, Mr Acting Speaker, you will not allow me to talk about possible amendments, but if I were to guess an amendment by the Opposition to define 'outworker', and someone started talking about work performed in and about a private residence, all one would have to do to overcome that would be to go into a tin shed next-door and do all the outwork one wants. One could stuff a tin shed with outworkers and there would be no coverage for them; no-one would be able to help them in any way.

I want to say more about exploitation. Under this well regarded contract system that the Opposition has been talking about, we find that all the power—and, to some extent, we are talking about a balance of power—revolves around the supplier of material. We are talking about a piecework system that is determined by the supplier. If outworkers do not comply with the unwritten conditions of that piecework system, they do not get any more work. The people concerned desperately need money, and we are talking about the migrant workforce now available in South Australia. The work is not supplied to them. So, all of the power in this uneven contest is in the hands of the supplier of work. I would have thought that that would be one issue on which the Opposition supported the Government—that is, control—let alone arguing about whether sick pay should be paid when a person is on long service leave (although I believe that it should be paid). I can see no reason for the Opposition's argument that outworkers should not be brought under the Industrial Commission.

This is one small step, as I can guarantee that 10 years from now this Parliament will still be talking about the problems of outworkers. Although this measure gives the commission and the unions the power to do something about the situation, it does not necessarily mean that something will be done. Some unions will not be able to utilise this proposition or may not be interested in doing so. A lot of the fears the Opposition is talking about—

Mr Ingerson interjecting:

Mr FERGUSON: The member for Bragg, who is out of his seat, might have been a good chemist and might have accumulated or inherited a lot of money, but he knows little about industrial affairs or the inside of a factory.

Mr Ingerson interjecting:

The ACTING SPEAKER (Mr Robertson): Order! If the member for Bragg insists on interjecting he ought to be doing it from his seat, and we will then consider whether his interjections are in order. The member for Henley Beach.

Mr FERGUSON: Some people, in order to redress the imbalance—

The Hon. H. Allison interjecting:

Mr FERGUSON: The member for Mount Gambier mockingly says, 'Tell us about the workers.' That is the sort of inane, stupid interjection I would expect from Opposition members, who keep trying to hold the line as far as their nineteenth century attitudes towards industrial relations are concerned. They use the same same sort of arguments that I heard in debate earlier about employers not being able to afford to pay appropriate rates for the work being undertaken, and the same sort of arguments that nineteenth century employers used when they would not let the young people out of the coal mines. That is the sort of attitude that the Opposition is taking. I would have thought that we had progressed from that attitude.

Where is their spirit of cooperation? If there were a spirit of cooperation, Opposition members would have said that there could be reasonable rates, which could be be put before an independent arbitrator, so that everyone in the industry, no matter where they were, could be paying those rates. Many employers would agree with that. Many of the people who put members of the Opposition where they are today would agree with that. They believe that it should be a level playing field and that employers who do the right thing and pay the appropriate rates, should not be penalised by those employers who do not pay the right rates.

There are employers who believe paying slave labour rates for outworkers should be penalised, and I agree with them. When I talk about slave labour rates, I am talking about 40c an hour. Who in their right mind, in this day and age, would agree that paying 40c an hour, would be upsetting the well regarded contract system in South Australia? In some instances workers are getting less than that: they are getting 30c an hour. Some people are making themselves millionaires out of this exploited labour. I have nothing against people who want to turn themselves into millionaires, provided they do it through their own efforts. However, while people in the work force are being exploited I feel it is time that we as a Parliament intervened.

This is not a new concept because, before the trade union movement began, all work was done on a contractual basis—everything was under contract. Indeed, Australian Parliaments were the first to try to regulate the work systems. It was because of the exploited female labour in Melbourne sweatshops in the 1890s that our arbitration system began, with the first fair wages legislation. Yet members opposite try to shout me down and want to destroy this concept. An article in the *Advertiser* of 4 March 1989 refers to sweatshops. Anyone who thought our well regulated contract system should remain as it is would agree that these rates are right. The article states:

> Her work hours are long and tedious. She strains her eyes and sometimes her health. She is paid as little as 30c an hour. She is one of Adelaide's hidden work force—an outworker in a home made sweatshop.
>
> She may be sewing, making lampshades, knitting, packaging, making medical supplies, baking, chopping vegetables, making toys, soft furnishings or even gun sights.
>
> Translating, typing, proof reading and editing are within her tasks.

I cannot understand why, at least in this field of endeavour in the work force, the Opposition cannot join with the

Government to produce a fair and reasonable situation for these people. No-one is setting a wage; no-one is destroying our well regulated contract system. This matter will go before an independent person in the Industrial Commission, and the commission will hear all arguments. Undoubtedly, one of the arguments will be that employers will not be able to afford the wages demanded by unions under the contract system. That argument is put up with every wage case that goes before the Industrial Commission—it will send the country broke; we will lose all this work overseas and interstate! It is touted time and time again, whenever someone wants to improve wages and industrial conditions.

In the time remaining, I will speak about the stupidity of trying to keep the United Trades and Labor Council out of the commission. The council has been using the commission in one way or another for the length of its history and I have no doubt that, irrespective of what happens here, it will continue to do so. For about six years I was a member of the United Trades and Labor Council disputes committee and in many instances employers approached us saying, 'Find us a way of ending this dispute.' Similarly, when the unions had been out on the grass for too long, they would come to the United Trades and Labor Council and say, 'Look, we must find a way of getting back to work, and you are the persons who are going to get it for us.'

The United Trades and Labor Council has ended many disputes, it has found a way of getting people together and back to work, and to exclude it from the Industrial Commission is absolute stupidity and I can see no logical reason why the Liberal Party should continue along that line. I hope that this piece of legislation goes through without being tampered with too much and that those people who are exploited will benefit from it.

Mr S.J. BAKER (Mitcham): In addressing this Bill, I can only note that it has developed into a black comedy or farce. Members of this House would well remember that, in September of last year, a draft Bill, which was not very different from this piece of legislation, was circulated. I can only assume that the Minister has an identity crisis. He cannot decide whether he is a modern-day Karl Marx or Rasputin. Some people have suggested that he is a modern-day Rip Van Winkle.

This Bill is about power and I will relate some of the tactics that have been used to arrive at this Bill. The Minister will remember the draft Bill that was circulated last year and the threats of serious acts against employers if they revealed what was in it. It was not the employers who broke faith but one of the Minister's union mates. He could not stop talking about all the new benefits that the Minister was going to give him. It was some loudmouth within the union movement who broke faith. We have gone through the same process again, but at least the Minister has kept his people quiet, except for an occasional outburst from the Assistant Secretary of the UTLC.

We have been subjected to a diatribe from the Minister and people associated with the union movement. Again there have been threats against Parliament—bully boy tactics—to the effect that, if the Bill is not passed, unionists will march on Parliament House and cement trucks will line up outside. These people must decide whether they live in a democratic country, where people do not threaten Parliament, although they can take whatever action they like within the law to make their point.

The Hon. H. Allison: It is illegal to threaten a Parliamentarian in the course of his duty. The Minister knows that.

Mr S.J. BAKER: That is right, and the Minister does know that. The Minister has said to his union mates, 'Look, we need a little bit of support; put the heavies on.' Anyone in this country has the right to demonstrate. If the UTLC feels a little aggrieved about the passage or non passage of this Bill, its members can march on Parliament House but they cannot threaten us. If people in the concreting industry do not like the way we handle the Bill (and the Opposition has better solutions than the Minister does) let them demonstrate, because that is their democratic right, but they may not threaten Parliament.

It is significant that one or two provisions in the original proposition have not been included in this Bill. One of those was that preference be included as an industrial matter before the Industrial Commission. That meant that, if a union wanted a closed shop arrangement or enforced union membership, the commission would have the right to move on that matter. The only reason it has been taken out of this Bill is because it is being achieved through a whole range of other measures, anyway. People trying to contract their services with the Government must have a fully unionised work force, which is fundamentally and totally wrong.

The Minister has also taken out the reference to awards in other States so that particular unions can pick off the best conditions that operate around the country and apply them to the South Australian situation. In his wisdom, the Minister has also removed the provision for time off to collect pay. He has had a few words around town and has suddenly understood that some people might have to travel 100 kilometres to go to the nearest bank or that some people might take only half an hour of the employer's time for the same purpose. That is an unworkable provision, although I understand in certain State Government circles that such provisions apply and that people are given time off to collect money.

These measures, which are the Minister's concessions to employers, did not make the Bill. What is the Minister really doing with this Bill? He has brought it forward because the Government has a problem on its hands, that being that the union movement has not done too well.

The Hon. H. Allison: The Minister is the problem.

Mr S.J. BAKER: They always have problems with the Minister. In recent years, the union movement has not done too well. It really copped it under the accord and we all know that 90 per cent of South Australians are suffering reduced living standards, and for the sake of what? Is there any hope on the horizon from the Federal Government? Have we come through an economic crisis and is there bright blue sky above us? Of course not. The union movement realises that it has given up things such as wages and, in some negotiations, working conditions have been affected. Unionists are asking themselves, 'At the end of the day, am I better off?' They are getting a little disillusioned with Labor Governments, both State and Federal. They have copped Terry Cameron, the Secretary of the ALP, and a large number of them are not amused about that. They believe that, over time, they have not received justice from the people they elected.

This Bill attempts to fix up some of these things and gives the union movement more power. This is the Government's little effort to soften up the trade union movement and pat it on the head before the next election so that its members do not run off and do what I think they will do. I think that there will be riots in the streets if Bob Hawke does not come to the party on the wages issue. This is just a device to give people some semblance of power when they do not have anything in their pockets. It is an attempt to keep faith with the union movement, but I do not believe that the Government or the people of South Australia can be compromised by deals such as this.

The Bill contains a number of matters of import. The member for Henley Beach, who is not the official spokesperson, suggested that the Opposition spokesperson on economic matters simply does not understand industrial relations. I thought she showed a remarkable flair for understanding the bottom line of this Bill, which is quite clear. The member for Henley Beach spent a lot of time talking about the sweatshops and disadvantaged people (about whom we are all concerned) and, when he suggested that the Liberals would restrict the focus of this Bill so that contractors could push these people out into a shed, he showed his complete lack of industrial knowledge because, as soon as a group of people are in a shed, they become employees. I ask the honourable member to tell me about any shed in Adelaide in which the workers are not classed as employees. The honourable member displayed a complete lack of knowledge, even though he was in the industrial relations arena for a considerable time before he entered Parliament.

I turn now to those parts of the Bill which are causing concern because they propose to change a number of principles. I am not opposed to changing principles to the benefit of the State. Canvassing of the outworkers' situation has extended beyond the 1988 amendments and leaves the door open to encompass a whole range of people who it has never been envisaged would be encompassed by this Bill.

Mr Hamilton: What will you do to protect outworkers?

Mr S.J. BAKER: You will have to wait until the Committee stage. The honourable member opposite continues to interject. If he wants to participate in this debate, he can do so at the appropriate time. If he does not, I remind him that interjections are out of order. The point we make about outworkers is that we appreciate and fully understand the difficulties they face.

Mr Hamilton: What are you going to do about it?

Mr S.J. BAKER: As I said, wait for the Committee stage. As the member for Henley Beach said—and I think he explained himself very well—quite often these people have not had the education that most members in this House have had. They have come from overseas and are not used to the economic or industrial climate which they find in this country and have therefore been used and abused. We have a great deal of sympathy for those people. Nowhere will you find the Liberal Party saying *carte blanche* that outworkers do not deserve some protection, but it believes that certain circumstances need to be taken into account. However, to throw open the legislation as wide as the Minister has done means that a very large number of people will be included. I will develop this argument during the Committee stage and then point out the fallacy of composition with respect to this move.

I know that my colleague has already pointed to some of the flow-on effects. The Opposition does not believe in the sort of exploitation that has been exposed over a period of time. We note that over almost the past 19 years nearly 16 have been under Labor Governments. We know that the outworker situation and the exploitation of migrant women, in particular, has existed in some shape or form ever since Australia was founded. Surely the Government is not saying that it has suddenly come of age and that it will consider the situation and do something about it when it has had so much time to consider the matter and get it right and not continue to foul up employment opportunities in this State. As I said, I will take up that issue in a formal fashion during Committee discussion on clause 4. I do not need to discuss this item further because the matter has been well canvassed by my colleague the member for Coles.

In relation to the issue of contracts, the member for Henley Beach displayed a remarkable lack of understanding. Indeed, I do not know whether it was a lack of understanding or a misuse of the truth. We know that the law of contract has existed in common law for hundreds of years. The law of contract provides that a contract is binding on the parties to it provided there is no undue duress involved. Most laws of contract are enforced in the civil jurisdiction and do not enter the industrial arena. However, what we have here is not just the fact that a difficulty needs to be addressed but a measure which sets a precedent which could have some severe ramifications on not only the transport industry but a large number of industries in this State.

The precedent to which I refer is that the Minister says, 'If you don't like a contract, take it to the commission'. He says, 'If you don't like what you have signed for, you can get out of it.' If inequality of bargaining power—which is the nub of the problem—is the reason why people have been forced to sign contracts with which they are not completely happy, other remedies should be available. This precedent does not need to be introduced into industrial law. Quite simply, contracts must not be voided on the wish or whim of a person who feels aggrieved because a contract is not to his liking.

Mr Lewis: After they have agreed with it.

Mr S.J. BAKER: After they have agreed with it, as has been pointed out by the member for Murray-Mallee. It is an important principle of law. If I give my word to someone that I will do something, I do it. I believe that most people in this House would do the same. A contract is the giving of one's word, an undertaking that a contract will be fulfilled in return for consideration. If that consideration is not sufficient, then it is on the heads of the people who made the contractual terms.

What about the employer? If, for example, contractual terms are not to an employer's liking, and if he finds further down the track that he could have had the job done more cheaply, does he have the right to go to the commission and say, 'I am not too pleased about this; I am going broke because I have signed a contract'? Problems have been caused in many circumstances. How many retail establishments in this city have gone broke because they have ordered overseas goods which have been tied up at the wharves in Melbourne? Their contracts have not been fulfilled and the business has gone broke. It is not much help somewhere down the track to say that the person did not fulfil his contract.

There are many issues in this Bill with which the Opposition simply cannot agree. We believe that every person—not just a select group—has a right of representation before the commission. That matter has already been canvassed, and I have already alluded to the issue of contract disputes.

I now refer to the unpaid wages provision of the Bill where an inspector has the right to demand that an employer recalculate wages. Two provisions of the Bill affect this issue, and one is the right of an inspector to say to an employer, 'I am not too happy about the wages situation, so I will get you to recalculate them'. The Bill also says that unpaid wages can stretch from three years to six years, so it could involve six years of calculation. What if that inspector is wrong? Where is the right of redress? There is no right of redress anywhere for an employer. There is no right of redress at all, although the Bill provides that a person can dispute such an order.

Most employers would not bother to go before the commission to dispute an order. They would sit down and spend a lot of money and time working through the wages. Under the previous system, if an inspector believed that there had

been an under-payment of wages, he would calculate the wages in dispute. If a disagreement occurred, the dispute went before the court. The inspectors now say, 'This is too time consuming, so we will force the employer to do it'. Of course, that will impose an extra cost on the employer. Every day of the week one sees employers footing extra costs and bills. There has to be some evenness in the system. If it was good enough for inspectors to handle the situation previously, I do not see why they cannot continue to do so. The Opposition intends to propose an amendment to that provision.

I turn now to the question of sick leave. Of course, long service leave is commonly used for overseas and interstate travel. If someone contracts the Hong Kong flu or a serious disease in an 'at risk' country such as Africa, why should the employer foot the bill? Where does the proof lie, and who straightens out the matter when there is a dispute?

I will not have time to complete my analysis of the Bill, but I really wanted to discuss this term 'threat and detriment' which the Minister has now seen fit to include in the Bill. That inclusion has some very serious ramifications which I do not think even the Minister really understands. The common cause for disputes between employers and employees is where there is unsatisfactory performance. An employer could say to an employee, 'I do not like the way you are working', or 'I believe you should have been here on time', or 'I don't believe you should have assaulted that person'—and there is a whole range of complaints. So, if a person is warned that unless he or she changes his or her ways they will be dismissed, that could be classed as a threat.

The Hon. H. Allison: What happens if the employee threatens the employer?

Mr S.J. BAKER: There is no redress if an employee threatens an employer. What is a threat? We have heard plenty of threats across the Chamber. How seriously do we take them? With respect to building sites, the Minister would well remember the altercations that took place before Christmas and the many threats that were made to lives and to families, but what action did the Minister take? He did not take any action whatsoever, but in this Bill he states that, if somehow an employee is threatened or suffers some detriment because of a dispute (and in many cases the dispute would be at the employee's instigation), the employer has no right of redress.

The ACTING SPEAKER: Order! The honourable member's time has expired. The honourable member for Murray-Mallee.

Mr LEWIS (Murray-Mallee): I am sure that nobody in this place would know the person who stated as follows:

> I wrote the book with one basic premise in mind—never underestimate people's intelligence, only underestimate their knowledge.

That remark was made by a very profound, capable and intelligent entrepreneurial person called Margie Bauer, who is the power behind the revival of an industry and who has made Australia the world centre of that industry.

Mr Becker: What is that?

Mr LEWIS: Smocking. I refer to an article headed 'Finest smockers flocking to Keith', as follows:

> In just a few short weeks the quiet town of Keith is going to experience an invasion. Smockers from all corners of the globe will set upon the town for a week of work, fun and education, the likes of which Australia has never experienced.
>
> They will be here for Australia's first Smocking Convention. And just what are smockers? According to Margie Bauer they are people of all shapes and sizes who are addicted to the art of transforming plain fabrics into delightful items of old world fashion.
>
> Margie's passion for smocking was born just over 4½ years ago when she decided it would be handy to be able to make some pretty frocks for her two young daughters.
>
> 'I had never sewn a thing in my life but operating under the principle that you can learn anything if you try, I went to the library and pulled out some books on the subject and got to work,' Margie said.
>
> 'The first thing I discovered is that there was an abysmal lack of smocking supplies in Australia, and the second was that all the books on the subject were written for people with sewing experience.'
>
> Margie had no sooner mastered the art of sewing and smocking—discovering a dormant talent for design and color—when she launched into writing a book on the subject specifically for people like herself who had never turned their hand to needle and thread.

This article, which was written by Michele Nardelli, appeared in the *Stock Journal* of 23 February this year in the *Country Life Magazine* section. The important point is that this remarkable woman has established an industry which is comprised entirely of outworkers, and it is essential for the continuation of that industry that they remain more or less in that capacity. She provides the raw material because, regardless of whether or not one or more persons perform the work, ultimately it must be consistent. It must belong, as it were, to the total image of the kind of range of fabric and garments being sold by the firm, which is called Country Bumpkin. There is a Country Bumpkin shop in Keith and also in Melbourne Street, North Adelaide.

The Hon. H. Allison interjecting:

Mr LEWIS: Yes, absolute stitches. If members opposite do not understand what that word means, that is not my fault.

The Hon. J.W. Slater: We understand; it's not easy.

Mr LEWIS: Are you sure about that? The article continues:

> The natural spirit of adventure and get up and go that has seen her working at everything from opal mining at Coober Pedy, running tours to Borneo, cleaning toilets in Austria and working for the US armed forces in Germany, spurred her on to do more.

The convention, planned for 17 to 21 April, will be limited to 200 registrations. Nearly all places have been filled. Participants are coming from South Africa, Britain, the US, New Zealand and all Australian States.

This woman is to be commended. I point out that a good deal of the material used by the people who work in the Country Bumpkin group is imported from countries like France, England and Switzerland, because it is not available from any other source. This company employs outworkers and I am sure that, in each instance, they would never have earned wages in the first several hours in which they engaged in smocking. However, it is a very profitable and worthwhile enterprise for anybody who wants to earn additional money and who has the determination and capacity for detail so that they may acquire the skills involved.

The great benefit to all the people who have become part of the Country Bumpkin group is that, like any other contractor, they can choose when they work—how long and on which days—to fit in with the rest of their activities. A worker with a family has the opportunity to go to a school fete, participate in voluntary work at the school canteen or in St John, or visit senior citizens at Keith. These people are part of the total community and they want the opportunity to enjoy the independence which outworking can provide. At the same time, they can be gratified by earning money for these tasks and achieving excellence in the process.

Let us stitch up these silly sods who want to put them out of business. We will tie them all together in little rings. The important thing is that, whilst this legislation is well intentioned (and the Opposition acknowledges the importance of addressing the problems of exploitation which are

obvious to anybody who studies the casual work force in Australia), nonetheless, the way in which this legislation is framed is more representative of the Government's narrow and blinkered vision. The Government has looked at its own experience in the outmoded adversarial roles in the industrial system (and this legislation is more indicative of the historic situation) rather than looking forward to the realities of the future.

The Hon. H. Allison interjecting:

Mr LEWIS: None at all. Having made that point about Margie Bauer being a remarkable woman and having related the circumstances of the establishment of this industry, let me now comment on the remarks made by my two colleagues, the member for Coles and the member for Mitcham, who accurately summarised the reason why the Minister has introduced this legislation.

The Hon. H. Allison: It's too big an umbrella.

Mr LEWIS: Yes, it is much too big, much too hastily conceived from a very narrow and bigoted historic background. It is antiquated and it is relevant to the early part of the twentieth century but irrelevant to the last decade of this century and the twenty-first century when an increasing number of people will move away from employment in large corporations and, instead, move into enterprises of which they are part owners.

They will be small enterprises, and they will be enterprises in which there is a close personal relationship between the majority of people working in them, and, in the main, the people working in them will be shareholders of those enterprises. That is the way that business will be done in the future. It is the way that we will get things done that we want to do for each other and obtain a reward in return for the services we provide or the goods we manufacture.

The notion that there has to be a large factory to which everyone goes in the morning, be it the pay clerk, the floor sweeper or the machinery operator, to undertake work, to obtain money in order to live, is already out of date and disappearing as part of a relevant scene. Any entrepreneur who imagines that that is the way of the future is kidding himself. The way of the future is through what one might call an organic methodology of management, where the individual has ownership in the enterprise in which he is engaged, along with the other people who are also working there. It is regrettable that, as a consequence of this kind of legislation, people's ideas will continue to be focused on the outmoded models to which it relates.

The Hon. H. Allison: The automotive industry literally has thousands of these people, doesn't it?

Mr LEWIS: The automotive industry will continue that way. Simply, the way to defeat this legislation, if one was of a mind to do so, would be to set up a proprietary limited company, a $2 paid-up straw company, pay the registration costs, and then issue a share to each of the people who are to be outworkers in that company. They then work for the company that they own, and then one contracts with that company and not with them as individuals—and this legislation falls in a heap. So, for the mischievous in this world there is already a way around the stupidity of the legislation.

We would do much better if only the Minister would understand that the way to go is to encourage individual enterprise and self-employment. The kind of limited thinking that is inherent in the legislation is what appals me. As to the remarks made about there being an attempt to get everyone to join a union—that is wrong, anyway, and is against the declaration of human rights. But as if that was not bad enough, the worst thing is that, as to most of the people who are engaged in what they call a subcontracting approach to earning their living these days, when it comes time for them to face this confrontation that they are to have with union organisers, shop stewards, and so on, when they get on to the site (to which my two other colleagues have referred), say, a building site, they will have to join not just one union but two or three unions.

In fact, I know a bloke in Murray Bridge who had to join four unions just to stay in business. He has to pay sustentation funds to four outfits—for nothing; they do not do a damned thing for him, except collect his subs. That is the big problem with this kind of approach to life. It really is a racket that the trade union movement runs. It is a protection racket: you can go on working so long as you continue to pay your dues, and the dues go not only into restricting the opportunity for a person to work, because the cost of their labour is priced higher and higher, and thus reducing the extent for which demand for that work in the economy can grow, but also some of the fees paid by people go to the Labor Party, and that is used to elect a Government with which a person might have no empathy and which does things other than what a person wants to have done.

However, it is compulsory. It is a bit like Charlemagne, the holy Roman Emperor, who said, 'You are a Christian or you are dead.' If a person said that they were not a Christian, they were dead. As the Minister would know, everyone who was not a Christian was put to the sword. And that is the way that this Government thinks. It is the way that this Minister thinks: you are either a unionist or you are dead—you will be done for. There is no question about that.

The Hon. R.J. Gregory interjecting:

Mr LEWIS: I didn't catch that.

The Hon. R.J. Gregory: Peace be with you!

Mr LEWIS: Yes, peace be with me, for sure. I would much prefer peace to the kind of adversary advocacy approach that the member for Henley Beach said was an integral part of the industrial relations *milieu.* He really is steeped in the traditions of the Labor movement in the early twentieth century, and his attitude to the whole approach of work is antiquated, out of date and irrelevant. The world itself is finding that out, even if the trade union movement cannot.

Let me now draw attention to a few of the ridiculous situations that will result if the literal interpretation of the legislation as it relates to outworkers is applied in all instances. What about a case where a veterinarian undertakes to do a locum for another vet, and that veterinarian has to use his own vehicle to get around and his own tools and equipment to do the work, with the locum also being supplied with the necessary drugs from the practice? Is that veterinarian an outworker? Indeed, is someone acting as locum for a doctor an outworker? Under the definition I read in the Bill, it seems to me that that is the case.

In looking at what I have been personally involved with in the development of enterprises on Aboriginal communities, where the community council might be attempting to get some people into useful work, what is the situation in that regard? Those people do not have a history of regular employment or a tradition of understanding that there needs to be an attention to the time of the day when one gets to some place to start work, when one takes formal breaks throughout the day, and when one concludes work for the day. Those people do not have such a background. Most of them do not even wear a watch. However, there was an opportunity to get those people to be involved in productive work—and they wanted to be.

What will happen in relation to those people? I will refer to a place outside South Australia—because I do not want

to name specific communities within South Australia, although there are plenty to which I could refer. However, in relation to a place like Yirrkala, would the people there making billums and baskets, weaving, painting bark, and so on, be told that now they cannot be paid, in the relationship that they have with their own community council, in the way that they have been in the past? Clearly, this legislation would outlaw that practice.

What about the people in the pottery industry who are inclined to work when the mood takes them? A potter or a ceramic painter might get up at 2 a.m. to start work. Many of these people work at home and alone. They make good incomes if they are good at their work. They work diligently, but for some of them the inclination to do such work does not take them very often. I know of one such person. These people are very happy as things are now. Under the terms of this legislation, they would be outworkers, as would be the chaps who decide to live on a few rural acres and do a bit of motor mechanic work. Or perhaps, having obtained a trade ticket, a person might want to do some electrical repairs, subcontracting to an electrician, or a motor mechanic might have an overload of work in his workshop. In terms of this legislation, these people would be outworkers.

Of course, the legislation has completely ignored the implications for the Phoenix Society, Bedford Industries, and organisations like that, such as Melaleuca Crafts at Meningie. For example, the Phoenix Society at Murray Bridge employs disabled and intellectually impaired people. They are employed under a whole range of different arrangements. Some of them cannot possibly work for 38 or 40 hours a week, and it is not legitimate to put them on a casual hourly rate. It is better to provide them with a direct relationship in their minds between the number of jobs they do, that they get correct, and the amount of payment that they will get for that.

The provisions of this Bill will completely cut across that arrangement—which is seen to be therapeutic. For example, what about people who produce seedlings for nursery chains? They do this at home. They take the sterile soil in containers, they are given the seeds, and they plant the seeds and tend the seedlings from germination to the point where they are returned to the nursery for further growth or sale, and these people are paid on the percentage yield that they get out of the number that they take away.

There is a formula. Or they may be paid in relation to each seedling—I do not know. There are those kinds of arrangements. Those people are outworkers under the terms of this legislation, and it will completely screw that up. Yet, some of those people are mild or chronic epileptics and they will not be able to get employment. At the moment, those people—and I know them personally—can earn their living and derive the dignity which they are entitled to enjoy like the rest of us by doing these kinds of things at home. It distresses me that that will be upset by this legislation.

Finally, you get someone like me. Had medical science of the day had its way, I would have lost my left arm completely. However, I chose to have it reconstructed and over a period of two years I made my living solely by using my wits and such strength as I could muster in my right arm. That included doing telephone survey work and, on a subcontract basis, the preparation at home of questionnaires for market survey work. I would have been included under this legislation and this definition of an outworker in that set-up, and I would have been prevented from making my own arrangements with the people for whom I was working in that setting. It distresses me that the onus of the legislation as it relates to that precludes that possibility.

The ACTING SPEAKER (Hon. R.K. Abbott): Order! The honourable member's time has expired. The honourable member for Goyder.

Mr MEIER (Goyder): This Bill is wide-ranging. I do not intend to debate all of the areas by any means, but I wish to make a few comments in general terms and, more specifically, in relation to certain of the provisions. It is interesting that more and more people to whom I speak and who have been associated with the Labor Party in some cases but certainly with the union movement are becoming disillusioned with the way things are operating and what is going on. Only two weeks ago a former union organiser indicated to me that no longer would he be voting for the Labor Government, that he was fed up with what it was doing to this State and this country. It is very unfortunate that this Government has a mentality of bringing in conditions to protect workers' interests at all costs. It is the implication of 'at all costs' that is hurting our society today, because I for one will stand up for the rights of workers without any question. I have done so in my electorate on various occasions over the years that I have been able to represent it and I will continue to do so in the future. However, at what cost can we go to the extreme?

This Bill is taking South Australia further down the line where we will find that the privilege of the right to work extends to a relatively small percentage of our work force. There are so many unemployed people who cannot break through that barrier. Whilst employers might want to employ more people, they are finding that they are not able to do so from an economic point of view. I believe that this Bill will perpetuate and extend that problem that we are currently facing. So, we have to weigh up to what extent people's jobs are protected and to what extent that protection means that other people cannot get jobs. This Bill contains a provision that sets out specific conditions of employment for outworkers, and the basis of their service will be considered. It appears that in general terms outworkers will be well looked after. That is fine.

If exploitation has occurred—and I know that the Minister and the Opposition have identified examples, so there is no question that exploitation has occurred—I would certainly want to see action to stamp it out. But, what sort of regulations will cover these outworkers? Will the conditions be such that employers will not want to use outworkers anymore? Could it mean that the employers will go offshore to set up their businesses and therefore deprive many thousands of local people of the chance to earn an income? I believe that that could well be the case. I dare say that one of the conditions to be laid down will relate to pay, that there will be minimum awards for pay. That is all right, as long as there is some flexibility within those awards. I will certainly be interested to see what the conditions are. I suspect also that hours of employment might be determined.

I thought the member for Murray-Mallee made a very good point when he said that a person engaged in artistic work might be inspired to do work in the middle of the night. Would that type of thing be prohibited under the proposed changes? I certainly hope not. Flexibility is needed. Will there be a minimum number of hours for which an outworker can be employed? We have seen this in other areas of employment where employers were quite happy to employ people for a limited number of hours but where conditions were imposed whereby it was virtually too expensive to continue doing so. On top of that, employers were prohibited from dismissing people if they felt they could

not employ them anymore. All of that will have negative repercussions for the work force generally.

As I said earlier, I do not want to see exploitation. I am totally opposed to it. An example was brought to me only this week of a young lady who started a new job putting together materials in an assembly line situation. After three days she was told by her supervisor that she was doing an excellent job and that the company was happy with her work. At the end of the fourth day, she was told by her employer that she would be dismissed because she was too tall, and it was felt that she could develop a back injury from bending over doing her work. That is absolutely despicable. I feel strongly for that person, but she was employed as a casual and apparently very little can be done in her situation, although I might still take that case further. I realise that that type of exploitation is occurring and I know that it is distressing and depressing for the employees concerned.

Will these new provisions do anything for employers who want to maximise employment? Again, I doubt it. I was speaking with a painter recently and I was surprised to learn that he employs four people, most of whom have completed their trade qualifications while one is still doing an apprenticeship. I said to the painter, 'I'm surprised that you have four people under you. I thought you had only two.' The painter replied, 'Not only have I four, but I can't keep up with the work that is coming to me and I could well employ eight but, because of the regulations that apply as regards employees today, I am not interested in taking on more. I'd rather get further and further behind than have to meet the overheads that continually pile up because of what this Government has brought in over the years.'

That means that three or four more people could be getting a job but, because conditions are so good for employees as regards long service leave, overtime and award rates, and because of the extra charges that the employer must pay, he is not interested in employing more people. We should be working towards providing incentives for employers while at the same time retaining maximum benefits for employees, so that people such as this painter could employ more people and still make a decent living themselves. That is the critical thing. Why should such people be penalised if they wish to expand their business?

I turn now to the provision whereby workers who have been underpaid by their employers can claim up to six years' back pay. Although the present Minister may not be aware, the previous Minister would be aware that I had an example not so long ago of a case where back pay nearly broke the proprietors of a service station restaurant. The Minister may say, 'Serve them right if they underpaid.' However, let me briefly repeat the circumstances of the case. A husband, wife and daughter ran the restaurant and a woman came to see them wanting employment. They said, 'We'd would love to employ you, but we can't afford to.' The award wage was $7 or $8 an hour at that time and the proprietor said that they could not pay it.

The woman said, 'I will work for you for $2 an hour.' The proprietors said, 'It is good of you to offer that, but legally we cannot employ you at that rate.' So, the woman went away but returned three weeks later pleading, 'I need the work desperately for the extra money. Can't you employ me?' The proprietors said, 'No, it would be against the law.' The woman replied, 'I give you an undertaking that I will not say anything and that I shall be happy to work for $2 an hour.'

Because of the pressure that the woman applied, the proprietors decided to employ her, not at $2, $3, or $4 an hour, but at $5 an hour, which was not much below the going rate. The woman worked for them for at least a year and some time later, as the result of an argument between the employers and the employee, she was put off. We can guess what happened: she immediately complained to the Department of Labour that she had been underpaid and said that she wanted the legal payment. Here was a situation where she had begged for work and had indeed been prepared to work for $2 an hour, but these generous employers, out of the kindness of their hearts, paid her $5 an hour. Then, when things went wrong she took the proprietors to the cleaners and she got all her back pay. However, her husband has been on special benefits and, as a result, I believe that the Taxation Department will catch up with her and maybe her husband, so I do not know whether any financial gain has resulted for her.

Here again, although I agree that there should not be underpayment, I believe that provision should be made so that people begging for work can be employed by people wishing to employ them. The sooner we give the employer the chance to go down that line the sooner will we overcome unemployment and solve the economic problems that we are facing today, especially as regards the average worker who cannot make ends meet.

There is also a provision in the Bill that would allow workers on long service leave to avail themselves of their accrued sick leave entitlement should they be incapacitated by a serious illness lasting more than seven calendar days. That is fine in principle, but what was the original ideal in granting sick leave? It was provided as a privilege, something added on. I for one must say that sick leave is necessary, because people do not know when they will get sick. We have also seen added on the concept of long service leave. Certainly, as a person who before coming to this place was employed in the general work force, I believe that the many people who work their heart out earn long service leave and justifiably can take it, although I cannot speak for those who have not worked hard for the preceding seven years or 10 years, or whatever the case may be.

In this Bill the principle is extended and more and more is required from the employer for the employee. Obviously, every employee will say, 'Great! We'll take this.' Why not? Who would want to knock back the potential of another seven days' long service leave, because that seven days could be taken off the sick leave accruing to the employee. Everyone will agree with this. The Government will get plenty of acclaim in the work force. I will not deny that for a second. Indeed, if the Government said that it was to extend long service leave by a month for every seven years, it would get even more acclaim. Alternatively, if the Government said that it would treble it or whatever, it would get acclaim, but at what cost? Who will pay for these extra benefits? Simply, you, I and everyone else who buys goods, because the employer will have to find the money somewhere.

Will the Minister say, 'No, the employer must do with less profit. It must be taken from his pocket.' Of course not, because the employer is there to make a profit and to see that the business performs, so the employer will have to increase the cost of his goods in order to find the extra money. Again, in the case of the Public Service, if public servants find that they have to take seven or more days leave because of illness, the taxpayer will have to pay a heavier tax to meet the increased cost. In that case, if people say that they will agree to pay more tax, so be it, but the strong cry from the trade union movement and the people generally has been for lower taxation. In fact, that is what the United Trades and Labor Council has been on about, together with a possible pay rise, for at least six months and maybe for several years past. Why should that not be

so, because the high tax rate of 49c in the dollar, together with the tax creep, is starting to hit more and more people.

This is something of which this Government has made no secret: it sees taxation as the avenue for increasing services. I again suggest that we should reconsider perhaps the alternative of not having all these luxurious provisions but rather enacting basic provisions that will cover people out of the ordinary while ensuring that we are not called on to make excessive payments. In this way the cost of goods and taxation could be reduced rather than increased and this State and this country could progress considerably faster and further than is the case now.

The Bill contains other provisions that will be dealt with in detail in Committee. The points that I have highlighted concern me. I wish the Government was not always going down the track to making so sure that workers are not only protected but super protected. Again, I leave members with the thought: at what cost?

The Hon. R.J. GREGORY (Minister of Labour): I was astounded at some of the comments made by members opposite. It illustrates that they have no understanding of the intent of the Bill. I suppose I could start dealing with the issues raised by members opposite by referring to the last contribution, from the member for Goyder. He asked, 'Who is going to pay?' He said how everyone in the community would have to pay the high cost of goods and services as a result of the provisions in this Bill.

I am very disappointed, as I understand the member for Goyder is a practising Christian, yet he is saying that he wants a cheap lifestyle provided by the sweated labour of people exploited in their own homes. That is what he is saying, otherwise—

Mr MEIER: On a point of order, Mr Deputy Speaker, I made it very clear in my speech that I am totally against exploitation. It is obvious to me—

The DEPUTY SPEAKER: Order! The honourable member will resume his seat. There is no point of order. The honourable Minister.

The Hon. R.J. GREGORY: He might have made it clear, but it is a bit like a bloke running out onto the football field and saying, 'I'm going to play for you', and then starts kicking the other way. That is precisely what the honourable member has done.

Mr Meier: Get your facts right!

The Hon. R.J. GREGORY: I am getting my facts right, because the honourable member said, 'Who is going to pay?' and talked about the high cost of living, having said earlier that the Bill was no good because it gave people the power to correct abuses. That is what he is on about—the abuse of sweat work. I was astounded to hear that, because I would have thought that the honourable member had some feeling for people who are abused by the exploiters in our community.

Nothing has changed very much in the industrial history of our country. Today we heard comments from members of the Liberal Party who are literally trying to turn the clock back. Who has ever heard such nonsense as that individual contracts applying to these people should be dealt with in a civil court? That is precisely why certain people—the Tolpuddle martyrs—were sent to Australia; they tried to combine as workers to deal with the civil courts over their wages and employment conditions. What happened at that time? They were bundled out to Australia for seven years because they wanted a decent living.

Our mean members opposite want to go back to that situation. I thought that in the years since then, particularly since the 1830s in the United Kingdom, and particularly because one of the unions in which I have membership has been operating in this country since 1851, things would have advanced a little: that if people were being exploited something should be done about it. What really astounds me about this is, who are these people who do not want this exploitation to continue? I refer to a letter I have received from a prominent member of another place who some months ago was contacted by a constituent about her daughter. The letter states:

> Some months ago her daughter . . . answered an advertisement in the *Advertiser* to sell encyclopaedia. Training of three months was to be given in Melbourne . . . [Her] income was low but she was assured it would improve once she recruited five salespersons and became a supervisor. [Her mother] is troubled about [her] occupation and the long hours she is required to work, and after numerous telephone calls to the Victorian manager of the firm, [she] has been transferred to Adelaide and an office set up in Peel Street under the guidance of [this person]. [He] said the reason for opening an Adelaide office was to allay [the mother's] fears for her daughter's future and health.
>
> However, [the mother's] worries are that [the daughter] and others are being exploited. The hours are irregular but seem to be from 12 noon to 1 a.m. [The mother] does not know [the daughter's] income but based on her 12 hour day thinks it would calculate at $2 per hour. Salespeople make contact with prospective clients, make an appointment to visit the home and then complete the paperwork before the next day's work.
>
> I understand that the firm was the subject of a segment on *The Investigators* program and wonder if your department has had other complaints or inquiries . . . Would you also advise whether or not you consider [the daughter] and others are being exploited.

That letter is from a prominent member of the Upper House who at the time was the shadow Minister of Community Welfare and spokesperson on the status of women. I applaud her for writing to the Department of Labour and me in October last year.

The Hon. Jennifer Cashmore: Can't you name Diana Laidlaw? Can't you identify her?

The Hon. R.J. GREGORY: Well, if you want to do that you can. The honourable member wrote to the department and made it quite clear that she wanted something done about the provisions in this Bill. However, people opposite do not want it at all. They are saying that to have any redress in this matter workers must go to the civil courts with all the attendant costs. Working people who are being exploited cannot afford those costs. Members opposite know that, people in the street know it and even blind Freddie knows it. However, the Liberal Party wants to stop exploited people from going to people with experience in dealing with industrial matters.

Mr S.J. Baker interjecting:

The DEPUTY SPEAKER: I ask the honourable Minister to take his seat. This debate has a long way to go. Opposition members will have adequate opportunity to contribute to the debate. The Minister listened to speeches from the Opposition in relative silence, and I would ask them to respond in the same manner. The honourable Minister.

The Hon. R.J. GREGORY: As I said, members opposite and the Party they represent do not care about exploited workers. It is a contradiction to the face presented last year by their Leader when he talked about caring for the people of South Australia. Forcing these underprivileged, exploited people into the civil courts is very much like saying they have no rights; indeed, history has shown that such people have no redress. That is why in this State we have the Industrial Conciliation and Arbitration Commission Act and, in the Commonwealth, the Arbitration Commission that sets up special courts with the expertise to deal with these matters. The Chairman and Managing Director of Yakka Pty Ltd made the following statement:

> The existence of outworkers constitutes unfair competition against the products of employers who are paying award wages and conditions.

That statement was made in reply to the clothing trades award decision of 7 April 1987 in which outworking was brought within the scope of the award. If one had listened to Keith Conlon's ABC radio show one would have heard, as I did, employers in the clothing industry lauding the fact that they are paying appropriate award rates. That is the correct position.

Can we honestly put up with people being paid 40c an hour and being exploited in all sorts of conditions? According to members opposite, this Bill could drive employment out of this State. If people are being paid 40c an hour for their work, or $1.10 per pound a day, I do not think that they add much to the employment statistics of this State. They certainly do not add to our investment. I remind members opposite that five years of Labor Government in Canberra has added 1.3 million jobs to the work force.

Five years of the Fraser Government added fewer than 200 000. That speaks for itself. The Liberal Party has paraded its xenophobia about unionists. Opposition members have also commented on the discussions that the Department of Labour and I have had with employers through IRAC. It is not something that I did: it has been going on for two years. As the member for Mitcham would know, when the Hon. Dean Brown was Minister of Labour, he did not bother to consult with employers. Members opposite have taken things out of context with respect to unfair contracts.

Mr Lewis interjecting:

The Hon. R.J. GREGORY: The member for Murray-Mallee has just turned up and is groaning. I hope that he is well. With respect to unfair contracts, I recall receiving letters from members complaining about the contracts that were being placed on young kids working for four days during last year's Grand Prix. Those contracts were considered to be onerous, as are a number of others about the place. If members opposite were to read that provision carefully—the member for Mitcham had the benefit of someone leaking a discussion document to him—they would appreciate that there has been a vast change from the provision in the draft circulating last year. I am not sure which version he got, but the changes have been made to round off what the employers saw as sharp edges, and to allay their fears.

Mr S.J. Baker: They are still pretty sharp.

The Hon. R.J. GREGORY: The xenophobia and paranoia of members opposite is obvious. They do not want people to have a fair go; they want them to continue to be exploited. They do not want them to have the right of redress. Their answer is the civil courts, but that is not an option when you are on 40c an hour. Some people cannot afford the court fees. Complaints have been made about lawyers in the conciliation process, not in any other, and that is where members opposite have misunderstood the provision. It is very important that, in the conciliation process, people can sit down and put forward their point of view.

Mr S.J. Baker: As long as the UTLC representative is the only one present.

The Hon. R.J. GREGORY: The member for Mitcham does not understand anything, but he makes a great song and dance about the UTLC. The member for Henley Beach put it succinctly. Because of its constitution, the United Trades and Labor Council cannot be registered in the Industrial Court and possibly two employer organisations also cannot be registered. In fact, one was deregistered a while ago, but the union membership did not oppose its reregistration. Indeed, it was only reregistered because the union movement declared that it would not oppose it. If one union affiliated with the Industrial Court opposed the application, it would not have been reregistered.

The reason for allowing an unfettered right is for the ease of operation of the courts. Again, the paranoia and xenophobia of the Opposition bubbles up like a volcano. The member for Mitcham referred to me as Karl Marx, Rasputin and Rip Van Winkle. I am pleased that he thinks I will make my mark in history like those three people did. Unlike the honourable member, who will just fade away, if I am going to be like them, at least I will figure in the history books or in the mythology of our country for a long time to come.

Members opposite displayed their lack of knowledge of industrial relations with their comments about the provisions concerning the payment of wages in the draft Bill that was circulated in the latter part of last year. If the provision in this Bill is not passed, employers who presently pay wages into bank accounts—using electronic transfer—or pay by cheque without an individual employee's authorisation, will be guilty of an offence.

Mr S.J. Baker interjecting:

The Hon. R.J. GREGORY: I ask the honourable member to show a little courtesy and demonstrate the manners that his mother might have tried to teach him when he was a youngster, and let me finish. If the honourable member had read the provision carefully, he would realise that it made quite clear how the payment would have applied. If those agreements are not in place and an employer wants to pay by cheque, which does not have the agreement of the employee, the employer must pay by cash.

Mr Lewis: Why doesn't the Public Service observe the same rules?

The Hon. R.J. GREGORY: Public servants get time off to cash their cheques. The member for Murray-Mallee made a point about the intellectually impaired and the work of Phoenix and other organisations which employ intellectually impaired and physically disabled people in the community. Such organisations play a very important role in ensuring that the less fortunate members of our society have a place to go to and a job to do and can learn some skills. I would have thought that he knew that the Industrial Conciliation and Arbitration Act excludes all those organisations from the benefits or, as members opposite would put it, the curses of the Act. In other words, those organisations can do what they like.

A working party is considering what can be done to assist these people so that they can be seen to be earning worthwhile wages, and it is a problem that we in Australia will have to face up to. It is a problem about which the intellectually impaired and physically disabled and their parents and friends are very concerned. It is not something that will be fixed up with a rush of blood to the head. The Government is looking at this issue carefully and with sympathy and, eventually, something worthwhile will come out of it to give people dignity because those people who are presently being paid $10 a week for working long hours in these places do not feel that they are being treated in a dignified way. We must find a better way.

The member for Goyder made a comment about a painter friend who will not employ any more people. He spoke about workers compensation, overtime and long service leave. The workers compensation provisions with respect to painting have meant a reduction in his costs and, as far as I am aware from my 26 years in the work force, overtime has not changed. That is, time and a half and double time provisions have not changed although the conditions for working on public holidays have altered, and they are for rest and recuperation, not simply to earn overtime. Long service leave was introduced into this State 15 or more years ago, so I do not know what this person is on about.

Perhaps he is just an employer living in the past, like the Liberal Party.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

[*Sitting suspended from 6 to 7.30 p.m.*]

Mr S.J. BAKER: When does the Minister intend to proclaim this Bill, or the remnants of it?

The Hon. R.J. GREGORY: When the Government sees fit.

Mr S.J. BAKER: This could be a long night. It is normal in this place for a Minister to have some idea of when he intends to proclaim legislation. Will the Minister indicate when the Bill will be proclaimed?

The Hon. R.J. GREGORY: One of our leaders, who sat in this seat some years ago, would use the expression 'in due season', which means 'when the time is right'. There is no reason to delay the Bill so, when the time is right, it will be proclaimed. I would have thought that the member for Mitcham would realise that.

Mr S.J. BAKER: I will use my third opportunity to ask again: in which month of this year does the Minister envisage that the time will be right to proclaim the Bill?

The Hon. R.J. GREGORY: In due season.

Clause passed.

Clause 3—'Interpretation.'

The Hon. JENNIFER CASHMORE: Clause 3 amends section 6 of the principal Act by altering the definition of 'employee' where no master/servant relationship exists. This clause is linked closely with clause 4 which, I foreshadow, the Opposition will move to amend. During the second reading debate much was made of the view that those persons who have had close association with the trade union movement have a monopoly of wisdom when it comes to industrial matters and relationships between employers and employees. I submit to the Committee that that monopoly of wisdom never has and never will reside on one side or another, but that both points of view must be taken into account.

To suggest that we on this side, who have no trade union background, have no knowledge of the area and no understanding of the principles involved and therefore, in effect, have no right or nothing useful to contribute, to my mind is an extremely arrogant way of dealing with this debate. The Opposition has consulted closely with employers, but we are not here to represent solely and exclusively employers' interests. In addressing this clause—and, indeed, the rest of the Bill—we are attempting to look at the common good and the effect of this proposition on all, including employers, employees, outworkers, subcontractors and the general community.

I want to question the Minister closely on precisely what he has in mind when he suggests inserting after paragraph *(c)* of the definition of 'employee' in section 6 of the principal Act a new paragraph *(ca)* which provides:

Subject to any condition, limitation or exclusion that may be prescribed by regulation—

and I emphasise the words 'prescribed by regulation'—

any person who performs work for remuneration as an outworker;

It must be clear to the Minister and his colleagues that, notwithstanding the Minister's reassurances to the contrary, there is a real fear that by extending the definition of 'employee' where no master/servant relationship exists the direct effect will be that the various provisions of the Industrial Conciliation and Arbitration Act will apply to outworkers.

This means that sections relating to unfair dismissal, sick leave, payment of wages, record keeping and so forth will apply to the principal contractor in respect of subcontractors or outworkers. As there is no direct master/servant relationship regarding, say, supervision, which is a primary responsibility of employers, that introduces a very distorted provision into the situation which previously existed between outworkers and principal contractors.

The overtime and job protection provisions could be brought to bear on relationships which previously have been matters of contract. In saying this, I do not in any way resile from the Liberal Party's recognition of the exploitation which is occurring in relation to outworkers and which I outlined in some detail in my second reading contribution, and nor do I resile from our absolute commitment to ensure that something effective is done about that. That is precisely what our amendments are designed to achieve.

In our opinion, the Government's proposal draws a net so wide that it will catch not only the outworkers who are being exploited but also a considerable number of other people who are presently engaged in a reasonable relationship of contract between principal contractor and subcontractor. What conditions, limitations or exclusions does the Minister envisage will be prescribed by regulation for any person who performs work for remuneration as an outworker? What effect does the Minister expect those regulations will have on the present relationship which exists between subcontractors and principal contractors in, say, the building industry?

The Hon. R.J. GREGORY: If the member for Coles had consulted with the employers with whom we consulted on these matters, she would have been advised that the wording of *(ca)* is intended to overcome some of the fears of employers. The regulations can be applied in such a way that they could exclude outworkers under some sections of the Industrial Conciliation and Arbitration Act—such as those relating to wrongful dismissal and underpayment of wages—but we do not propose to do that. It was designed so that legitimate outworkers could be covered rather than the people who are currently working at home as consultants.

A number of meetings were conducted between representatives of the principal employers association of this State and officers of the Department of Labour. I know that the member for Mitcham laughed when I pointed out to him that a lot of sharp edges had been removed, but this is one of the amendments which has been inserted at the request of the employers in order to clarify the situation.

The Hon. JENNIFER CASHMORE: After consultation with the principal employer groups in South Australia, I can assure the Minister that, if those amendments have been included to clarify the situation and to remove employers' fears, the Minister has failed abysmally to achieve his goal. If they are in a form to relieve the fears of employers, why are the principal employer groups still fearful? Why has each of the principal employer groups released statements expressing the deepest concern about these very provisions?

Why is the housing industry so deeply concerned about the likely impact of these clauses on the present subcontracting system in this State? Why are the Chamber of Commerce and Industry and the Employers Federation expressing public and deep concern about the proposed alterations to the relationship between master and servant which presently exists and which will be applied to outworkers?

The employers are worried—and the Opposition does not believe that their fears are unfounded, because the breadth of clause 3 is such that there is provision to prescribe by regulation virtually anything that the Government deems to be necessary, without reference to Parliament, to control any abuses which may be perceived to be affecting people outworking in certain industries.

The clause is so broad as to cast a net that virtually has no boundaries. The employers recognise this. They have taken legal advice, as has the Opposition, and we believe that their concerns are justified. If the Government proposes to establish a principle under which individual contractors are deemed to be employees, and there is no limit to that principle (as indeed there is not in this clause), it is perfectly reasonable that employers should be fearful as to the results of the provisions in this clause. I repeat my question to the Minister (and he did not address this question in his reply), namely: what conditions, limitations or exclusions does the Minister envisage will be prescribed by regulation to cover outworkers?

The Hon. R.J. GREGORY: I thought that my explanation was perfectly plain. I have no understanding of the fears of the employers, just as I have no understanding of the paranoia of members opposite.

Mr S.J. BAKER: Perhaps I can help the Minister out a bit. In relation to the definition of 'employee', paragraph *(ca)* provides:

> . . . subject to any condition, limitation or exclusion that may be prescribed by regulation . . .

With that provision in the legislation, it would mean that any person who performs work for remuneration is an outworker. This has changed from the last drafting of the Bill. Some concern remains in this regard. Clause 4 provides a definition of outworkers, with the inclusion of a new section 7. What does the Minister envisage in relation to this provision 'subject to any condition, limitation or exclusion'?

The Hon. R.J. GREGORY: As I said earlier, we have no proposals at present to exclude anyone—but we can do so, and there is provision to have that flexibility. If it is warranted we will do it.

Mr S.J. BAKER: I really only want to make the point that in clause 3 we have half a definition, while clause 4 gives a fuller definition. I would have thought that it was poor drafting to do it in that way. It raises the question, as the member for Coles has suggested, that these provisions might be dealt with in isolation. I would have thought that it would be more competent, if there were no limitations, conditions, or whatever, to simply put the proposition that any person who performs work for remuneration is an outworker; that an outworker should be classified as such—and then have the definition. I think the problem is that we have this qualifying statement within the clause.

The Hon. JENNIFER CASHMORE: This is a critically important Bill. The debate on it will be carefully read by a large number of people, including employer organisations. I would have thought that the very least courtesy that the Minister could extend to the Committee and to the large section of the public interested in the outcome of this Bill—which will have profound effects, we believe, on the South Australian economy and on the industrial fabric of this State—would be to provide factual answers to perfectly reasonable questions seeking information that is relevant to the Bill.

The member for Mitcham and I have thrice asked the question which is central to this clause, as to what the Minister envisages by 'conditions, limitations or exclusions that may be prescribed by regulation.' They are not unreasonable questions, Mr Chairman. The answers could possible allay the fears of employers and of the Opposition, but the Minister appears to be determined not to give specific detailed answers or, indeed, any answers at all. If the Minister has put this in the Bill, even though the Bill is not to be proclaimed until what he describes as 'due season' or the appropriate time, he must at this stage have some notion as to what kind of limitations will be prescribed by regulation. If he could explain what he has in mind, then the Committee, on the basis of that information, would be much better equipped to debate the clause and the remainder of the Bill.

The Hon. R.J. GREGORY: I will repeat myself again, slowly. I said that the amendment is there so that outworkers who engage in a contract of service to be an employee will also be able to be excluded from any section of the Act. Also, some sections of the Act can be excluded from those people who are deemed to be outworkers. I also explained that there are good reasons for doing that. There are people who will be covered by this Act as outworkers for whom the Act is not intended. They include consultants and some people who contract to do particular and peculiar types of work at home.

I cannot explain away the fears and paranoia of members opposite who seem to find things everywhere. It is quite plain what it is about. It was put there because the principal employer organisations wanted those provisions. We have done it because we think it is fair and reasonable, and I do not think I have to get up here after everyone has made a point, to repeat myself time and time again for the benefit of members opposite, if they are not smart enough to pick it up on the first occasion.

Mr S.J. BAKER: The Minister will note from the amendments that have been circulated that we are putting a control on clause 4. If that clause can somehow be circumvented by clause 3, we would have some concerns. There are two qualifying clauses within this Bill, and that is very unusual. We do not have limitations in one area but then we have some in another. It is a very unusual way of expressing it. However, I will not pursue that point. There are some changes to the wording of the relationship between employers and apprentices, and they are contained in paragraphs *(d)*, *(e)* and *(f)*. Can the Minister explain why those changes were made?

The Hon. R.J. GREGORY: Paragraph *(d)* replaces the word 'master' with the word 'employer'. In paragraph *(e)* the concept is not changed but it has just been redrafted. The same applies to paragraph *(f)*.

Mr MEIER: I certainly have not been satisfied with the Minister's answers to the questions asked by the member for Coles. Could the Minister identify what kinds of industries he has in mind?

The Hon. R.J. GREGORY: I made clear a little while ago that we may wish to exclude certain classes of people from the provisions relating to outworkers. The employers asked us to consider those matters. We agreed with them that certain classes of people, such as consultants and people working from their homes, should be identified. We have nothing in mind, but if and when it does arise this measure gives us the facility to do that.

Mr MEIER: I take it therefore that the Minister does not have a specific list of industries in mind. He does not really know why this is in the Bill. As far as practical issues are concerned, it is just a general provision and it does not matter whether or not it comes into force—employers wanted it, so that is that. I have not been convinced by the Minister's answer.

Clause passed.

Clause 4—'Outworkers.'

The Hon. JENNIFER CASHMORE: I move:

Page 2, lines 19 to 41 and page 3, lines 1 to 19—Leave out section 7 and insert new section as follows:

7. (1) Subject to this section, a person is an outworker for the purposes of this Act if—

(a) the person is, for the purposes of a trade or business of another, engaged or employed to work on or process or pack articles or materials;

(b) the work is in a prescribed industry;

and

(c) the work is performed in or about a private residence.

(2) A regulation made for the purposes of subsection (1) *(b)* cannot take effect unless it has been laid before both Houses of Parliament and—

(a) no notice for a motion of disallowance is given within the time for such a notice;

or

(b) every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.

(3) Where a regulation is made prescribing an industry for the purposes of this section, Part VI of this Act, and any award or industrial agreement operating in respect of that industry at the time that the regulation takes effect, will only apply to outworkers who are engaged (but not employed under a contract of employment) to perform work in that industry to such extent as may be determined by award or industrial agreement made after the regulation takes effect (and notwithstanding any other provision of this Act no such award or industrial agreement may have retrospective effect).

I understand that an amendment was circulated, and is on file, which omits the words 'or pack' (proposed subsection (1) *(a)*). I apologise to the Committee that the correct amendment was not circulated and I ask the Committee's indulgence to insert those words. This amendment alters the definition of outworkers as defined by the Government in this Bill. During the second reading debate, there were some speakers—and you, Mr Acting Chairman were among them—who attributed to the Liberal Party a complete disregard for the rights of outworkers and who forecast that, in addressing this issue, the Liberal Party would propose an amendment which, in effect—if I recall your own words correctly, Mr Acting Chairman—would perpetuate the abuses currently being imposed.

In the second reading debate, every speaker on this side demonstrated an awareness and a conviction that exploitation exists and that it must be addressed. The question that divides the Government and the Opposition on this matter is how it should be addressed. We believe that the manner in which the Government has worded the definition of 'outworkers' is so broad as to potentially encompass virtually every subcontractor. We have no wish to do that. The Minister's response or, I should say, lack of response to questions on the previous clause confirms that he has, in his own words, got nothing in mind. For a Minister of the Crown to come into this Chamber with nothing in mind to justify a fundamental change to the present legal provisions which identify and define employees is an abject admission of failure on his part.

The definition of 'outworker' is crucial to the Bill and to the capacity of any Government to address the question of exploitation. Because that issue is crucial, we want to ensure that any amendment addresses the situation. It is no use having a scatter gun approach; we need a targeted approach that deals with exploitation where it occurs. In the first instance, this amendment will require the Government to identify the industries in which exploitation is occurring. That is only right and proper. For the Minister to say that he has nothing in mind is an indictment of his failure to do his homework before introducing the Bill.

First, the Government must identify the exploitation and take the necessary steps to deal with it. The second effect of this amendment will be to ensure that Parliament has some oversight of the manner in which exploitation is addressed. At the moment, this broad brush, prescribed by regulation approach means that virtually anything could happen without Parliament's having any oversight or monitoring of the situation. We believe that, where exploitation is occurring, the community should be made aware of it. The best way to do that is through scrutiny by Parliament, and it should be Parliament, not the commission, that examines and monitors the question of which industries are prescribed.

The third effect of this amendment will be to ensure that, as does the provision in the Bill, workers will need to be in private residences. There is no intention in this amendment to introduce provisions that would enable sweatshops in any form to be perpetuated outside private residences. There is no intention to evade the concern that people who work in their own home must be protected. The Opposition believes that this is a reasonable proposition which does not interfere with the present contractual arrangements in any material sense. It simply protects those who are vulnerable to exploitation.

Members interjecting:

The CHAIRMAN: Order! I ask the member for Fisher to come to order because I cannot hear the proceedings. The member for Coles.

The Hon. JENNIFER CASHMORE: As the Minister acknowledged in his second reading reply, outworkers who are employees under a contract of employment are already covered by the Act. We want to ensure that those who are exploited are given protection. We believe that this is the best way of doing it without drawing into the net of prescription a range of subcontractors who are not being exploited and whose relationship with the principal contractor should not be altered.

I commend the amendment to the Minister and the Committee. I hope that in responding the Minister will acknowledge the good will of the Opposition in addressing this question of outworkers. We believe this matter should be dealt with on a bipartisan basis and in a practical fashion that will not disturb or disrupt other relationships which are working satisfactorily.

The Hon. R.J. GREGORY: I want to make a few comments before responding specifically to the amendment proposed by the member for Coles. If I heard her correctly, she said that outworkers' problems should be discussed in Parliament if we find any exploitation. She also said that it is for Parliament, not the commission, to scrutinise the matter. I think she meant the Industrial Commission. Is she suggesting that Parliament should scrutinise every application by outworkers who want redress? Are we to call them in here and question them and conduct ourselves like the Industrial Commission? The member for Coles is advocating that we should not have a commission; we should have them come to Parliament. How many Parliaments will we have sitting and how many members of Parliament will we need to deal with all the matters that come from the Industrial Commission? That part is nonsense.

I draw the honourable member's attention to the way in which the amendments are drafted. The legislation is so worded that the commission will not agree to matters unless there is a perceived need for them. People will have to argue before the commission that they are being exploited.

With respect to listing, that is a demonstration of living in the past, not the future. We can identify a limited number of areas where outworkers are being exploited. The member for Coles and members opposite have demonstrated how minds can think of things which are not there. People who

are extremely skilled in exploiting the less fortunate members of our society will think of other ways of doing it. If we want to handle such cases, we will have to come back to Parliament and do it.

The reason that we want to provide for these matters in the regulations is to accommodate future events without recourse to Parliament every time. The amendments are drafted in such a way as to make the regulations so unworkable for the people who are being exploited that they will have little or no redress. It is all very well to profess care and concern, but if one throws so many three-corner jacks on the path nobody will want to walk down it. That is precisely what the amendment does.

All the industries have to be prescribed and covered. The amendment is too inflexible. The Bill strikes the right balance. The exclusion of other prescribed non-business premises from the definition could and would be a loophole for those unscrupulous people with whom we are dealing and who have no compunction about what they do to their fellow human beings.

The Hon. JENNIFER CASHMORE: None of us on this side of the Committee are remotely convinced by the Minister's response to the arguments in favour of the amendment. The suggestion that we are stating that Parliament should deal with all matters that come before the commission is quite ridiculous. That was never stated or intended. There is nothing in either the amendment or what I said in support of it that could justify the claim that we are proposing that Parliament should deal with all matters that come before the commission.

However, we are claiming that Parliament has a right to scrutinise the regulations, that is, the manner in which the Government is prescribing the conditions for these industries. That is a perfectly reasonable proposition, one which is adopted by the Parliament over a vast range of matters, one that works extremely well, one that is supported by the community, one that enhances democracy and one in this case which the Government should certainly accept.

The allegation by the Minister that the Opposition is throwing a whole batch of three-corner jacks in the path of protection of outworkers simply cannot be sustained. The Minister knows as well as I do that any party that capriciously or maliciously disallows regulations without just cause and reason has to bear the odium out there in the community through the influence of the media of that disallowance.

The power to disallow carries with it a responsibility to use that power in the interests of the community. If it is not used in the interests of the community, it is abundantly clear that the community will respond in such a way as to curb the power of those who are abusing that right. To suggest that this represents some kind of symbolic three-corner jack which will prevent the protection of outworkers from exploitation simply does not wash.

What the Opposition is proposing is eminently reasonable and workable. In fact, it will expose to public scrutiny in a most effective way any exploitation that is occurring. It will ensure a degree of public education which, I suggest, would be extremely advantageous. It will ensure that anyone who is abusing or exploiting outworkers is subject to some kind of public exposure through debate on regulations in Parliament. In short, the proposition carries with it a responsible degree of protection, and the democratic right of everyone to make representation to their elected representatives on any prescription devised. In my opinion, it can only enhance the position of outworkers.

Many of the matters relating to exploitation have been allowed to develop and occur because, in effect, they are occurring in secret—in hiding. They are not in the public arena; they are in private homes. The exploitation occurring is being inflicted on people who, generally, do not know their rights and who cannot express themselves. What better way of ensuring that their plight is publicly exposed than by bringing the issues involved to Parliament and subjecting them to parliamentary scrutiny?

It seems to me that in opposing the amendment the Minister wants to conceal matters which should be publicly revealed and wants to constrain the right and responsibility of Parliament to scrutinise matters that should be publicly scrutinised. The Minister will find it very hard to publicly justify his opposition to a proposition designed to protect outworkers from exploitation and, at the same time, not interfere in the existing proper and reasonable relationships presently prevailing between principal contractors and subcontractors in industry where there is no exploitation.

The Hon. R.J. GREGORY: I am not persuaded by the eloquence of the member for Coles. She is talking a lot of nonsense. We need to read her proposed amendment, which states:

> *(a)* no notice for a motion of disallowance is given within the time for such a notice;
>
> or
>
> *(b)* every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.

The earliest that any of those regulations could be adopted would be after 14 sitting days.

Mr Lewis interjecting:

The Hon. R.J. GREGORY: The member for Murray-Mallee has spilled the beans. At the moment, if this is passed, we could have people being grossly exploited. The members for Murray-Mallee, Coles and Mitcham know the parliamentary program and they know that that regulation would not be applicable until some time in August. In the meantime, unscrupulous employers could have a field day for five months while we stand by helplessly. That just demonstrates their care and concern. When I mentioned putting obstacles there, I said it was like strewing the path with three-corner jacks, making it so difficult that people would not walk on it.

I am not persuaded by the argument of the member for Coles, because I think she is wrong. I think she is reading the clauses in this Bill one by one, not as a whole and not considering the Act, which very nicely wraps up a package of things which make it reasonable for people to seek the protection of the commission. They will have reasonable protection there, and if those who are providing work for the outworkers and paying for it are exploiting people, they will be caught out. If not, they have the protection of the commission. We need to read these amendments *in toto* and not one by one. That has been the mistake of members opposite. I am gratified that we will have to conduct half of our industrial relations here in the Parliament. Perhaps we could have some real things to talk about for a change.

The Hon. JENNIFER CASHMORE: The Minister's arguments about the whole thing falling to the ground because 14 sitting days are required to disallow are completely spurious. Anyone would think that this question of exploiting or protecting outworkers from exploitation were a race against time, with split second timing being the essence of the project. That is clearly not the case. The Minister stands here and says one minute that he has nothing in mind. I repeat the words: 'nothing in mind'. Presumably, he does not have much sense of urgency about this protection. He knows full well that if regulations are proposed—

Mr Lewis interjecting:

The CHAIRMAN: Order! The honourable member for Coles has the floor.

The Hon. JENNIFER CASHMORE: —they can be given any necessary publicity. The Minister well knows that there can be public debate about a regulation which can be disallowed. The forecast that it may be disallowed can be publicly raised. The whole issue can be brought into the public arena. It is not a question of 'Everyone on their marks: ready, set, go', for the regulations to be brought into effect. The system simply does not work like that.

I would not want to see undue delays, but to suggest that this whole amendment has no value, simply because 14 sitting days are required before disallowance, is not to recognise the whole purpose of the amendment or the benefits it can bring. In fact, the Minister's opposition is based on such flimsy grounds that I am surprised that he has bothered even to mention the words '14 sitting days'. He sits there in the knowledge that he is not prepared to tell this Committee what he has in mind about the protection of industries. He has refused to answer perfectly simple and straightforward questions seeking information that would enable us to debate the Bill more effectively, and then he says, 'Your proposal to protect outworkers from exploitation has no value because it cannot be put into instant effect and 14 sitting days are required before any action can be taken.'

That simply does not stand up to any kind of logical scrutiny, and I do not believe that it would carry any weight with either employees or outworkers. I suspect that outworkers would more than welcome the opportunity for parliamentary involvement in and scrutiny of their situation. I suggest that if that occurred it would by an extremely healthy development and one which would offer not only the legal protection we are seeking but also a considerable degree of moral protection because of the public advocacy that would be required in order to implement the protection. Few cases of exploitation could survive a good public airing. In many cases, as the Minister would well know, a public airing and the deterrent effect of adverse publicity on an employer or a firm engaged in exploitation will be infinitely more effective than any penalty that could be imposed without the public—and I stress the consumer public—being aware of what is going on.

I think that the knowledge that there was exploitation in a particular industry would, in today's world, in which consumer awareness can be a very powerful thing, lead to boycotting of products. That in itself can often be more effective than any kind of legal sanction that is imposed on a manufacturer or producer. In short, the amendment that the Opposition is proposing is fair, just, democratic and workable. The fact that the Minister opposes it indicates that what he has in mind is—just as we and many employers fear—an attempt to cast a net so wide that it will draw into its ambit a whole lot of people whom the Government simply wants to drag into the union movement so that they can pay fees to the ALP.

The Hon. R.J. GREGORY: I have never heard such a load of rubbish in respect of industrial relations. Let us go through a few of the points. The first concerns the Parliament airing its views about outworkers and shaming the exploiter into not exploiting. If that worked I do not suppose we would have an Industrial Commission or courts, or need half the legislation that is enacted. The member for Coles knows as well as I do that, when people break the accepted standards of the community, public shame has no effect on them whatsoever.

The Hon. Jennifer Cashmore: That is not so.

The Hon. R.J. GREGORY: All I can suggest—

The Hon. Jennifer Cashmore interjecting:

The CHAIRMAN: Order!

The Hon. R.J. GREGORY: The member for Coles is asking me to name an industry that I want to exclude and then, because I have not excluded a particular industry, she will say that that is the one I am picking on. I thought that I should explain that to her early because, if she does not understand it, that is her problem. When she says that the Parliament will conduct the scrutiny of the exploitation in a particular area of outworkers I do not think she has any idea how long that scrutiny might have to be undertaken.

If we undertake this course of action and it continues as long as some of the hearings in the Industrial Court, then I suggest that we will have attendances in this House by members opposite as we did this afternoon. There was not one frontbencher. The second row was sitting there occasionally, but there was no frontbencher when they were speaking. Members opposite profess to have some concern about this area but they are throwing up so many hurdles that it will not work.

I ask the member for Coles to look at the rest of the Bill to see the process that will provide the checks and safeguards. If she does not believe those processes that demonstrates to me that she has no understanding of how the Industrial Commission works. Perhaps she wants to go back to those days when workers were told, 'Don't you worry about it. It will be all right. We know what is best for you.' Today workers are telling the employers what they think is best for them and that method of settling conflict is a time honoured one that works very well in this State, as the record for industrial strikes and work stoppages indicates.

Mr S.J. BAKER: I have heard a diatribe from the Minister of Labour. He accuses the member for Coles of stretching the imagination beyond belief. Clearly, the amendment does two things. First, it restricts the focus to residences, 'on or about' and there is a good reason for that. Secondly, it says that we will treat it like a law that needs to go through the full gamut, because it is important.

The importance of this piece of drafting is that it shall stand up to the scrutiny of Parliament because we are conceivably breaking a contract. I make the point very strongly that the process that the Minister is entering into is the process of breaking a contract. A contract is being broken because it is believed that it has been unfairly entered into—that there has been an unevenness in the balance of power and in the negotiating position of the parties. It is quite serious to break a contract. Therefore, if the Parliament is going to do that willingly and knowingly, surely the matter should be subject to the full scrutiny of the Parliament.

We have put in a mechanism. We could easily have put in a mechanism providing that the Minister shall put everything he needs into the legislation, clearly and unequivocally, but we have not done that. We have given him some leeway. He can very easily publish the regulations in the *Gazette* and everybody will be aware of the new law. That means that they can then debate it and, if meritorious changes are to be made, they will stand. If not, it will be defeated or disallowed, probably in another place.

I wish to test the Minister on his knowledge. He has not read his own Bill because it is the reading of the Bill that is cause for great concern. How many people work from a residence? How many people work on materials process materials or pack articles? The original provision, which we are seeking to amend, provides:

> Subject to this section, an outworker is a person who, for the purposes of a trade or business of another, is engaged or employed—
>
> *(a)* to work on, process or pack articles or materials;

It is then qualified by providing:

where the person performs that work—

(c) in, about or from a private residence;

So, every person who is a subcontractor working from home falls within that definition. A transport driver packing materials falls within the definition because he packs things, namely, his truck and he works from home. It does not say that he has to perform that work. It simply says 'from a private residence'. Let us be quite clear about that. Let us literally interpret the Act. Do not tell me that the Minister says 'Have faith in me,' because that does not wash—there is no faith in this Bill. The literal interpretation of the Act is that anyone working from a residence, irrespective of where they work, falls under the ambit of the Bill if they work on, process or pack articles—if it is their main profession and they are doing it as a contractor.

Does the Minister understand why the transport industry is concerned? Does the Minister understand why bricklayers and subcontractors are concerned? Perhaps in reply the Minister will tell me what happens to certain people. I go to my pensioners' Christmas and birthday parties each year. At those parties, as the member for Mitchell will attest, a group of people come in and provide a very simple but very nice meal. Those people would not be paid an extraordinarily high rates of pay, as the member for Mitchell will attest, because they are doing it on a cost-plus basis for the pensioners.

Are those workers being exploited? If they prepare food at home, do they fall within the ambit of this Act? Do people who top up their pensions by delivering Woolworths and Coles advertisements, walking along the street and slotting them into letterboxes, fall under this Act? Do computer specialists work on materials? Of course they work on materials. Do they then fall under this definition?

I could go through a long list of people who work from home. Do people who grow plants at home and sell them on contract to an outlet fall within the ambit of this definition? I would say that in every case the answer is 'Yes'. So, do not tell us that the Minister has only a limited number on his mind. We are not interested in that. I want to make sure that those areas of exploitation are targeted, and our amendment would achieve that very clearly.

During the whole diatribe that we have heard from the other side of the House, the main item under consideration has been those people who work in a sweat shop or private residence and earn 20 cents, 40 cents or $1 an hour. We have concurrence on this matter; we have agreement that something must be done. However, the legislation is not restricted to that—not one little bit. In the drafting of the legislation anyone who works from home can be included. We can include people working for charitable organisations who, for a small fee, provide a service. We can spread the ambit of this Act over literally 50 000 people. Tomorrow I could take 50 000 South Australians and group them under those definitions.

The Hon. Jennifer Cashmore: Ethnic clubs and church clubs.

Mr S.J. BAKER: Yes, ethnic clubs and church clubs. If they get some sort of remuneration for what they are doing—it may never be at full tote odds—they will fall within that definition. The Minister says, 'We will do it right and do it by regulation.' He says in legislation that he will break contracts and, on the other hand, he says, 'Trust me.' I am not going to trust anyone, let alone the Minister.

The Hon. R.G. Payne: After what happened to you I can understand that.

Mr S.J. BAKER: That is political life. We need a means by which we can let this Act centre on areas of most need. For example, we know that even in the most developed countries of this world—in countries like Sweden, Austria, France and Switzerland—cottage industries exist. We also know that the law allows them to exist and that some of the people in those cottage industries who sell their products to other people, but not to the public at large, receive lower returns for a whole range of reasons.

The Hon. R.G. Payne: On a family basis.

Mr S.J. BAKER: Yes, on a family basis, as the member for Mitchell says. Under this Act we are providing the mechanism for the Minister to throw a huge net and then say, 'Trust me; everything will be all right'. I can say that the transport industry does not trust the Minister.

Mr Lewis: Or the building industry.

Mr S.J. BAKER: The building industry certainly does not trust him. They are two major employment areas. Workers who provide a service, whether they provide it by putting things in letteboxes or helping out in a charitable fashion for less than full wages, would not appreciate the ambit of this Act. If the Minister says that we will use this Act to get rid of those people, I would like him to say so.

I strongly recommend this amendment to the Committee. It is a worthy amendment which puts a check and balance on the system. It provides the opportunity, if the Minister so desires, to target an industry. The Minister could proclaim that tomorrow, as the Bill does not become law until it has run the gambit. If the Minister is so intent on getting something passed in these circumstances, Parliament should sit and we may not have this farce that we have today.

Because this is an election year, the Premier says, 'We had better close down the Parliament and not do too much work.' Does the Minister really think that there is exploitation? Exploitation has taken place for thousands of years. Mechanisms are provided in this amendment to redress the issues raised here, but no way in the world will we allow the Minister an open cheque book. Perhaps the Minister can now clearly explain to the Parliament what limited areas he has in mind.

Mr LEWIS: Obviously, the Minister did not understand that, when the member for Coles spoke to this amendment, she conveyed the fact that we wanted to see a situation where the Parliament could examine the regulations proposed in this clause before they became law. They would be subject to public debate so that unacceptable practices established by regulation could not be introduced and allowed to run for several months before the Parliament disallowed them. During that intervening period businesses could be sent to the wall or people could be forced to join unions against their will. I believe in accountability to Parliament. The Minister knows that after the regulation has been promulgated it can be debated on the very first sitting day of Parliament.

The Minister revealed that the matter would have to wait 14 days, and that would mean that the regulation could not be promulgated until some time later in August. The Minister was being deceitful, because he wanted to waste time and ensure that the matter was not debated. If that course were adopted, 14 sitting days would elapse, and the legislation would be passed without any debate. If this clause is passed in its present form, that is what will happen. If the Minister were fair dinkum, he would accept the amendment and then, on the very first sitting day after the regulations were drafted and promulgated, they could be debated and voted upon. We do not have to wait until the resumption of Parliament following the recess.

The argument advanced by the Minister has been shot down in flames and he has provided no legitimate defence for his refusal to accept the amendment. He wants to deceive us and to prevent public debate of the Government's proposal. The Government wants to do it by regulation, to

hide it and prevent debate until it is too late. By that stage, Parliament will be in recess and the legislation will be law for quite some time because, in the meantime, while we wait to debate the legislation, unless this amendment is accepted, this clause will be included in the Act. The Minister knows that, but he is attempting to hide the real reasons for his actions.

The other thing that strikes me as being a matter of concern in relation to this clause is that it covers anything and anybody. It even covers bodies corporate under which a person might be employed and doing work in their own home or at a place other than a factory. Any cottage industry type enterprise can be covered, whenever and as ever it suits the union movement to demand that the Minister of Labour promulgate regulations relating to it. It covers potters and artists who might be decorating or painting canvasses on a commission basis and selling them to a gallery, or this might even relate to people who may commission an artist to paint a scene or a portrait for them.

The provisions can cover operators of host farms in the tourist industry, where the homestead of a farm is used to provide hospitality—that is, accommodation, food, wine, and whatever else is part of that hospitality. This could compel the person hiring the facilities, the tourist, to pay an award rate to the people in the family working in that host farm situation. This would kill off host farm tourism in this State. It is a fledging industry, and it is growing quite dramatically now. If it suited the liquor and allied trades industries to have regulations promulgated to compel people in host farm situations to join the union, I am sure that the Government would oblige. The provisions cover lapidarists—and for the members who do not know what lapidarists do, let me explain that they are people who cut and polish rocks.

The Hon. R.G. Payne: We didn't know that—thanks so much!

Mr LEWIS: I guess as a former Minister of Mines the member for Mitchell would have known that, and I would have expected him to, but I dare say that other people might not have. However, there are literally hundreds of lapidarists in South Australia who work from home. Over 90 per cent of the world's opal is produced in South Australia and, in the main, it is cut and polished by people who are not employed by anyone at all—other than on a sort of fee for service basis. They work in a room somewhere in their home and are paid for their work on a negotiated fee for service basis. I can envisage a situation whereby they could inadvertantly be subject to regulations that might be promulgated by the Government—and we would not have an opportunity to comment on them.

This could apply equally to a person who, for example, makes kitchen or other cupboards in his workshop at home and who fits them for friends; selling them a services that he provides, having been given the timber, glue, and whatever else is involved, by the friends. They would be covered by this; there is no question about that, and, I would say, in fairly short order, knowing the Government's track record. I cannot say that specifically about the Minister, as I do not know, but the Government's track record, and that of the previous Minister, in failing to deal with the Builders Workers Union, as well as other groups of people, like the carpenters and joiners and the union to which they belong, would indicate this.

As the member for Mitcham quite properly and sensibly pointed out, this would cover circumstances where people grow seedlings at home, whether flowers in punnets, for sale through retail outlets, or individual shrubs and trees, or it might involve propagating cuttings in vegetative fashion; they all fall under these kinds of regulations. I gave other instances during the course of my second reading speech, and I wish to refer to one other, that is, the circumstances where someone who is qualified to provide the service becomes a coach to, say, a senior secondary student doing year 11 or year 12, and who works from his home when providing that service.

Such a person would be compelled under regulations which might be promulgated to be paid a certain award and be subject to conditions, but presumably the student would have to obtain the money from his or her parents. So, the legislation has not been well thought through at all. The Minister says. 'We will tidy it up with the regulations.' Well, that is damnable. That is bad legislation if you have to do that. It is a sick Minister and a sick Government that seeks to fall back on regulations to find its way out of a mess that it cannot even think through to start with. Regulations were never intended to serve that purpose.

Finally, there is a way around this clause, anyway. It is the way that society will go in any case. Groups of people who are outworkers will be assisted to form a company with each other in which they become cooperative providers of that service to the so-called present employer, and they will be employed by the company which they collectively own. They will make decisions at their annual general meeting about what they think is a fair rate of pay for the work they perform, and the Government and inspectors of the Department of Labor and Industry, and anyone else, including the trade union movement, can go to hell and back and fry their face: this legislation will not be able to touch them. I say that that, if anything, will be a good move anyway.

I know the legislation refers to a person or body corporate, that is, for the purposes of a trade or business of another person engaged to work, but that is providing for only one person. It does not provide for a situation in which a number of people all of whom provide the same kind of service decide to form a company in their own right and, accordingly, have that company sign a contract with the person or business that buys the service, goods or whatever they are producing.

To my mind, that is the sensible way to solve this whole problem, and not this notion of the hammer and sickle approach, that 'We will chop you off at the knees or belt you into the ground: one way or another we will get you and you will pay into the union coffers, and do things at prices which discriminate against your interests in favour of the existing pathological adversary advocacy concept of the structure of commercial society and its structure of industrial relations where there is big business employing large numbers of people in big unions who make deals with each other and then pass on the costs.'

There is no way that you can break that, and it ends up breaking the country's economy in much the same way as Australia is suffering from that kind of thing at present. None of the people in that kind of arrangement are in any way accountable for what they do; they just pass on their costs. None of them are engaged in export industries unless it involves a commodity that is in extremely short supply elsewhere in the world. It does not help this country's economy expand, or create job opportunities for anyone else. This kind of legislation tries, as it were, to fix a time freeze and an image on society where industrial relations and commercial transactions are set in concrete, and that is really tragic.

Mr S.G. EVANS: I support the amendment. Those of us who have been here for some time—and there are many of us—know that in the past Governments have brought in regulations that are operative from the time they are laid

on the table, or prepared for laying on the table. In other words, it is possible for regulations to become operative whilst Parliament is not sitting. That is dangerous. Governments that have had regulations defeated by the Parliament and then have brought in, immediately after the Parliament has risen, the very same regulations—in what one might say is a defiance of Parliament. Parliament is the forum for decision-making by elected members—albeit that one Party always has a majority and usually dominates the scene. Regulations can be defeated in either House, and that is the beauty of the system. The Upper House could defeat a set of regulations and the Government, in a fit of pique and anger, could reintroduce them. This amendment deals with a delicate area—it is delicate for many reasons—and the Parliament (that is, both Houses; either House could act independently on regulations) should decide whether the regulations are acceptable in the context of the original Bill.

I do not know whether I am right, but in the original definition of outworkers in clause 7 (1) the word 'engaged' is used. That is a dangerous word. I believe a court can be asked for an interpretation. In the proposed amendment that word is omitted. However, a court could interpret that, if I lent a person the money to buy material to make an object, so that I bought the object back from the person, that person is the owner of the material and the work effort to create the object. I have not employed them, but, in a sense, it could be argued that I have engaged them. If that is the intention of the Bill why is the word 'engaged' used? If it is the intention I would like to know why. That is moving into the very delicate area of arrangements between individuals, with one supplying the completed article after providing all the material, labour and, if need be, the delivery, except that the person who is buying the end result may have lent the money.

If it does not catch that situation, there is an easy way around a significant part of the Act, because all an individual or corporate body, has do is say to a group of individuals, 'Under the law, we are not allowed to employ you to manufacture these articles and supply you with the material.' They may even supply the workplace—a shed out the back or down at the end of the street. They could say to the worker, 'We will supply the money and we will let you produce the articles.' Therefore, the renegades—the baddies—will still be able to organise it.

We know the power of such threats over ethnic people. We know how closely they work together as a community and, if people borrow within certain communities they dare not meet the obligation of paying it back. We all know that is the truth and I believe that we need to know the answer.

In this amendment the word 'from' is left out in the case of a corporate body under new section 7 (1) *(d)* because the expression has a different implication; it does not mean about or within a building. I am not a lawyer and I interpret this expression to mean that I may leave home with a bundle of Tupperware and sell it for a commission. In that way I am operating from my home. If the provision does not mean that, why does it not simply refer to operating within or about a building? That is what the amendment of the member for Coles is really saying.

A couple of other States have implemented or are contemplating legislation along similar lines. We could easily transport a lot of jobs out of the State because people who operate as principal contractors, having others create articles of clothing or provide services for them—it would not work so well in packaging—can very easily export money from the State. If the conditions for a prescribed industry or a prescribed place are too tough, it would be possible to export the jobs from Australia.

I do not believe in sweatshop operations but some people prefer to work when they want to, at their own pace and at an agreed rate, without the Government getting involved. I accept that such people may not pay tax and that Governments try to stop it. I do not condone such action, but it happens. I cannot see why the Minister objects to the amendment, because it is reasonable. If in the future Parliament finds that it does not work, it will have the opportunity to amend it. It goes a long way towards what the Minister and the Government are trying to achieve.

Regardless of my feelings towards the Minister as an individual and as to his integrity, determination and honesty, it is not for me to accept his word, because he is a bird of passage. He cannot give us any guarantee about how the Act will be interpreted or how it will operate. He may not be the Minister who introduces the final regulations. I do not want anything unfortunate to happen to him other than for him to lose his seat, but unfortunate events do happen to people. It would not be sensible for any Minister or any Government to say, 'Trust us, because we will do the right thing by everyone.' In the final analysis, they are not the decision makers. That falls to those who follow on and it is much harder to change an operational set of regulations than to attack them before they are implemented.

I ask the Minister to accept that this is a reasonable amendment which should have his support on the basis that, in future, if the Bill is not powerful enough in its operation, regardless of the regulations that may be thrown at us, at least Parliament will have the opportunity to look at them before they become operative.

Mr S.J. BAKER: The Minister has failed to respond to any contributions so far. He made a statement to the Committee—and I should like him to respond to that statement—in which he said he had identified a limited number of areas where these provisions would apply. Will he inform the Committee where he envisages that these provisions will apply?

The Hon. R.J. GREGORY: The member for Mitcham has a short memory, because I have responded three or four times to matters raised by members opposite in respect of the amendment. We have an ideological difference with them. They want to frustrate and delay the implementation of the regulations. No matter how much they might want to colour that, the import of their amendments is:

> . . . no notice for a motion of disallowance is given within the time for such a notice.

That means that for that period of time, whether or not a notice has been given, nothing can happen. One has to wait. The amendment goes on to say:

> . . . every motion for disallowance of the regulation has been defeated or withdrawn, or has lapsed.

That means that after 14 days, if there is a motion on the books, it keeps rolling on until it is dealt with.

Mr S.J. Baker interjecting:

The Hon. R.J. GREGORY: Just be patient and wait. You have another chance to pop up later and give us more of your nonsense.

I advise members opposite that, if both Houses of Parliament were of a mind to pass a motion declaring that the regulation laid on the table be approved, it could not take effect until the 14 days had elapsed. I have had some advice on that from Crown Law. We are all very clear that we have an ideological difference about it. Members opposite now admit that they want to delay for a long period of time the prescribing of certain areas. As I said to members opposite—and perhaps we had better go through the Government's amendment—it provides:

Subject to this section, an outworker is a person who, for the purposes of a trade or business of another, is engaged or employed—

(a) to work on, process or pack articles or materials;

or

(b) to perform prescribed work.

The prescribed work could be form work, word processing, clerical work, and delivery work from home, such as leaflet distribution—and I suppose we could think of others that fall into those categories—where there could be exploitation.

I also made the point that one of the previous clauses that we discussed could prescribe some of those callings and they would not come under that provision. Even if in this area the Government was to prescribe the business of form work, somebody who is aggrieved by his contract, or who claims that he is being underpaid, would have to go to the commission and convince either a Commissioner or a Deputy President that he was being exploited. There are provisions further on in the Act relating to how that works. That gives a great time scale for these things to be scrutinised.

Members opposite have explained in great detail how they want that process slowed down so that we can deal with it in Parliament and rely on the good sense of the people here. I will repeat what I was told, although it is only hearsay. On one occasion the Hon. Mr Rowe, the then Attorney-General, was questioned about occupational safety and health and the lack of provisions for enforcing safety conditions in the workshop. He is reported to have said, 'We leave that up to the good sense of the employers.' The problem, as we all know, is that although many employers do the right thing a limited number do not. In respect of outwork, there seems to be a considerable number of employers who do not do the right thing. As I said before, members opposite want to ensure that employers have a free run, but at the same time they posture as defenders of the working class and those who are exploited. I do not accept that at all.

The Hon. Jennifer Cashmore interjecting:

The Hon. R.J. GREGORY: That depends on where you stand and how you think. The honourable member has demonstrated tonight that her attitude with respect to employing people goes back to the 1830s. The member in the gallery who is shaking his head ought to read a history book—

The CHAIRMAN: Order! The Minister should not refer to people in the gallery.

The Hon. R.J. GREGORY: If he read the history books, he might understand what the Opposition is trying to do tonight: that is, ensure that people are exploited as they were in the 1830s and as they are today. The situation is no different from the sweatshops of Melbourne; and the 1895 report is the same as what is happening here in Adelaide today. The legislation that we are putting up aims to cure that where we find it and where the people make the approaches. The Opposition's amendment aims to deny access to those people, or at least delay access to the courts and the commission.

Mr S.J. BAKER: I am delighted that the Minister has responded because he has confirmed that there are a number of areas within his gun sights and, in fact, the list that he canvassed is unlimited. He did not stick strictly to the main example that has been mentioned tonight, the clothing industry; he has extended it to phone work, clerical work and computer processing; and all the other examples that I named would come under the umbrella that the Minister is creating.

Under those conditions, our amendment is the only tenable proposition that the Committee can sustain. The amendment provides checks and balances in the system and allows the Minister to target industries. The Minister mentioned outworkers and claimed that there could be limitations or exclusions, and he talked about occupations. He did not mention the types of work done for charities, as we have discussed, by people who walk the streets and put things in letterboxes for a small sum. They do that for exercise and for remuneration to top up their pensions.

The Minister has cast the net very wide and every employer in this State would be concerned about that situation, because the Minister claimed that everything is up for grabs unless people are employed in an area currently under the auspices of the Industrial Commission. In a normal employment situation (which covers the majority of people) natural laws apply as they are put down by Parliament. The case for underpayment is readily sustainable before the commission. In these areas the difficulties are far greater. If we allow the commission the same rights in these difficult areas as in a normal situation, we will get some wonderful results given the quality of some of the commissioners that we have here in South Australia. I commend the amendment to the Committee.

The Hon. R.J. GREGORY: I want to say two things. First, I spoke in respect of three matters that could be included. The member for Mitcham made certain comments about my intentions and cast aspersions in respect of commissioners. He said that the independent members of the Industrial Commission are not what they ought to be and cast aspersions on their character, knowing well that they cannot defend themselves. He ought to apologise to those people for that.

The Committee divided on the amendment:

Ayes (14)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, and Blacker, Ms Cashmore (teller), Messrs Eastick, S.G. Evans, Goldsworthy, Gunn, Meier, Olsen, Oswald, and Wotton.

Noes (22)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, Crafter, De Laine, Duigan, M.J. Evans, Gregory (teller), Keneally, and Klunder, Ms Lenehan, Messrs McRae, Payne, Peterson, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs Becker, Chapman, and Ingerson. Noes—Ms Gayler, Messrs Hamilton and Mayes.

Majority of 8 for the Noes.

Amendment thus negatived.

Mr S.J. BAKER: Apart from the concern I have already expressed, I am concerned about another two matters. I bring to the attention of the Committee what has happened in relation to the clothing union's endeavours. As members would be aware, the Federal clothing award covers people who work in this underprivileged area, and there has been some effort by the clothing union to talk to them. It has visited various employers and said that under the award the employees should be paid a certain amount and employed for a minimum number of hours per week.

The interesting thing about this particular foray of the clothing union, which has some discretion under the Federal award, is that it has targeted the high flyers. Let us be quite clear. In many cases today's sweat shops could be cleaned up by the union movement. We know that certain officers of the union movement have talked to employers and have reached certain agreements. They have targeted the high fashion garment area where many employees get high levels of remuneration.

Last year I instanced a case where the clothing union forced an employer to stop employing a team of six people who were working part-time. Each of them had young families and they were quite pleased to do this work. The union

insisted that they come under the Federal clothing award and said that this employer could not operate unless the employees were guaranteed 20 hours work every week of the year. When the employer explained that some people wanted to work only 10 hours a week, the union said that no-one could work 10 hours a week irrespective of whether they were earning $10 or $12 an hour.

I know of a group of South Australian women who lost a very good income; and where did the jobs go? Overseas! This occurred in an area where it is said that exploitation must be stopped. These people were not being exploited; the only exploitation was by the union movement.

The Hon. H. Allison: Exportation, of course.

Mr S.J. BAKER: It wanted job exportation. It is a two-edged sword: the unions do not run around trying to find the employers who pay 40c an hour because they will gain no union membership from that. Let us get it right. If this provision is inserted in the Act it will encompass all workers and the clothing union can run riot and try to sign up members. But, it is very selective, and many of the so-called sweat shops and the people who work for companies that sell here or export at the rates cited in this Committee could be cleaned up tomorrow simply by the intervention of the union—if it had the inclination.

The second point I make about the proposed amendments is that they affect intermediaries. Given proposed new section 7 (2), it appears that families which have formed themselves into body corporates are somehow being exploited. They are smart enough to form themselves into a company, smart enough or wealthy enough to pay the fees, yet in setting contract terms they are being exploited. The Government wants to cut out that avenue. Under new section 7 (3) we are talking about intermediaries being classed as outworkers, and that is an absolute farce. For a number of reasons the clause simply does not stand up to scrutiny.

Mr S.G. EVANS: I have been informed that, where a person lends another person money to buy or acquire all material to make objects and those objects are sold back to the person who lent the money, under the definition of this clause that worker is an outworker. Will the Minister confirm whether or not that is the intention of the clause because, if it is, it is very dangerous. I take it that that work will be prescribed. Is it the intention to encompass a person who borrowed the money from a bank, arrived on the doorstep and said that they were prepared to make mousetraps if they received 50c for each one? They might not make many, perhaps working only for a couple of hours in the morning or afternoon and not wanting to be tied down to any set hours. Is it the intention that mousetrap making in homes be a prescribed industry? If so, perhaps we could go one step further in the process by saying that more than two people may be involved. The Minister may say that if it is a private residence, one needs to get council approval before operating a business. Some councils will give permission for people to operate cottage industries or small operations from home.

In future, we will find that, to cut down on the consumption of fuel, people who work for quite large companies will operate computers from home. A member of my family was offered work by one of the biggest computer companies in the State with a chance to operate from home. One can say that it is a private residence, but the council may give permission to operate a business. Where two people enter into an arrangement whereby one has the money and is prepared to produce an article using their own material, equipment and so on, it is up to them at what price they sell the article. If that person is prescribed as an outworker under the law and if they must charge a certain amount for the product, Parliament is really attempting, under a Labor Government, to move into a very dangerous area.

For this and other reasons which I mentioned earlier, I oppose this clause. I would like the Minister to clarify the point which I made about a person lending money and agreeing to buy back the finished articles. In this situation that person provides nothing but the money or the supplies and the manufacturer completes the finished article in a private home and then delivers it to a third party for retail. Are those people covered by this definition of 'outworker'?

The Hon. R.J. GREGORY: As far as mouse-trap making is concerned, I do not know where the member for Davenport has been, but only one company in Australia makes mouse-traps. It is the only company which can efficiently make mouse-traps. It uses antiquated machinery that has been around for a long while. Nobody has been able to make mouse-traps more cheaply. However, if exploitation occurred, the answer would be 'Yes'. I think that the member for Davenport should not be misled by the member for Mitcham, who made the mistake of transposing what has happened in the Federal area where the Federal clothing trades award was varied to cover the position of outworkers in the clothing industry only.

This legislation allows certain classes of work to be prescribed. Once they are prescribed, a person who thinks he is being exploited has recourse to the Industrial Commission to prove that that is so. I do not think that the Industrial Commission would lay down the conditions of employment as has been alluded to by the members for Mitcham and Davenport.

Clause passed.

Clause 5—'Jurisdiction of the court.'

The Hon. JENNIFER CASHMORE: The Opposition opposes clause 5, which seeks to alter the period of three years, which is the time in which an employee can make a claim for wrongful payment against an employer, to six years. This clause also allows inspectors to instruct employers to recalculate wages. By so doing, this clause virtually gives inspectors the power of a judge and jury.

The Minister will no doubt argue that the Federal Act contains a provision for six years and that half the State's work force is employed under that Act. We contend that a highly unsatisfactory situation such as underpayment should not be allowed to drift for six years until it is addressed. If one carries to its logical conclusion the argument of equity and the contention that the maximum amount of time should be permitted in which employees can make a claim, there would virtually be no limits at all placed on the time in which employees can make claims against employers for just entitlements. It is reasonable to say that employers cannot be expected to maintain detailed records indefinitely.

Therefore, a time limit must be placed on the keeping of those records. One could make out a good argument that a reduced time limit would require more diligent keeping of records and that it would also require a greater degree of alertness on the part of employees and their union representatives when pursuing any matter of perceived underpayment. After all, I assume that only a phone call to the Department of Labour is required in order for any employee to establish his or her correct entitlements.

It seems good sense, from an industrial relations standpoint, to have any errors corrected as soon as possible after they are made rather than to allow a situation to continue for six years. If that situation is allowed to develop, the evidence would be stale, personnel would have changed, and it is possible that records could have been lost or

mislaid. The increased time allowed for the submission of claims compounds the difficulties.

This clause contains two provisions which in our opinion are unsatisfactory. The first is the extension of time from three to six years and the second is the provision enabling inspectors to require an employer to recalculate payments without, in effect, any warrant or perhaps any justification to do so. An inspector can simply act upon his or her own judgment of the matter and such judgment may put an employer to considerable cost when they have to recalculate wages. If the inspector's judgment is faulty, the employer has no redress.

In most cases, the amount of work involved in checking the time and wages over a three year period is bad enough without doubling it. For those reasons, the Opposition opposes the clause in its present form and believes that the existing provisions are sufficient. We would appreciate hearing any argument from the Minister that could justify the contrary situation. How many people have been disadvantaged by the present provisions, and on what basis does the Minister believe an extension from three to six years would increase justice and equity for employees?

The Hon. R.J. GREGORY: I can understand the Liberal Party's wanting to ensure that employers who underpay continue their advantage, over employers whose business has a Federal registration, of not having to pay anything beyond three years. The Federal Liberal Party has exhibited the same attitude in relation to tax cheats and does not want retrospective legislation in that area. The current situation allows employers in this State to underpay wages beyond three years. The Federal legislation stipulates a period of six years and it is sensible to ensure that the standards are exactly the same.

Perhaps the member for Coles also does not understand that, in this State, a considerable number of employers have Federal and State award workers employed in the same factory. I find it very difficult to accept the argument that it is very easy to keep records for six years in relation to one class of employees but suddenly that is not possible for the other class. Perhaps the member for Coles has also forgotten that the same employer is required to keep extensive records for long service leave purposes, so it is just a matter of keeping records for that period of time.

I imagine that the Australian Taxation Office would be very interested in what a company pays in wages to its workers. Those records need to be kept, because an employer uses those records in claiming tax deductions when the accounts of the company are drawn up. I do not accept the argument that extending the period from three years to six years is a great difficulty for the employer. It is a valid argument for the Opposition to put up, but in practical terms it is not a real argument.

In relation to the matter of an inspector asking an employer to recalculate underpayment of wages, perhaps at this point I will go through, step by step, what happens in relation to this matter. Although this matter is not directly related to this clause, I will deal with it now, anyway. If underpayment of wages is discovered by an inspector calling at the work place and going through the books, by a union official visiting the place of work and looking at the books, or by an employee contacting the Department of Labour with an inspector going out to look at the books, a number of things can happen.

First, an inspector can go to the factory and commandeer all the books and check every person's salary and payments over a certain period, or an inspector can take the books away. A lot of employers do not want that to occur, and when the deficiency is pointed out they themselves make the calculations. That is exactly what happens now. Many of them make the calculations, and what has happened—and the department's policy is quite plain—is that the employer is given the benefit of the doubt, and, on the understanding that the employer will make proper restitution, there is no further action. Further action by the Department of Labour is taken only when there is an argument about the matter and the employer goes to court, because that is the only way it can be settled. Prosecution then occurs and payment is made.

The amendment to section 15 of the Act, proposed in clause 5, refers to other matters not related to an inspector moving in and requiring that calculation be made. This is dealt with later in the Bill. However, I think it will be found that employers would rather that this be the method in relation to these calculations. A number of the amendments that the Government accepted in relation to this provision in our previous draft were at the employers' request.

The Hon. JENNIFER CASHMORE: In response to what I said, the Minister claimed that the existing period of three years enables employers to get away with underpayment. In order to justify that statement—which I find extraordinary—can the Minister tell the Committee how many employers could be prosecuted for underpaying, if the period is extended from three years to six years? It sounds incredible to me that three years can elapse without an employee identifying the fact that he or she has been underpaid, and that on the basis of that discovery the Government is now proceeding to the six-year mark. If the Government intends to change a law that has a significant effect on employers (and in the view of employers this change will have a significant effect; if it were not so they would hardly have raised the matter with the Opposition), how can the Minister justify the change on the basis that the existing period of three years is too short to catch employers who are underpaying?

The Hon. R.J. GREGORY: I may be wrong, and if so the member for Coles can correct me: she is talking about the terrible cost of extending the time to six years—is that right? If that is correct, the member for Coles is saying that many employers out there are cheating and that we had better get some more inspectors to go out and catch them.

The Hon. Jennifer Cashmore: I am not.

The Hon. R.J. GREGORY: I am very pleased about that. It means that we will catch very few. I also explained to the honourable member earlier that, in many cases, when employers are found to be underpaying they correct that mistake and there is no subsequent prosecution. It happens only when the employer refuses to make that payment to the workers. I draw the attention of the member for Coles to this clause because that is not actually a matter for debate at the moment. It is a bit further on, as I said.

Mr S.J. BAKER: The point which the member for Coles is making, and which I thought the Minister clearly understood, is that this is part of a package of changes that are taking place in this legislation. The Minister has seen fit to say that because it is in the Federal jurisdiction it should be in the State jurisdiction. If we took that argument to its final conclusion, we would find certain provisions of tort action that should be in the State legislation. There are certain provisions under the Federal Act that I would love to see in the State legislation, but we do not see them. The proposition that we should have equivalents in legislation does not hold water, and there are some very good reasons for that. So, there is no reason, because we are talking about three years here and six years there, that suddenly it should become six years.

Secondly, once you have extended that term to six years, a lot of implications flow. Not only do they have to keep those records in good order—and you will find most of them do for a variety of purposes—but also it gives the inspector the right (later in the clauses) to demand that the recalculation go back over six years, irrespective of whether there is any merit. That will be debated at the appropriate time—

The Hon. H. Allison: At great expense.

Mr S.J. BAKER: Yes, at great expense. Thirdly, this clause reverses the onus of proof, and that is a very important point. New subsection (4a) provides:

> If... the Court is satisfied—
> *(a)* that an inspector had prior to the commencement of any proceedings advised the defendant that the claimant's claim was, in the inspector's opinion, justified;
> *(b)* that the defendant had no reasonable ground on which to dispute the claim;
> and
> *(c)* that, in the circumstances, the defendant should have satisfied the claim without putting the claimant to the trouble of taking proceedings to establish the validity of the claim,
> the amount awarded by the court may be increased by a penalty determined by the court...

A number of actions must take place there. On the one hand, the inspector has to justify his action. On the other hand, it states:

> If... the defendant had no reasonable ground on which to dispute the claim;

There is a reverse onus of proof immediately because there is an assumption of guilt. We are changing the law around to alter the balance. So, there are two items on the agenda. It is not just the extension from three years to six years, because that brings in a whole lot of implications and a whole lot of cost burdens. The Minister is quite right. I know how the Department of Labour works. They go around because they may have received a complaint or they may be just doing a spot check on particular awards. In most cases they will do a spot check and look at the last few weeks wages. They will say, 'We have a problem here.' It is quite normal, if things work out properly, that the inspector will either recalculate himself or, alternatively, the employer may say, 'Goodness gracious, I have made a mistake. I will fix it up.' We know that the majority of underpayments are fixed up that way. Very few of them hit the courts.

However, we have here a situation which extends into other clauses where that proposition is changed. It is quite different from the one that pertains today. I think it has worked pretty well. I do not think any employer has suddenly rorted the system. I cannot imagine any employee after six years suddenly saying, 'Goodness gracious, I have been underpaid wages.' The very process of having to prove that over the past six years imposes an extremely heavy burden. I defy the Minister to sit down with, say, one employee's records for six years and work out how long it will take him to recalculate the wages. Even though that is under another clause, it starts in clause 5. So, we are saying to the Minister that three years is fine. We will have an argument, I suppose, on a parallel case involving a particular person that the Minister knows well, our little friend Mr Cameron.

That is a very good case in point. They are talking about the statute of limitations, and the Minister knows that if certain offences become known to the Builders Licensing Board, and the board does not prosecute within a year, those offences become null and void. Where is the justice in the system? This refers only to one year. There are people out there who have been hurt and suffered damage because of the law applying in that area.

In this case we are talking about three years for someone to make up his or her mind, or to discover. Of course, the Minister also understands that six years down the track a person can say anything if major personnel or the accountant have left the organisation. If people cannot make up their minds within three years that they have been given a raw deal, they need their head read. Three years is not unreasonable. It is a State provision, and there is no suggestion that everything in the Federal Act should be in the State Act. If the Minister wants to get on that track, I can think of some provisions that I will put up to this House and see if he agrees with them.

The Hon. R.J. GREGORY: I welcome the honourable member's support for extending back six years in the building industry builders licensing prosecutions for breaches that have occurred. If and when the Government sees fit to bring this measure into the House, I expect to see him voting with the Government. However, knowing the Liberal Party's record for looking after shonks, I do not think he will be able to leave his colleagues alone.

Mr S.J. Baker: You're a big shonk yourself, mate.

The Hon. R.J. GREGORY: That is something that the member for Mitcham has not been game to say outside this House. I know full well why that is so—because I do not think he has enough money to pay the damages bill. The honourable member referred to the inclusion of inspectors; they were included at the request of the employers.

Mr S.J. Baker: We must be talking to different employers.

The Hon. R.J. GREGORY: I do not know; we talk to the employer organisations that claim to represent most of the employers in this State. I cannot help it if the honourable member talks to another group that is not in quite the same league. I think that, if the honourable member reads the amendment as it applies, it is perfectly reasonable. If we were to apply the Act without the amendment, we could prosecute everyone found to be underpaying workers. The Government does not do that because it believes that those being underpaid should get their money.

Members opposite have made great play of unionists and the protection they get from their unions. Many union officials do check wage sheets and they will tell you that there are mistakes from time to time which are readily fixed. Workers who are members of those unions get value for their contributions. However, 50 per cent of Australian workers are not members of unions. Non-unionists are working in industry. There are groups of people mentioned in this House tonight who would have great difficulty in reading an award and understanding what it means. They would have great difficulty knowing where to go and could be underpaid for some time. Their employers would be enjoying an advantage over their competitors. Again, we have the Liberal Party supporting the shonks.

Mr S.J. BAKER: I am not going to waste the time of this Committee talking about shonks. I have already referred to one of the best shonks in town. I will not talk again about the three and six year terms; that is a matter of practicality, cost and concern to the employers. I cannot think of one employer group that would support it. I do not know what the Minister is talking about.

The second item relates to the way in which this clause is worded. A reverse onus of proof applies. The inspector must satisfy the court that he made a warning and the defendant must prove that he did not have reasonable grounds on which to dispute the claim. In a normal court, the inspector must prove that the defendant was unreasonable. This clause puts it differently and the Opposition opposes it.

Clause passed.

Clauses 6 and 7 passed.

Clause 8—'Awards of general application.'

The Hon. JENNIFER CASHMORE: I move:

Page 4, line 6—
After 'amended' insert:
—
(a)
After line 7—
Insert:
and
(b) by striking out subsection (3).

The Opposition believes that, for the sake of consistency, section 25a (3) of the principal Act should be deleted. That is linked to our amendment to repeal clause 13 of the Bill. Subsection (3) provides:

An award made under this section affects a condition of employment of an employee only to the extent to which that condition is inferior to a condition prescribed by the award.

It is our view that employees cannot expect to have the best of all possible worlds. If the commission establishes a standard by way of a general award, that should take precedence and override individual award provisions that are better than the standard as well as those that are below the standard. It is not reasonable for general awards to bring those that are below standard up to standard and, at the same time, bring those that are not up to specific standards that are not part of the general award up to those standards.

Mr S.J. BAKER: I reinforce the comments of my colleague the member for Coles. The legislation is loaded. If a superior condition is operating, it does not affect it. However, an inferior condition is affected. Our proposition, which is supported by employers, is that there must be an evenness in approach. By striking out subsection (3), the prescription in the Act which allows for one-sided decisions to be made by the commission is taken away.

Amendment negatived; clause passed.

Clause 9 passed.

Clause 10—'Unfair dismissal.'

The Hon. JENNIFER CASHMORE: I move:

Page 4—Line 16—After 'subsection (5)' insert 'and substituting the following subsection:

(5) Where an application under this section proceeds to hearing and the Commission is satisfied that a party to the proceedings acted unreasonably in failing to discontinue or settle the matter before it reached the hearing, the Commission may make an order for costs against that party (including any costs incurred by the other party to the application in respect of representation by a legal pracitioner or agent up to and including the hearing).'

The Opposition believes that similar criteria should be applied to both sides in cases of unfair dismissal. The effect of the amendment, which is to delete subsection (5) of section 31 of the principal Act, is to ensure that if a party has acted unreasonably in failing to settle proceedings, costs can be awarded against that party. It is a question of equity—of making sure that frivolous applications are deterred. It is a question of aiming to restore or establish some kind of balance in this legislation so that there is no undue waiting for either employees or employers.

Mr S.J. BAKER: We would appreciate a response from the Minister. This clause strikes out subsection (5). The Minister refuses to respond to the Opposition's proposed amendment.

The Hon. R.J. Gregory interjecting:

Mr S.J. BAKER: I beg your pardon.

The CHAIRMAN: Order! The honourable member for Mitcham has the floor.

Mr S.J. BAKER: I did not quite catch that. The Minister stood up and made a statement which I failed to hear. He may be responding. If so, I shall sit down. I am asking the Minister to respond to the proposed amendment. We want to know why he struck out section 31 (5) and will not accept the amendment put forward by the Opposition.

The Hon. R.J. GREGORY: We struck out section 31 (5) because, when the Bill was amended last time, the only group or class that could be prosecuted and penalised for making vexatious complaints to the commission was comprised of employees. We are removing that, at the request of employers, because it has become unworkable.

The Hon. JENNIFER CASHMORE: I would appreciate some information from the Minister on how it has become unworkable. Our aim is to ensure that both sides are treated equitably. That is why we propose to strike out subsection (5). The further effect of the amendment is to introduce the words 'an industrial magistrate or' so that section 31 (7) would read:

Where the parties to an application are located in a remote area of the State, the President—

of the commission, that is—

may authorise an industrial magistrate or a stipendiary magistrate to call and preside over a conference under subsection (6) on behalf of the commission.

That is to ensure that there is an opportunity for an appropriately qualified magistrate to hear matters in remote areas. It simply extends the powers of the commission in a way that we believe would enlarge the opportunities for the commission to exercise its jurisdiction in remote areas. The amendment was recommended to us by employers in a constructive spirit, and we hope the Minister sees fit to accept it.

Progress reported.

The Hon. R.J. GREGORY (Minister of Labour): I move:

That the time for moving the adjournment of the House be extended beyond 10 p.m.

Motion carried.

Debate in Committee resumed.

The Hon. R.J. GREGORY: I would have thought that the Opposition approved of speedy hearings in remote areas to settle matters that come within the compass of the Industrial Conciliation and Arbitration Act, instead of causing the people who do want the assistance of the commission to travel long distances. This provision is to facilitate the hearing of complaints in remote areas to avoid people bearing costs.

The Hon. JENNIFER CASHMORE: We are not opposed to that concept—we support it. The amendment seeks to authorise a stipendiary or industrial magistrate.

The CHAIRMAN: As the two amendments can stand alone, we will deal with them separately.

Mr S.J. BAKER: The Minister said that the only people affected are the employees. He is saying that it does not matter how vexatious or scurrilous a person is, they will get a hearing before the commission without risk of any penalty. That is why he is taking out subsection (5). One would assume that, if any party—whether it be an employee or an employer—went to the commission with a grievance of a nefarious or fallacious nature, the commission should use the existing section.

We seek to make the clause more certain. It should not be knocked out. If a litigant goes before the Supreme Court, the District Criminal Court or a local court and the matter is seen to be of an unsound nature, the person will have costs awarded against them. In fact, the magistrate or judge concerned could be fairly heavy handed about the wastage of time of the court. Under the proposed provisions there is no way in which the court can do anything about matters

which are brought before it and which do not have substance.

The Hon. R.J. GREGORY: I lead the honourable member to where the amendment provides:

> . . . the Commission may make an order for costs against that party (including any costs incurred by the other party to the application in respect of representation by a legal practitioner or agent up to and including the hearing).

At the moment, matters heard in the Industrial Commission are heard on the basis of non-recovery of costs. What this would do is discourage people from making applications because if the matter is found against them they could be pinged for costs. In the past an amendment was insisted upon in the other place that required that only vexatious employees could have a penalty awarded against them.

Mr S.J. Baker: Which part of the Act are you looking at?

The Hon. R.J. GREGORY: Page 25. It provides:

> (5) Where, in the opinion of the Commission, an application under this section is frivolous or vexatious, the Commission may make an order for costs against the applicant (including any costs incurred by the other party to the application in respect of representation by a legal practitioner or agent).

But that applies only in respect of employees.

Amendment negatived.

The Hon. JENNIFER CASHMORE: I move:

> Page 4, line 20—After 'authorise' insert 'an industrial magistrate or'.

This amendment simply introduces the possibility that the President of the commission may authorise not only a stipendiary magistrate but also an industrial magistrate to call and preside over a conference in a remote area. This in our opinion is an enlargement of the rights of people in remote areas. It provides an additional option and means that when there are matters of conciliation rather than of arbitration, the person (namely an industrial magistrate) who has the training and skills required for conciliation as distinct from arbitration is the one who could also be on the spot in the remote area.

It is not a major issue: it is simply a constructive suggestion and one which we hope the Minister will see fit to adopt, if not in this place then when the amendment is moved, as it will be, by my colleague in another place. It is a simple thing designed to enlarge the rights of people living in remote areas and to expand the opportunities for the commission to deal with matters involving both conciliation and arbitration.

The Hon. R.J. GREGORY: It is a matter that we will consider after the Bill passes here and before introduction in another place.

Amendment negatived; clause passed.

Clause 11—'Representation of parties.'

The Hon. JENNIFER CASHMORE: I move:

> Page 4, lines 23 to 42, and page 5, lines 1 to 10—Leave out all words in these lines after 'by striking out' in line 23 and substitute 'subsection (3)'.

It is this clause which excludes lawyers from conference proceedings. Some people will argue that it is desirable to get to the heart of an issue in matters of conciliation and arbitration and avoid unnecessary litigation. We would all support that proposition. However, there are times when parties, notably major companies that have an enormous stake in a matter before the commission, want their interests represented by a person that they believe is best equipped to represent them, and very often that is senior counsel—silk. If this clause as it stands is carried those companies will be denied that right, and of course that right should be extended not only to major companies; it should be and has been available to anyone.

It is a right that the Opposition believes is fundamental and one which should be and, up until now, has been universally acknowledged as giving an opportunity for everyone to have a fair go before any kind of court, be it industrial or civil. In depriving employers of that right we believe that the Government is tipping the balance of power in favour of the union movement. This clause is not a question of inequity for the union movement; it is a question of inequity for employers.

As I said during my second reading speech, the Law Society, perhaps predictably but we believe responsibly, takes strong issue with the proposed exclusion of legal representation, and we believe that that case is reasonable. Everybody should have the right to representation at every stage of the proceedings. Quite often, far from extending litigation, legal representation helps to resolve a matter more quickly. On many occasions it may clarify an issue, assist all parties and lead to the speedier resolution of a dispute. That is an undeniable fact and the record proves it. We believe that the present rights should be maintained and, accordingly, we oppose the removal of the right of legal representation which this Bill provides.

The Hon. R.J. GREGORY: We now come to the nub of what the Opposition is about tonight. The conciliation and arbitration process is supposed to be a process where workers can have their day without going to the colossal expense of hiring a lawyer. The industrial arbitration system in this State works at numerous levels. I suppose the lowest level it works at is in the conciliation process where a commissioner attempts to get all parties in a dispute to reach agreement. What happens in that conciliation process is a matter of consideration, it is without prejudice, and admissions made by people cannot later be used.

This process allows aggrieved workers, particularly in unfair dismissal cases, to have a conciliation process established so that they can attempt, without going to the cost of employing a lawyer, to reach some solution and remedy their problem. Under an amendment that provides for the conciliation commission to deal with matters, many unfair dismissals are being fixed up quickly and not being dragged out by lawyers seeking points of law and so on.

The example of where lawyers are not involved is in the Norwood mediation service, which works very well in neighbourhood disputes. All members who live close to the Norwood mediation service have used it in intractable disputes where people have used the mediation process to resolve disputes, where as a recourse to law and the courts would only have exacerbated the matter. I also draw the attention of the member for Coles to the fact that leave is required for representation. If a party is unable to express himself, the commissioner will be failing in his or her duty to deny representation. People ought to be able to represent themselves before the commissioner in that conciliation process without being harassed by a lawyer from the other side.

The Hon. JENNIFER CASHMORE: I point out to the Minister that to draw a parallel between the Industrial Conciliation and Arbitration Commission and the mediation service is to ignore the nature of the role of those two bodies. The mediation service, as the Minister would know, essentially tries to resolve disputes between neighbours. They tend to be matters of human difficulty and very often revolve around personalities; they rarely revolve around financial matters. The disputes before the commission are very often, in fact invariably, related to matters which have a profound economic and financial implication. It is not reasonable to relate the one matter—the question of mediation, with the desirability of not involving the law and

simply attempting the conciliation process, which I support—to another which is entirely different. Great financial stakes can be involved when matters are before the commission.

It is reasonable that the absolute right to retain legal representation should be maintained. It has existed for a long time—in fact, since the inception of the Act. Why change it now? The Minister has not made out a case for a change. He has acknowledged that leave has to be sought which means that leave has to be granted. There will no doubt be occasions when people before the court will have leave refused, but that of course will not be the case with the unions because leave will not be required if the legal practitioner is an officer or an employee of the United Trades and Labor Council.

It is true that the Chamber of Commerce and Industry and the Employers Federation can retain its employed lawyers and leave will not be required, but there will undoubtedly be, as there have been, employers who are either not members of those organisations (or any other registered association that represents employers or employees), or who, notwithstanding their membership of those organisations or registered associations, still want the right to retain their own legal representation. The Opposition believes that they should be granted that right as a matter of right and not at the discretion of the court. Therefore, we oppose the striking out of existing subsection (1), which guarantees that right.

Mr S.J. BAKER: We are creating an unequal society—that is quite simply the Minister's proposition. The existing Act provides quite clearly that in proceedings before the commission any party may be represented by a legal practitioner or agent. The Act also provides that costs will be incurred by those persons who have engaged that service. Section 34 (3) provides:

> Where the interests of a registered association, or members of a registered association, that is affiliated with the United Trades and Labor Council are affected (either directly or indirectly) by proceedings before the Commission, the United Trades and Labor Council is entitled to intervene in the proceedings.

That provision is uneven enough, but now the matter is being tightened up further. We know that conciliation is an important process. In the industrial area conciliation occupies by far the greatest amount of time.

Although magistrates and judges are paid exceptionally well, I imagine that conciliation consumes a large amount of costs of the court and commission. The commission plays a vital role. The Government by this amendment is saying that some people are no longer equal, that there are some people who are more equal and that they happen to be members of registered associations. Leave is not required for those people. What if an employer or anyone else wants to have proper representation? The UTLC can march into any proceedings at any time it likes. However, under this proposition the right of access is to be restricted. The Government says that this is fair, that it wants to have moderate conferences, yet someone can march into a conference at any time and put a point of view. That someone happens to be the UTLC or other registered associations. The Opposition does not believe that that is appropriate.

I would be quite happy, if everyone was intelligent enough, to have no lawyer present. That is not a fact of life: there is unevenness in negotiations and tonight we are dealing with unevenness in the Act. To provide that one cannot have representation unless a number of prerequisites are fulfilled, whereas the existing Act provides a right of representation, proposes a distinct change in the legislation.

The Hon. R.J. GREGORY: Earlier this evening the member for Mitcham indicated that he would move some amendments to the current State Bill which would transpose matters from the Federal Act. I suppose he could do that in this case because in the Federal area lawyers can be excluded from all hearings before a commissioner and at all stages. Here the exclusion of lawyers can only be allowed in the preliminary area of discussion which is without prejudice.

The member for Coles referred to how the Norwood Mediation Service deals with disputes. This goes right to the heart of section 31 disputes, where we are dealing with the incompatibility of people. It is far better if these disputes can be dealt with by a conciliation process without people having a vested interest in ensuring that the matter goes on as long as possible.

The Committee divided on the amendment:

Ayes (15)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, and Blacker, Ms Cashmore (teller), Messrs Eastick, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Olsen, Oswald, and Wotton.

Noes (22)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon, Blevins, Crafter, De Laine, Duigan, M.J. Evans, Gregory (teller), Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs Becker, Chapman, and Ingerson. Noes—Ms Gayler, Messrs Hamilton and Mayes.

Majority of 7 for the Noes.

Amendments thus negatived; clause passed.

Clause 12—'New Division.'

The Hon. JENNIFER CASHMORE: The Opposition opposes this clause, which is one of the central provisions of the Bill and which aims to give the Industrial Commission the power to regulate non employment contracts. This whole issue was dealt with at some length during the second reading debate and the Opposition has the same basic objections to this clause as were enunciated when we dealt with clauses 3 and 4, which related to outworkers. The whole notion of contracting and subcontracting is that contractors are free agents who choose to enter into a contract of their own free will, without duress.

The Government's proposition here will enable unscrupulous contractors who may choose to obtain a contract by under-quoting for their work to then go to the commission part way into the job and say, 'Listen, we are being exploited, this is outrageous, I am not being paid enough to do the work—whether it be laying bricks, putting down foundations, plastering ceilings, or whatever else—'and we want the commission to examine our contract and review it, with a view to making the conditions of it more advantageous to us.' The potential for contractors to deliberately undercut and secure jobs which would otherwise go to employees is considerable.

If the provisions in this clause are enacted, it will certainly advantage fly-by-night operators and subcontractors and it will disadvantage the established and reputable contractors in their pursuit of work at a fair price. I wonder whether the Minister has considered this aspect of what he is doing The cure, if there be one—and there is—in relation to unfair contractors is for the contractor to do the homework and not agree to work for a low price. The role of the commission is to deal with relationships between employers and employees—not to intervene in contracts which are freely entered into by two parties which do not have an employer/employee relationship.

The proposal that the Minister is putting in clause 12 distorts the role of the commission. It means that in future the commission can focus on short-term contract relationships, instead of directing its attention to long-term permanent relationships and the quality of those relationships

between employers and employees. This basically detracts from the commission's primary reason for existence, which is to regulate relationships between employers and employees. This proposal completely blurs the boundaries which have previously existed between the civil courts, where matters of contractual dispute have been settled, and the industrial courts, where employer/employee relationships have been defined.

The Opposition sees this as a fundamental attack on the whole notion of 'contract'. As I said during the second reading debate, if this clause is enacted, no contract between a principal contractor and a subcontractor in this State will ever again be certain. The uncertainty will, without doubt, cause huge disturbance in the building industry, particularly the home building industry. The potential for costs to absolutely sky-rocket will be unlimited. From now on, if this clause is passed, it is likely that anyone entering into a contract to build a home will be subjected to an increase in price. What previously was certain will become extremely uncertain. At the moment, when contractors and subcontractors engage in agreements the home owner can be guaranteed that the price agreed upon will be the price that he or she pays for the house.

With the enactment of this clause, that certainty will be finished. There is no way that an agreed contract and an agreed price will ever again be certain in South Australia if this clause is enacted. The concerns of the Housing Industry Association about this clause are real and, we believe, well justified. It involves not only the housing industry but also the transport industry and a whole range of industries in which subcontracting work is the foundation of the way in which the industries operate in this country.

It is worth noting that the housing industry in Australia is one of the most efficient by comparison with housing industries anywhere in the world. The reason for this is the operation of the subcontracting system. A great majority of houses are built under the contract and subcontracting system between the builder and the subcontractor. This clause means that any agreement in future can be disturbed. The prospects for home owners are frightening, and the potential for abuse of this power is more or less limitless. The Opposition simply cannot accept that the inclusion of this clause is equitable. It cannot accept that it is in the interests of the economy of South Australia. It cannot accept that it is in the interests of improved relationships between contractors and subcontractors. And it cannot accept that it is or should be a power given to the Industrial Commission. Rather, it is a power that should reside, as it always has resided, with the courts.

The Hon. R.J. GREGORY: I reject most of what the member for Coles has had to say with respect to this matter. I can understand the paranoia of members opposite because they do not desire to see a decent resolution of disputes that occur in these areas. This amendment is designed principally to enable the apparatus of the State that is skilled in settling disputes between employers and employees to be able to operate in a way in which the parties can be required to attend a conference, but where they are unable to make recommendations that stick. They are unable to make orders.

What the member for Coles is saying flies in the face of reality. We have operating in this State a so-called independent contractor who, in reality, is an employed person. We have had disputes with the ready-mixed concrete carters and with the milk contractors who cart the milk to the milk factories, but there is no apparatus in this State to settle those disputes. We have even had disputes with people who grow chickens for the chicken processing market.

Had we been able to bring this amendment into play, there would have been a method whereby these people could have discussed their differences and they could have been dealt with in a non-compelling atmosphere. It would have settled that dispute. It would have ensured that there could be a resolution to it. It does work because, for a long time, there had been disputes between the South Australian Housing Trust and its contractors. A former commissioner of the Industrial Commission of South Australia, and a former director of an employer organisation agreed to act as a private arbitrator. By using his skills, he was able to arrange a situation where both parties are now quite happy with what they are doing.

This amendment is very limiting. It only really limits the case of a contractor who is a natural person, where he personally performs all or a substantial part of the work. The other section of the Bill refers to grossly unfair contracts. I refer to children employed by Nationwide during the Grand Prix. A report prepared for me in respect of a call from the father of a child employed by Nationwide states:

> He attended a meeting of parents of the children with Nationwide where the latter advised that the children (between the ages of 13 and 16 years) were to be engaged as contractors (not as employees) and accordingly would have to take out their own workers compensation cover. The basis of engagement was to be 10 per cent of the take and Nationwide advised the parents that they should not therefore complain if their children only made $5 in eight hours if they failed to sell enough to make a decent return.
>
> In addition, the children were to be up for any shortfalls on change and for any stock losses (through heat, etc.). [He] considers these arrangements to be exploitative and unfair. This case, on which I believe it is worth obtaining a report from our inspectorate, highlights the need for the type of protections we are seeking to insert into the I C and A Act.

The Children's Interest Bureau has contacted the Department of Labour. These unconscionably harsh contracts need to be overturned because they are grossly exploitative. I referred earlier to a letter from a member in another place about the encyclopaedia salesperson who was grossly exploited. This situation needs attention; we cannot walk away from it.

The Hon. JENNIFER CASHMORE: The Opposition recognises that there have been difficulties because of low cartage rates paid to owner-drivers who have arrangements with large companies. The Opposition also acknowledges and deplores the circumstance that the Minister has just outlined with respect to Nationwide where children are employed on a contract basis. Clearly, those matters need to be addressed. How they are addressed is the key issue. The Government's proposal for dealing with this—to permit, or create, the power for the commission to intervene in the resolution of contract disputes—casts a net that draws into its ambit a whole range of people who fall far outside the two areas the Minister has named.

Certainly, there should be some independent mechanism away from the Industrial Commission, which is not—and we insist, is not—the appropriate place to resolve matters of contractual dispute between parties. If the Industrial Commission starts to assume that role, its powers are gradually extended well into the powers of civil courts, and the distinction between industrial matters and civil matters becomes blurred. The whole area of law becomes uncertain and where there is uncertainty the potential for litigation is expanded.

The Opposition believes that these issues are of great concern to employers, large firms and principal contractors who engage in contract work. In the end, the people most disadvantaged by this move will be that large body of subcontractors in South Australia who currently have a good

and established relationship with their principal contractors. They are the people who are likely to be drawn into an employee relationship as a result of this provision. That is precisely the relationship they have sought to avoid and precisely the reason that they have chosen to become subcontractors rather than employees.

The commission's functions should be restricted to those of arbitration and conciliation. Contractual matters should be the exclusive jurisdiction of the civil courts. If the Government wants to resolve the problems that have been outlined, a better method can be devised than drawing the commission into this role. It is one that will entrench uncertainty into all matters of contract in this State. It will certainly make South Australia a most undesirable place for any home builders. It is bound to increase the cost of homes because it introduces an element of uncertainty into a contract. Uncertainty will never lead to a reduction in cost: it will always lead to an increase, and that is the very thing that we want to avoid, particularly when it comes to home ownership, which is already proving so difficult for many South Australians.

Mr S.G. EVANS: There is no doubt that some bigger contractors have exploited the subcontractors who work for them. The pity of it is that it happens in small business and in many other areas when people look only at weekly or monthly income and do not try to assess what the outgoings will be. We must be conscious that, if it becomes too expensive for principal contractors, they will go back to employing people on wages and will buy all of the equipment, including the pantechnicon or the concrete carrying bowl and its motor and pump. That may suit the Australian Labor Party because, whichever way it goes, it is a method of enforced union membership. It certainly has the potential for increased union membership.

There is no doubt in my mind that the present Government, being of a philosophy that is strongly supported by the trade union movement, would fight for this provision. I understand that, because much of the money to fight its campaigns comes from that area. If when deciding a dispute the commission leans too heavily towards a subcontractor, there will not be any subcontractors. Some members would recall when Mr Nyland and I raised our voices in this place when he was trying to move for compulsory unionism in the pre-mix concrete industry. I am told that our argument could be heard on every floor. At that time, the principal contractor said that, if it became too expensive, he would buy his own equipment. The Minister would say that that is all right because it falls within his philosophy.

I have always believed that we need more education and more cooperation, and a little bit of heavy-handedness from the Government towards finance companies and principal contractors. Finance companies lend money to a person to buy a rig—the power unit—to pull a semitrailer or to fit onto it a concrete carrying bowl with ancillary equipment that keeps it turning to stop the material settling while it is being delivered from point A to point B. If those finance companies had, by way of a gentleman's agreement, an obligation to look at the terms of the contract under which the intending purchaser was going to operate—and I believe that can be achieved—an education process would teach these people that they should consider not only the vehicle repayments and registration and insurance costs but the wear and tear on tyres and all the other things that can go wrong, such as stand downs because of wet weather or strikes in sections of the building industry. We would then solve many of the problems.

The same goes for the milk industry. If we move into this area, as the member for Coles suggested, and bring in the commission or, at the instigation of the Minister, the United Trades and Labor Council or a registered association acting on behalf of persons who are parties to contracts of the relevant kind, we shall push up the cost dramatically. We would drive more people back to the salaried area and get rid of more private operators.

If we attack it the other way, and if that other way fails—nobody has ever tried it—that is the time for Parliament to get tougher. The ALP Government asks us to make the big jump as a Parliament by saying, 'Let us crack the nut with a sledge hammer,' because it does not matter to the Labor Party if more operators go out and become employees or other people become employees.

I would prefer to see some form of negotiating mechanism that the finance companies are embarrassed into entering. That can be done. Someone may say that we cannot embarrass finance companies. I suggest that at the moment the Commonwealth Bank of Australia is an extremely embarrassed financial institution through lending money to people to buy equipment for carrying purposes, as well as its subsidiaries and others which are called finance companies. In the case of big claims, such as fires, it would be an easier way to solve some of the problems.

If we are prepared to try that system, we do not need this clause. I ask the Committee to reject the clause. If it does not, I hope that another place will, because in it we are saying automatically that the Trades and Labor Council and the socialist ministers can bring enough pressure to bear on the commission to force more people back to become paid employees. That is not my philosophy, and that is why I oppose the clause.

The Hon. R.J. GREGORY: Now I have found out how to embarrass money lenders. Fancy trying to embarrass money lenders! They never bother about anybody, as long as they get their interest and repayments. That is one of the problems that we have had from time to time. It is a problem that the member for Davenport's colleagues are complaining about on the West Coast where the money lenders want their pound of flesh—their dollars and cents. We cannot embarrass them into being reasonable. I have heard some baloney about how to embarrass the lousy employer. We cannot do that—they just keep walking away laughing with the money.

This amendment is designed to assist in the settling of disputes where the settling procedures are difficult. I draw the attention of the honourable member to a 1970 New South Wales inquiry into the transport industry. The commission in that State spoke of the resolution of industrial disputes through the ordinary processes of the law and stated:

> Although the owner-drivers are independent contractors, to attempt to solve industrial disputes affecting them through the ordinary process of law could be cumbrous and futile. These processes are too prolonged and technical to bring about speedy resumptions of work.

That is exactly the fact. We want these amendments in the Bill to settle disputes quickly and properly. We will not force resolution on the parties. The capacity is there to make representations. Over a long period we have developed in this country a process of ensuring the quick resolution of disputes. In South Australia we have a proud record. We want to ensure that, when there is a dispute between a principal contractor and other contractors, there is a method of settling the dispute speedily in a way that does not cost them much and ensures that they do not get into this numbing area, because the report goes on to state:

> In the United Kingdom, where collective bargaining largely prevails, the law reports in recent years provide several examples of time-consumption, expense and little effective result when it

has been sought to break an industrial impasse by wig-and gown-procedures. Immediate problems need immediate solutions.

That is precisely what we are doing with this amendment. If people are happy with the principal contractor, they will not seek this resolution to disputes.

Some of the things to which the honourable member has referred just will not come to pass. If the honourable member reads the provisions of the amending clause, she will see that they ensure that people who use an excuse to get a job and then race off to see the commission and use the powers of this amendment when it is finally in the legislation will get short shrift. Genuine people—not the non-genuine—will be assisted.

The Hon. JENNIFER CASHMORE: The Minister's sublime faith in the undying justice of decisions of the commission is quite extraordinary. The Minister said that this provision is designed to assist in the settling of disputes and is not aimed at forcing a resolution on the parties. He said that it is a method designed to be speedy and non costly. I refer to the wording of the provision under the heading 'Review of harsh, unjust or unconscionable contracts' where the commission is given the power, depending on the circumstances on a particular case, to enable parties to:

> *(c)* avoid the contract (wholly or in part), or modify its terms, from the inception of the contract or from some later time;
> *(d)* give consequential directions for the payment of money, or in relation to any other matter affected by the contract;
> *(e)* prohibit the principal, or any person who is, in any way considered relevant by the commission, associated with the principal, from entering into further contracts that would have the same or similar effect, or from inducing others to enter into such contracts.

They are colossal powers. The Minister says it will be speedy and non-costly. It might be non-costly for any subcontracting party who goes before the commission, but it will be definitely costly for society as a whole when there is no certainty whatsoever in a contract, because under this provision the commission will have the power to enable people to avoid contracts, either wholly or in part, or modify their terms.

It will enable the commission to give directions for the payment of money. It will mean that, technically and literally, a subcontractor who has entered into a firm contract upon which some hapless home builder has staked his savings and his future can completely overturn that contract simply by going to the commission. I repeat: the commission can enable the party to avoid the contract, to modify its terms, and give directions for the payment of money. It places no limit on any of these powers. The powers are monumental. The potential for the powers to affect costs is colossal, and the Minister says that this will be a speedy, non-costly way of resolving disputes.

I have heard plenty of nonsense, but that really beats all! The provision gives huge powers which appear to be unfettered. It gives powers which have never before existed for the resolution of contracts outside the civil courts. It gives powers which we believe are entirely inappropriate and will have unforeseen as well as foreseen costly effects—effects which we strongly oppose.

The Hon. R.J. GREGORY: The member for Coles has confused two new sections. The first new section, which I last spoke on, refers to the dispute settling procedures as between contractors, particularly in relation to the cartage of milk, Readymix concrete and a number of other things. The new section to which the honourable member just referred relates to the review of harsh, unjust or unconscionable contracts. I will read the part that really applies: please listen. They are two separate new sections, numbered separately. Proposed new section 39 provides:

> (1) A contract of carriage or a service contract is liable to review under this section if the contract is grossly unfair and contrary to public interest.

What the member for Coles is saying is that at the Grand Prix children can be exploited by Nationwide by entering into a contract of service which is grossly unfair and very exploitative. That is what she has been saying all the time. This woman, who is involved in the Party which puts itself around South Australia as caring for people, does not care when it comes to the exploitation of children. One could say. 'If we did not have restrictions for keeping children under the age of 15 out of work, it would be all right to keep them down the coal mines'. That is grossly unfair and against the public interest. Those two criteria, when applied to this measure will ensure review of harsh and unfair contracts that are contrary to public opinion, and that fairly strict and rigid tests are applied.

We must consider these two new sections, because they are separate. One new section deals with contracts where there is a genuine dispute, and people must convince the Industrial Commission that there is a dispute. All the commission can do is make recommendations. In the other case, contracts that are harsh, unfair and against the public interest are dealt with.

I hope that the member for Coles and other members opposite would agree that there are times when people exploit other people, when they do involve them in unfair contracts, and that some of these contracts are against the public interest. We ought to have some mechanism for interfering, and that is what this new section provides for. Shame on you!

Mr S.J. BAKER: What an extraordinary performance from the Minister! He thinks that a bit of bluff and bluster will suddenly change the view held not only by members on this side of the House but also by a large number of people in the community who are trying to make a living. Let us have a look at the provisions. We are giving the commission the right to intervene in a dispute. The Minister in one breath says, 'We have had a very good industrial relations record', and in another says that he read from a 1970 New South Wales report—and we know how well New South Wales has done with its transport industry.

Further, the Minister says that it is the commission that will solve all disputes. There is a little problem with the way he puts together his ideas. If this was the marvellous mechanism, if the commission was to solve the problems, perhaps there would be some sense to it. But where do we get the guarantees?

The Minister knows as well as I do that, when we are talking about contracts for employment, we are talking about the financial relationship that has previously been inviolate. We also know that some employers and unions prefer to appear before a particular commissioner. We know that there is no such thing as an upright arbitrator who can sort out problems. Indeed, we might be able to get a retired arbitrator who has seen a large part of the world and has the confidence of all parties to arbitrate these sorts of disputes. We are talking about a financial contractual relationship between two parties, and that is what the Minister wishes to break with this provision.

Previously it was stated that the principle of breaking contracts goes much further than the industrial arena. The Minister will appreciate that. The Bill provides that a conciliation conference can be called if it is in the public interest. Does the Minister believe that the readymixed concrete dispute would have been solved faster if a commissioner who did not have the faith of one of the parties

had been involved? Does he believe that the current milk dispute will be solved if the commissioner does not have the complete confidence of those parties? Of course not. We are not talking about a difference of opinion between employer and employee where the master/servant relationship exists; we are talking about people who contract their services.

Further, the Bill provides that any harsh, unjust or unconscionable contract is liable for review. At the end of the day a contract may well be unjust and grossly unfair because one party might not keep their end of the bargain, decide that because of this provision they can get into and out of the system with full recompense or contract their services at prices that are unrealistic due to some so-called 'pressure' that exists in the system, but the contract may have been entered into knowingly.

Where does it start and end? The Minister made a number of interesting observations about the way in which the commission will suddenly dispense justice. As my colleague the member for Coles pointed out, the commission is given extraordinary power. I do not know whether or not I have related this instance to the Committee previously, but I will repeat this example. A lady had goods and money stolen from her premises and, as a consequence, two shops were closed, an employee was dismissed and police charges were pending. The employee said that she had been unfairly dismissed and went to the commission, which said that it could not take account of any criminal matters that were pending and suggested that the lady, even though she said she was bankrupt, pay the employee $5 000 for unfair dismissal.

This lady rang me and I told her to take the matter to court, that that was the only place where she would get justice. She said that she had been advised not to waste her time and money and that she should stop now because the costs would escalate. Is that justice? Admittedly, the Minister can talk about a number of examples on the other side of the fence, but I am saying that there is no guarantee that the commission will be unbiased, unfettered and make decisions that will be in keeping, first, with the law and, secondly, with maintaining some form of equity. These provisions overturn the law of contract, and that extends to the supply of goods and into a whole range of other areas outside the industrial area we are talking about here; indeed, it creeps right into the commercial area.

Where does it stop? Does a person who is supposed to supply goods to a shop say, 'I am sorry but it is unfair', because the same principle could very easily apply? The Minister is trying to set a precedent and say that the commission can intervene. There are ways in which these things can be tackled, as the Minister would appreciate. I suggest that perhaps he talk to many of the paper boys who stand on the street. He will find out how much they earn a night. Will he say that they are being exploited? When I was a paper boy I did not earn much money. Perhaps they are being grossly exploited because they want to sell papers. I do not believe so. If I want to get pocket money, I am entitled to do so. Where does it start and where does it stop?

There has to be a rethink on how we deal with the cases of exploitation. The Minister referred to the case of the Nationwide company. I have further reservations about certain companies around this town, particularly Nationwide, but I will not express them here. The Minister said that this company was exploiting the kids working at the Grand Prix. We have an adequate way of dealing with such exploitation: the Government happens to have the contract. If the Government has the contract, surely it could have said to Nationwide that if it wants to retain the contract it will not exploit the kids. That was one of the simplest things in the world to fix up. Mechanisms are available. We can put it within a commercial transaction area or the Minister may wish to look to the areas prescribed.

We are not talking about outworkers but about general levels of employment which may be able to be examined under other provisions, for example, within the commercial tribunal itself. This amendment is not tenable.

The Hon. R.J. GREGORY: I can appreciate that the member for Mitcham cannot accept this clause as he likes to see people being exploited and likes to misrepresent the facts put in this place by referring to them as being unfair. We refer to 'grossly unfair'. That word before 'unfair' means that it has to be gross or flagrant. A number of other adjectives can describe how unfair it is. It must also be against the public interest. I am dismayed at how the member for Mitcham uses this place to downgrade the Industrial Commission. He has said that he does not believe that the commission will be unfettered or unbiased. He has said that tonight and it is not the first time he has alluded to the commission derogatorily. Again I ask him to apologise because he is making these comments about people who do not have the right to defend themselves. I am disappointed that he has done that.

I draw the analogy of the Readymix dispute. When it became involved in that dispute it was unable to go near the State Industrial Commission. The dispute was drawn out, became costly and much damage was done. Eventually the two parties went to the commission and got help. The dispute was then resolved. That is a perfect example of how it works and how the Act intends it to work. But then we come to grossly unfair contracts which are against the public interest.

The member for Mitcham says that although things are happening in our community which are against the public interest we should be like Pontius Pilate and wash our hands of it. He says that we should rely upon embarrassing those concerned to stop them from doing such things. What a weak response that would be.

Clause passed.

Clause 13—'Intervention.'

Mr S.J. BAKER: The Opposition opposes this clause. Section 34 (3) provides for intervention by the UTLC in any award that is before the commission. It is proposed that new section 44, which extends this power to the court, be inserted. We have already covered the arguments relating to special privilege before the court and commission and oppose this proposition.

The Hon. R.J. GREGORY: The Government rejects the assertions of the member for Mitcham. Some mistakes have been made in drafting and certain amendments will need to be passed in the other place in respect of section 34 (3). It has just been drawn to my attention that the Parliamentary Draftsman has made some mistakes.

The CHAIRMAN: Order! The honourable Minister must not refer to the Parliamentary Draftsman.

The Hon. R.J. GREGORY: The mistakes in the drafting will be corrected in another place. We are of the view that the principal organisation of the trade unions should have the right to represent those unions collectively. I have made clear that the UTLC cannot be a registered association because of the structure of its incorporation. There is at least one—and possibly more than one—employer organisation which should not be registered if the strict rules are applied, but for the sake of convenience we have included this provision in the Bill to facilitate hearings in the indus-

trial relations system so that disputes and matters can be easily and readily dealt with.

In a fit of pique, and because of their xenophobia about unions and other feelings about working people, members opposite want to make it as difficult as possible. They do not want to give ground on this matter, but seem to have some sort of a conspiracy theory. However the intervention of the UTLC makes for fairly simple hearings in the commission and it works extremely well.

Clause passed.

Clause 14 passed.

Clause 15—'Powers relating to unpaid wages, etc.'

The Hon. JENNIFER CASHMORE: I move:

Page 7, line 16—Leave out ', by notice in writing (setting out the reason for his or her belief),' and substitute ', by a notice in writing which is issued under an authorisation from an industrial magistrate obtained in accordance with the Rules and which sets out the reason or reasons for the inspector's belief,'

Under this Bill an inspector may issue a notice. The Opposition maintains that this notice must be issued under the authorisation of a magistrate. This is an additional protection and we believe that it is appropriate to include it in the Bill. It places some constraints on the role of inspectors that we believe are entirely proper and responsible.

The Hon. R.J. GREGORY: This amendment will increase costs. The clause as it stands provides that, if there is an underpayment, the inspector will be able to ask the employer to make the appropriate calculations. The inspector will then examine those calculations to establish whether or not they have been carried out appropriately and, if they have, that will be the end of the matter.

When this clause was confused with a previous provision, I stated that, at the moment, when underpayment is discovered, the department ensures that the appropriate wages are paid and that the underpayments are reimbursed. If that is done in the first instance, the employer is not prosecuted for underpayment of wages. That happens only when the employer objects to any reimbursements. I suggest that, if we accept the member for Coles' amendment, once an underpayment of wages was brought before the magistrate, the prosecution would have to proceed, because that is how people are brought before the court.

The right of appeal to the Industrial Court has been included at the request of the principal employer organisations. The employer can make an application to the court and say, 'I don't believe that the inspector was correct in his assumptions about how I have been paying the salaries of my workers.' On that basis, the court will examine the matter and order the employer to make the calculations. Under those circumstances, it is up to the employer. The member for Coles' amendment will only provide for prosecutions, and we do not agree with that.

We want to prosecute only those employers who persist in not paying, because we know that many employers who are caught in this trap of underpayment are caught because of lack of knowledge and information and that they do not deliberately set out to defraud the worker. When these mistakes are pointed out to the employers, they reimburse those payments and we applaud them for that. We do not want to place additional cost burdens on them, and that is all the member for Coles' amendment would do.

The Hon. JENNIFER CASHMORE: There seems to be some breakdown in communication between the Minister and the employers, because the principal employer organisations have advised the Opposition that they oppose placing these additional powers in the hands of inspectors. The employer organisations believe that those powers should be in the hands of the courts. They further believe that it is inappropriate to give the inspectors powers which are available to the Industrial Court in discovery proceedings. They also claim that, if this clause is passed in its present form, employers will be required to produce information to an inspector without the advice of an employer organisation or a solicitor. As I said earlier and prematurely, the inspector will be the judge and the jury. The employer will not have any defence and may be required to incriminate himself or herself.

The appropriate mechanism for dealing with these matters is the Industrial Court system, and that is why we simply require a notice in writing which is issued under an authorisation from an industrial magistrate obtained in accordance with the rules and which sets out the reason or reasons for the inspector's belief. That is a perfectly reasonable provision and I should not have thought that it would be an unduly costly requirement. I believe that this amendment would constrain the powers of inspectors in line with the way employers believe that they should be constrained. The Minister made much of his intention to protect employers and to relieve them of costs. It appears that the employers are happy to bear the costs, provided that they have protection of an order from a magistrate.

The Hon. R.J. GREGORY: I wish that the member for Coles would not misrepresent me. All I said was that the Industrial Court provision was included at the request of the employers.

Mr S.J. BAKER: I heard the fascinating statement from the Minister saying that he was trying to save the employers costs. That is not the way the employers feel about this provision. Let me make quite clear that, under this provision, an inspector, on the basis of no fact whatsoever, can ask an employer to recalculate wages. The Minister said that the period in relation to this would be extended from three years to six years, so there can be six years of calculation. I cannot see how that will reduce costs. Perhaps the Minister can tell me.

Importantly, the Minister says that an employer has a right of review. Does the Minister think that the small employers out there in the community who work 60, 70 or 80 hours a week will trundle down to the court and say, 'Listen, I want this reviewed'? The Minister knows that, again, he has reversed the whole system. The system seems to be working quite well now, as it stands, yet, the Minister says, 'Aha, but we are not going to have that anymore.' Perhaps the inspectors spend too much time calculating wages—I do not know.

What happens when an inspector wrongfully instructs an employer to recalculate wages? A person who is working that 60 or 70 hour week would have to spend many hours going back through years of books, and bear the full cost, above everything else that that person has to bear. And we have heard how many bankruptcies have occurred in small business over the past six years of the Bannon Government. Bankruptcies have been at record levels. We are talking not about big firms that have computers but about small employers. The big firms with computers can just push a button. The dispute might only be about the classification or some computer error—some error of input—that could be fixed up and calculated very easily.

However, in relation to the little people, they will not ask for a review. They will not say that they have been harshly dealt with. They will just bear the cost of recalculating the wages. The cost of recalculating wages over six years would be horrendous—and I am talking about the cost in personal time. So, the Minister should not talk to us about saving costs or about making life easier. The system seems to be working okay as it stands at the moment.

The Minister has given a glowing account of how officers of the Department of Labour have indicated that, where they have thought a mistake has been made, they have asked for wages to be recalculated. That is fine. Under this provision any inspector has the right to ask an employer to recalculate wages, and the only redress for a poor little business person going hammer and tongs trying to survive out in a world that is not very kind at the moment has been the suggestion that that person can go along to the court and have the matter reviewed. I do not believe that that is too fair at all.

Despite the Minister's response, that is not the situation in the real world of today. The Minister knows that, and he knows where the costs will be borne. There is an article of faith out there in the community—except for some employers who do try to take the rules apart. However, they are very few and far between. As I have said, the system has seemed to work very well.

Under the situation that we are proposing, except in exceptional circumstances, the officers will have a chat with the employer and ask to have a look at those wages that they think might have to be recalculated. If this is not agreed to and a satisfactory response is not forthcoming, the matter can be directed to the courts. That is the way that it will work under our proposition. Under the Minister's proposition, the person involved would be sitting down for many hours recalculating the wages—under duress. There is a difference.

The Hon. R.J. GREGORY: I now know—or I have had further confirmation—as to why the member for Mitcham is no longer principal spokesman on industrial relations. He has misrepresented what the whole clause is about. I will read this provision slowly for the honourable member. It provides:

> If an inspector has reason to believe that an employer has not paid an amount due to an employee in connection with his or her employment, the inspector may, by notice in writing (setting out the reasons for his or her belief), require the employer, within a period specified in the notice—

That puts an onus on the inspector to set out the reasons. We had to listen to a great diatribe from the member for Mitcham about a person working in a corner deli. Most of those people belong to an association—

Mr S.J. Baker interjecting:

The Hon. R.J. GREGORY: Again, the honourable member is now supporting the non-unionist, the non-member: those people have access to an association to which they can go and get assistance.

Mr S.J. Baker interjecting:

The CHAIRMAN: Order!

Mr S.J. Baker interjecting:

The Hon. R.J. GREGORY: The honourable member says 'Rubbish,' but they ought to be members so they can get assistance, and if they do not get assistance—

Mr S.J. Baker interjecting:

The CHAIRMAN: Order! I call the honourable member for Mitcham to order and I warn him. This is the first warning.

The Hon. R.J. GREGORY: Those people ought to be members of an association so that they can get that ready assistance. When one talks to people who are skilled in this area, one finds that these underpayments are very quickly fixed up. The people who do have the problems are not, as the member for Mitcham described, the small employers. It is the large employers with the complex award calculations who have the real problems in correcting these underpayments. The little employers with one or two employees can very easily fix those up and they are easily done. Again, the member for Mitcham has demonstrated his ignorance and is misleading the Committee with his interpretation of the amendment.

Mr S.J. BAKER: Having given us the startling piece of information that it involves the very large employers around the town, can the Minister give the Committee the split-up between the smaller and larger employers in the cases handled by the Department of Labour?

The Hon. R.J. GREGORY: The one where an estimation and not an appropriate calculation was made, involved the casino. A large number of employees came and went from that place, and they have been unable to accurately work it out because of the costs involved. Only a few of these prosecutions come across my desk. They relate to the smaller employers, and they are very easily worked out.

Amendment negatived.

The Hon. JENNIFER CASHMORE: I move:

Page 8, lines 6 to 10—Leave out subsection (7).

The deletion of subsection (7) has the effect of removing the ability of the court to order the payment of money. The Opposition believes that this power should not be included as part of the review process as laid down in the Bill.

The Hon. R.J. GREGORY: Again, this clause is there because principal employers did not want the matter going back and forth like a shuttlecock. If the matter goes up for review, and the employer has been mucking about with it, he pays.

Amendment negatived; clause passed.

Clauses 16 and 17 passed.

Clause 18—'Sick leave.'

The Hon. JENNIFER CASHMORE: I move:

Page 8, lines 32 to 43; page 9, lines 1 to 5—Leave out paragraphs *(a)*, *(b)* and *(c)*.

The Opposition opposes a substantial portion of this clause, which provides for a full-time employee who is ill whilst on annual leave or long service leave to take sick leave, provided that the entire amount of sick leave for the year has not already been used.

As I outlined in my second reading speech, the provision is open to horrific abuse, especially if the leave is taken outside the State or overseas. There is no way whatsoever that anyone could prove that a person was or was not sick if that circumstance prevails. South Australia already has the best long service leave provisions in Australia. Long service leave is separate from, and additional to, annual leave, and bears no relationship to sick leave which is quite rightly provided to ensure that those who fall sick when they are due to be working are, to a limited extent, not financially disadvantaged. Long service leave has quite a different justification: it is provided after a length of service which it is considered warrants additional leave to that provided as annual leave.

As I said, South Australia already has very generous long service leave provisions compared with other States. To impose a further opportunity for additional leave is, in the opinion of the Opposition, quite wrong, unjustifiable, open to abuse and should be opposed.

The Hon. R.J. GREGORY: We have another demonstration of the caring Liberal Party denying workers their rights. Last year we had the spectacle of the Leader of the Opposition telling the people of South Australia how the Liberal Party cares for them. We now have another example of the Opposition denying people the right to accumulate sick leave whilst on long service leave. At the moment if people are on annual leave and fall sick they may, on production of a doctor's certificate to prove that they are sick, have that leave recredited so that they can take it at another time.

There are provisions in legislation where people may have up to six weeks annual leave which can be taken back to back. Indeed, a number of people go overseas while on annual leave. They can go overseas on their annual leave and get sick leave, but if they are on long service leave they are not entitled to sick leave. A doctor would provide a medical certificate, and I have not heard anyone here say that doctors are shonks. Perhaps the member for Mitcham, who is very good at denigrating people who cannot respond, might get away with calling them shonks, but doctors are supposed to be, and are, looked upon as pillars of our society. If doctors are signing certificates for people who are not sick, they are committing a fraud and should be prosecuted for it. If people are sick and have an entitlement to sick leave, they should be able to use that leave.

Mr S.J. BAKER: The Minister should recall that sick leave has been very much to the fore in recent times; even he has agreed that something must be done about the abuses of sick leave. The Minister, the Premier or someone of note in Cabinet has said that this problem must be looked at. However, the Minister has just said that, if a person on long service leave has a doctor's certificate, the period of sick leave to which that person is entitled should be extended. He tried to draw a parallel between those people who have six weeks annual leave and those who have four weeks annual leave. I point out that casual employees do not receive any annual leave or sick leave, so the Minister has problems with that parallel.

Depending upon the industry and the employer/employee relationship, there may be problems with sick leave and annual leave. This provision represents yet another burden on the employer and it will be harder to substantiate. The Minister has suggested tonight that employers are in favour of the provisions in this Bill, yet on four occasions our information has been quite different. Does this provision have the support of employers? I doubt it. The Minister has said that, despite abuses of sick leave entitlement, it will be extended during long service leave and, after 10 years service, people in this State are entitled to three months leave.

This provision is quite inappropriate for a State that has the worst unemployment rate of any of the mainland States. Its lack of growth is tragic, yet the provisions in this Bill add a further cost burden onto the people who are the hope of this State: the employers. In saying that I do not suggest that employees are not involved: indeed, they are part of the productive enterprise and should be more involved in the decision-making process. However, the people who go to the bankruptcy court if they fail are the ones putting money into business. The Opposition wants as many opportunities as possible for people to be employed in this State. However, this provision is yet another burden that will be very hard to avoid. The Opposition opposes the proposition, and I simply ask the Minister: if a person places himself at risk whilst on leave, as many people do, who should bear the burden?

The Committee divided on the amendment:

Ayes (15)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, and Blacker, Ms Cashmore (teller), Messrs Eastick, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Olsen, Oswald, and Wotton.

Noes (20)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Blevins, Crafter, De Laine, M.J. Evans, Gregory (teller), Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs Becker, Chapman, and Ingerson. Noes—Ms Gayler, Messrs Hamilton and Mayes.

Majority of 5 for the Noes.

Amendment thus negatived.

Progress reported.

The Hon. R.J. GREGORY (Minister of Labour): I move:

That Standing Orders be so far suspended as to allow the sittings of the House to extend beyond midnight.

Motion carried.

Debate in Committee resumed.

The Hon. JENNIFER CASHMORE: I move:

Page 9, lines 10 to 15—Leave out paragraph *(f)*.

The Opposition cannot countenance the inclusion in this Bill of paragraph *(f)*, which inserts after subsection (4b), the following subsection:

(4c) The provisions of this section do not prevent an award or industrial agreement providing for the grant of sick leave in terms or on conditions more favourable to employees than the terms and conditions provided by this section.

The effect of that is to enable awards or industrial agreements to take precedence over statutory entitlements so as to provide a greater rate of sick leave accruals. We are opposed to the recognition of such a practice in the legislation. The notion of holiday entitlements should have common application to all employees.

It should not be the subject of bargaining power which some groups may be in a position to exercise. Experience in the Federal sphere has shown a tendency for some unions to press for the pay-out of sick leave annually or on termination. That indicates that there is virtually no limit to the benefits that some people will seek, regardless of the costs or the impact on jobs or the economy as a whole. This is terribly costly to industry. The whole notion of sick leave is that it should be an insurance against ill health disrupting income. That is the basic notion.

It should not be an additional opportunity to take X amount of leave regardless, and it should not be seen as an opportunity for some unions to extend the existing statutory provisions by way of their awards and thus perpetually expand what they see as benefits but which ultimately amount to economic disadvantages to the whole community. Therefore, we oppose this paragraph.

The Hon. R.J. GREGORY: I am astounded. Employees and employers, individuals and even company unions ought to be able to enjoy the benefits of freely negotiated agreements and, in fact, the Liberal Party has been touting that concept. In South Australia there are people who are entitled to more sick leave than is currently provided by statute. They are under agreements and awards. Is the member for Coles indicating that the Liberal Government will take away from all public servants in South Australia the extra two days sick leave that they get each year? I do not think that that is the case, but that is what she advocates here—that they should not get those two days. The honourable member is advocating that, where employees and employers have agreed that there ought to be more sick leave—because of a particular type of industry, the type of work or because of the generosity of the employer—those employees cannot have it.

Mr S.J. BAKER: Talk about misrepresentation! The Minister, who has accused my colleague and me of misrepresenting him on a number of occasions, misrepresents what the arbitration system offers today. He cannot say on the one hand that we are to have a fettered arbitration system and on the other that it is free agreement time. He knows that our propositions require a little bit of give and take within the system, so when he says, 'The Liberals agree that agreements at the company level or enterprise industry level would lead to these sorts of things under the Liberal prop-

ositions,' he is talking patent rubbish because, until we get to the stage where we can actually get people to come to grips with the whole concept of negotiation and reaching agreement which will be of benefit to both parties, we will stagger from crisis to crisis in this country.

I do not imagine that any agreement made under an unfettered system, which is in fact a fully-blown system of agreements negotiated in the workplace, would involve extraordinary levels of sick leave. I can think of a number of circumstances where negotiated agreements, particularly involving certain unions, would encompass that proposition. People would say, 'This is going to be another trade-off in the system. We are going to get a bit more sick leave or superannuation out of the system, or some other ride out of the system.' So it is, if you like, a lifting of the lid.

It is recognised that the people covered by this legislation have 10 days sick leave per year—10 days the first year and 10 days thereafter. The legislation changes the accrual system, and the Opposition supports that proposition. It does not, however, support the proposition that those with a little bit of might and muscle can go for extended sick leave. We are not talking about justification: we are talking about what actually happens in the system today.

For example, we know that over-award wages and certain privilege conditions operate in certain industries in this country, purely because of deals that have been done for some fairly indifferent reasons, and certainly not in the public interest. So let us not hear talk about the Liberal Party's proposition of negotiated agreements, because that is a total proposition. It will not allow certain of the power elements to dominate the system. We have checks and balances in that system, so when the Minister says 'I cannot understand why you Liberals don't agree to it,' I point out that there is a simple reason why we do not agree to it: it is abusing the system in terms of natural advantage.

That means that, should the union feel so inclined in particular industries, it will make a claim on employers. The claim will be pursued and, because the legislation no longer restricts the proposition, it may well be that, under duress and pressure, it is successful. So far as we are concerned, it is not negotiable. In 10 years time it may well be negotiated. We may be saying that first year employees are due for five days sick leave and ten year employees might be due for 12 days sick leave. There might be a whole different set of arrangements but, until we get to the situation where there is free negotiation within a certain set of rules, there is no way we will agree to the Minister lifting the lid on sick leave in this town.

The Hon. R.J. GREGORY: What the member for Mitcham has said and what he really means is that people are free to get less than the standard, and free to be exploited. That is what he has really said tonight, because he has said that he wants the latitude for people to do what they like—freely negotiated agreements, but not over what is in the Bill. If the honourable member had been fair dinkum, he would have said, 'We want the standard that is there now.' But no: what he said was that people would be free to get less.

That is what the honourable member meant when he talked about freely negotiated agreements; but he wants not freely negotiated agreements where employees get more but freely negotiated agreements where they get less. The honourable member should think about what he said, because that is what it means. Sick leave is not something one takes because it is there. Some people might do that, but a prudent employer ensures that sick leave is taken properly under the conditions of the award. One will find that the good managers—those who stay in business—have few absences due to sick leave.

I will describe a few things for the honourable member, because although he thinks he understands he does not understand what occurs on the factory floor with sick leave. ETSA employees took sick leave at a certain level under a provision for the accumulation of a maximum of three weeks sick leave (two weeks accumulation and the current five days). A number of unions convinced ETSA to extend that accumulation to a maximum of five years sick leave entitlement, and the amount of sick leave taken decreased, but when the sick leave entitlement of five years was reached, the amount of sick leave taken rose to its previous level. ETSA had no problem in extending the accumulation of sick leave indefinitely, because ETSA gained from that.

Sick leave is not something people get when they finish employment because they have had the lottery of good luck never to be ill, and the number of days that they could pick up in money terms might run into a year or so; sick leave is to be used if people are unfortunate enough to become sick, and it accumulates. If people run a business, they know that they have to budget for sick leave according to the number of employees. Prudent employers manage to do that and, if employees take more sick leave than they should take, appropriate action is taken to ensure that they take it properly.

I see nothing wrong with employers agreeing to levels of sick leave in excess of the Act, because that can be a reward to employees who might get sick in the latter part of their lives. One will find that many employees and public servants who retire from the work force have enormous sick leave credits, while others do not. As I said previously, if we find that people have been fraudulent in the taking of sick leave we will deal with it in the way that one deals with people who commit fraud. If we find doctors who are consistently giving doctor's certificates for sickness where people are not sick, we will take up that matter with the Australian Medical Association, because those doctors are a party to a fraud. We are talking about the right to sick leave; the honourable member is talking about stopping people from negotiating with employers for sick leave. Also, he says that, if employers are gracious enough to ensure that employees get sick leave, they should not have it.

Previously when I ran an organisation and employed people I did not bother to keep track of how much sick leave they took. Although it was recorded, sick leave was granted to them because they were sick. They produced certificates, and I was working in close proximity to them and knew that they were sick. Not once did I pull up an employee and say, 'You have passed your 10 days. You are not getting any more.' The honourable member is saying that in that situation I should say to those women who were sick that they could not have that leave. I am telling the honourable member that that is not on.

Mr S.J. BAKER: The Minister has made another extraordinary response. I thought I made abundantly clear that this is about negotiating upwards, not about the *status quo*. The *status quo* is 10 days sick leave and, as far as I know, that is recognised throughout Australia. I do not know of any State that allows fewer or more days in State awards. The Federal jurisdiction certainly does not. What we are saying is that a standard has been set and that that is not negotiable upwards or downwards. The Minister asks, 'If it is negotiable upwards, what about the other side of the coin?' That is not negotiation, it is a one way street. The Minister is opening this up; he is the one who is saying that if one has industrial muscle and might one can extend sick leave provisions. We are not talking about people who are

genuinely sick; we are talking about the accepted conditions of employment that pertain to Australian employees.

[*Midnight*]

So, do not fiddle with the truth. The Minister is now saying that in certain areas, if they have the muscle, they can negotiate extra sick leave, irrespective of the merits of the case. The Opposition rejects that proposition entirely.

The Committee divided on the amendment:

Ayes (14)—Messrs Allison, P.B. Arnold, D.S. Baker, S.J. Baker, and Blacker, Ms Cashmore (teller), Messrs Eastick, S.G. Evans, Goldsworthy, Gunn, Lewis, Meier, Oswald, and Wotton.

Noes (21)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Blevins, Crafter, De Laine, Duigan, M.J. Evans, Gregory (teller), Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Slater, Trainer, and Tyler.

Pairs—Ayes—Messrs Becker, Chapman, Ingerson, and Olsen. Noes—Ms Gayler, Messrs Hamilton, Mayes, and Peterson.

Majority of 7 for the Noes.

Amendment thus negatived; clause passed.

Clause 19—'Right of appeal.'

The Hon. JENNIFER CASHMORE: My proposed amendments to clauses 19 and 20 are consequential on the amendments moved in relation to clause 12. I do not intend to proceed with them because that amendment was lost.

Clause passed.

Clauses 20 and 21 passed.

Clause 22—'Approval of commission in relation to industrial agreements.'

The Hon. JENNIFER CASHMORE: The Opposition opposes this clause. We are opposed to restricting the power of the commission to approve industrial agreements which have been negotiated between the parties and we are also opposed to the related amendments. An agreement represents an employment package which was freely entered into and which we believe should not be interfered with. It may contain trade-offs which suit the parties but which are contrary to the trade union ideology, for example.

In our opinion such agreements should not be subject to trade union scrutiny. The idea that they should be is contrary to the current trend of bargaining at plant level as part of the restructuring of commerce and industry. If this issue is pursued I think that the Minister would agree that as a result a large number of industrial agreements would become Federal matters. Undoubtedly that is what would happen. I do not know if the Minister wants that to happen, but in the opinion of the Opposition that would not be a beneficial outcome and we are therefore opposed to proposed subsection (3a) *(a)*.

The Hon. R.J. GREGORY: One can never understand this crowd opposite. I thought that they were involved and wanted industry unions—and this is how they go about doing it.

Mr S.J. BAKER: The Minister mumbled something about our wanting industry unions. That is not what this is about. It is about the little Castle Bacon problem which happened interstate. Certain agreements were reached which were fully in accord with the employer and its employees. They were overjoyed about the arrangements but the union got a little bit upset because it thought that this would affect the conditions applying in the meat industry.

That is what this clause is all about; it prevents any form of agreement which may affect other parts of the industry or, more importantly from the union point of view, its control of that industry. Do not let the Minister tell us that this clause will aid industry unions, because it will not. New subsection (3a) provides:

> The grounds upon which the commission may decide not to approve an industrial agreement include—

The first paragraph relates to the objects of the Act and paragraph *(b)* provides:

> that a registered association that represents employees who do work of the same or substantially the same kind as the employees to whom the agreement relates, and that has a proper interest in the matter, is not a party to the agreement.;

The simple fact of life is that this Government is beholden to the union movement. It does not want anything to upset that relationship.

Mr Oswald: It is the industrial wing of the Labor Party.

Mr S.J. BAKER: Of course it is the industrial wing—in fact it is the political wing of the Labor Party. The Bill has been introduced because the union movement is upset with the performance of the Bannon Government, and this legislation is a sop to keep the movement quiet for another 12 months.

We do not agree with this clause, because it makes no sense. If an agreement is in the interests of the employees and the employer, why should it not succeed? This clause states that, if the unions do not like it, irrespective of whether or not that agreement will increase productivity and export potential and improve labour relations and the quality of employment, the agreement cannot succeed. The union would say, 'But this could start a new set of arrangements in the industry and we don't want that to happen, because we will no longer control the industry.' The clause would lead to that situation.

It does not provide for industry unions. I favour industry unions with an enterprise base. We are now seeing some changes, but unfortunately they are not industry changes. We are still seeing various unions crossing into other industries. This clause does not deal with industry unions; rather, it protects the home town team so that nobody can appear before the commission and present an agreement which will hold water and which will have something in it for everyone but which will affect other people in the industry. We oppose this clause.

Clause passed.

Clauses 23 to 25 passed.

Clause 26—'Employee not to be discriminated against for taking part in industrial proceedings.'

The Hon. JENNIFER CASHMORE: The Opposition opposes this clause, which I dealt with at some length in the second reading debate. Our opposition is based on the premise that this clause, whilst subtly worded in many respects, embodies some absolutely fundamental changes to the present rights, powers and responsibilities of employers.

This clause includes threats and detriment as offences, especially in the context of shifting the onus to disprove such allegations. How, indeed, can one disprove a threat? But that is what this clause will require of an employer, if an employer, acting responsibly, chooses to warn employees of the consequences of their industrial, or indeed any other, action.

The primary position of employers in relation to sections 156, 157, 157a and 158 of the principal Act is that they should be repealed. I hope we will not hear from the Minister a statement similar to that which we have heard previously this evening that employers have asked for this provision—because they most certainly have not, or at least that is the advice that they have given to the Opposition.

The Opposition believes that prosecutions of the type that are envisaged in this clause are entirely inappropriate. Any matter involving the detrimental alteration of the posi-

tion of an employee should, in our opinion, be dealt with by way of the dispute settlement procedures—but not by criminal prosecutions.

The Government's approach in proposing this clause is in very strange contrast to its approach in trying to delegalise the unfair dismissal and the other provisions of the Act, by attempting to bar the legal profession from conferences, as was the case earlier in the Bill, and by the 1984 amendments to the Act to put section 31 claims in the hands of the commission instead of in the Industrial Court. If penal provisions are to be retained in the Act, certainly, the shifting of onus provisions should be removed. The way the Bill reads at the moment, there is really no semblance of fairness in relation to such proceedings.

It has been suggested to the Opposition that the provision to prosecute an employer, if that employer dismisses or threatens to dismiss an employee from his or her employment, will, in effect, render the position of employers totally untenable. The existing right of an employer to dismiss an employee is, in effect, removed by virtue of this provision. At the moment, employers can have no right, of course—and nor should they have—to lock out employees, and employees have a right to strike: one balances the other. But under this provision, in future employers simply will not be able to dismiss employees. It means that businesses can go bankrupt. There will be no halfway house between the proper management of a business and the bankruptcy of a business.

There will be no right of an employer to retrench or adjust employment. The ordinary basic right of an employer, which is inherent in the whole establishment of a business, will simply be removed in one stroke by the provision in this clause, which is:

> Section 156 of the principal Act is amended—
>
> *(a)* by striking out subsection (1) and substituting the following subsection:
>
> (1) An employer must not—
>
> *(a)* dismiss an employee from, or threaten to dismiss an employee from, his or her employment;
>
> *(b)* injure an employee in, or threaten to injure an employee in, his or her employment . . .

No-one would want to see employees injured. How on earth would anyone disprove a threat? Yet the onus is placed on employers to do exactly that. What happens if an employer says to employees, in a perfectly reasonable and non threatening atmosphere and tone, 'I must alert you to the fact that if you proceed with this 'go slow' campaign, we will not be able to fulfil our orders. If we cannot fulfil our orders, we will lose our major customer. If we lose our major customer, there is no way that this business will survive.'

That in anyone's reasonable terms is a responsible warning as to the consequences of an action, but under the tremendously broad-brush wording of this provision, it could well be constituted as a threat. That means that an employer, if he or she makes such a threat, is liable to a division 8 fine. That simply is untenable. There is no-one in this State who would wish to go on employing. Indeed, there are some who could not go on employing with that kind of Damocles sword hanging over their heads.

It is an absolutely draconian provision which alters the fundamental relationship of an employer/employee and which in effect makes employees the bosses without any of the responsibility that goes with the ordinary notion of investing and the provision of jobs. It is about as basic an attack on the normal rights of employers as anyone could possibly envisage. It is virtually saying, 'From now on, all employers are locked into penal provisions if they pursue their age-old right to dismiss employees.'

The Hon. R.J. GREGORY: Really, the member for Coles is saying that if people who work either in industry or for an employer want to take action in respect of their union, appear in court and give evidence, they can be threatened. That is what she is saying. She has referred constantly to one instance only in respect of the projected course of actions of unions where an employer may say, 'If you continue this action, I will have to close down my factory because I will not be able to continue.' Well, that is not the issue. Perhaps I can excuse the member for Coles, because perhaps she has not had to deal with some of the people whom I have had to deal with when it comes to industrial disputes and representing unions.

At the moment we are trying to have on building sites throughout South Australia a number of people who will act as safety representatives on behalf of their fellow employees. However, you will find that in many instances people refuse to take on that office because in fulfilling their duties they come into conflict with the employer. Sooner or later, the kadaicha man comes around and says, 'They do not work there anymore.' Perhaps members opposite do not understand what that means. One day they are there, the next they are not: they are gone. One of the problems that workers have in keeping work is the fear of getting the sack. It is a very real fear and the employer has the ability to take away from people the right to earn a living and enjoy all their benefits.

However, apart from that—apart from dismissal—there is the ability to detrimentally alter the employee's position, so that an employer can move an employee from one part of an enterprise to another. The employee can be moved from a job which pays a higher salary to a lower paying job; from a job which has regular overtime to a job with no overtime. Employers can do all manner of things; they can get the employees to work outside when usually they work inside. Employers can detrimentally alter the job prospects and income of employees.

The member for Coles is saying, 'That is fine, they can do that.' I do not think it is fine. I think it is wrong, because the honourable member is saying that anyone who wants to appear before the commission, who takes an active part in their union and is involved in representing the union, can be threatened, dismissed or harshly dealt with. I do not think that is good enough. We have expanded this legislation to make it clear and to allow people to act on behalf of their union and fellow workers without fear of dismissal.

The honourable member and other members opposite need to understand the fear that rank and file members feel when they represent their fellow workers before the boss. They wonder whether or not they will have a job the following day. Apparently some members do not know what it is like to work under conditions where people are sacked because they are active in unions and because they represent their fellow workers. The Government is saying that, if this can be proved in the commission, there should be a penalty on the employer for stopping the due process of our industrial system. The men and women of this State who represent their fellow workers should have that protection. We should encourage them. After all is said and done, I thought members of the Liberal Party would want rank and file people doing these things, and not the union officials about whom they are always complaining.

The Hon. JENNIFER CASHMORE: The matters to which the Minister has just referred are already provided for in the provisions of the Act relating to unfair and unjust dismissal. To extend those provisions in this way is to create

a power that will virtually paralyse employers in South Australia. The Minister talks about an employer detrimentally altering an employee's opportunities or position. He makes no reference whatsoever to the employee detrimentally altering an employee's chance of keeping a business going, of keeping some kind of cash flow, of continuing to provide goods and services and, indeed, of continuing to provide jobs.

In this clause, the Minister is saying that employment is sacrosanct for all employees, regardless of whether they are engaged in unlawful industrial or strike action. If employees continue bans and limitations after a strike for up to six months, their employment will be protected from threats of dismissal. I repeat that this clause has the potential to paralyse employment in South Australia. It has the potential to bring us to our economic knees—and heaven knows we are close enough to that situation already. I understand only too well the meaning of this clause; the Minister suggests that I do not. I repeat: he skated over the provision in the clause which prohibits an employer from dismissing an employee, or threatening to dismiss an employee, from his or her employment. No ifs, buts, maybe's, or conditions are placed upon that: it is just a straight out prohibition on dismissal. It simply means that any employee can engage in any unlawful practice. Indeed, this clause even protects an employee engaged in sabotage from having any action against him or her, because it prohibits an employer from dismissing an employee.

Earlier in the debate, the member for Mitcham referred to the circumstance where an employee had robbed her employer of substantial sums of money. The employer dismissed the employee who was subject to police prosecution, and the Industrial Commission said that the employee should be compensated to the tune of $5 000.

Under this provision, technically it is possible for an employee to engage in all kinds of illegal activities—to sabotage a business, to be rude to customers, to disrupt services or to do virtually anything that is unlawful or detrimental to an employer—but an employer is prohibited from dismissing an employee. The employer is even prohibited from warning of likely dismissal, because that could be construed as a threat. It is impossible for the Opposition or for any responsible or reasonable person to accept that the clause has any equity, justice or common sense.

The Hon. R.J. GREGORY: According to the theories postulated by the member for Coles, we should not have any industry working in Australia at all, because these provisions apply in the Federal Act. According to her, we should have no industry working, but it is working and it is working very well. About 1.3 million jobs have been created in the past five years compared with less than 200 000 jobs in the previous five years of the Fraser Government. Perhaps because of this provision there are 1.3 million more jobs.

I want to draw the honourable member's attention to section 156 (2) of the principal Act. That provides:

> If, in any proceedings for an offence against this section, it is proved that an employee was dismissed from or injured in his or her employment with the defendant within two months—

that will be six months, because that is how it will be after the amendment has been passed—

> for any of the acts or matters mentioned in subsection (1) of this section, the burden of proving that such dismissal or injury was not in consequence of such act or matters shall lie upon the defendant.

There is nothing about threats. It refers to two matters only: dismissal or injury in his or her employment. What the member for Coles has been saying about threats does not stand. It falls, because there is no provision there for it. An injured employee who claims that he or she was threatened has to prove that that actually took place.

The Industrial Commission's action in respect of the employee robbed of money has nothing to do with the application of the Industrial Commission in respect of this Act. I suppose it is a debating point that can be dragged in and paraded around to confuse the matter, rather like someone dragging a false trail for the hounds. That is happening here.

This amendment makes clear that we are encouraging people to take an active part in their trade unions. They already have that protection in the Federal Act and it works exceedingly well. It has not meant the collapse of the industry covered by Federal awards. In fact, it has probably enhanced what is happening.

We are seeing the most industry restructuring under Federal awards where shop stewards, union representatives and safety representatives have the confidence of knowing that in representing their members they can negotiate with employers when seeking to restructure their award. As a result the metal industry has become more efficient and can compete on the world market. The member for Coles tonight is trying to take away those guarantees and mislead the Committee.

The Hon. JENNIFER CASHMORE: This is a tall story indeed in suggesting that I am trying to mislead the Committee. I am reading from the Bill that the Minister introduced. The Minister reads from the Act in an attempt to avoid acknowledging that this Bill prohibits an employer from dismissing an employee from, or threatening to dismiss an employee from, his or her employment. That is as plain as a pikestaff in lines 10 and 11 on page 12 of the Bill. It is no use reading from the principal Act, which we are about to amend, because the questions under debate relate to the Bill as it amends the Act. The prohibition is to prevent an employer from dismissing or threatening to dismiss an employee from his or her employment. It is not simply the Opposition which regards that provision as untenable—it is employer organisations all over the State. The Minister can say what he likes, but lines 10 and 11 on page 12 of the Bill prohibit employers from dismissing employees.

Any reasonable person would acknowledge that that distorts, to the point of destruction, the relationship that has always existed between employers and employees. It is an essential last resort for an employer who simply must have that right if judgments are to be made as to how businesses are to be run. If the provision is used unwisely, an employer can always be called before the commission under the unjust dismissal provision. To impose the additional provision of an absolute prohibition with respect to dismissal of any kind goes beyond anything that can be regarded as reasonable, and the Opposition strongly opposes it.

Mr S.J. BAKER: I am not fully aware of the Federal provisions, as I do not have their exact wording. I rise to comment on the basis that I am aware that those provisions are more extensive than those in the existing Act, but I am not sure of the exact equivalent. When matters are determined within different jurisdictions we find that the interpretation put on the first decision becomes important because it sets the precedent and standard irrespective of what has been happening in other jurisdictions. This is particularly so in the industrial arena.

The point is that this clause has two difficulties. First, it extends the province of the commission to rule against an employer if someone has been dismissed on the basis that that person has in some way been threatened or affected detrimentally. The member for Coles has elucidated clearly

the difficulties that pertain in any dispute situation. There are exchanges between employees and employers in difficult situations, as the Minister would fully appreciate. So, threatening to injure an employee in his or her employment really becomes a matter of interpretation that ultimately will be decided by the commission.

The Minister mentioned the building industry, which I find a rather marvellous example. I would have thought that he would keep quiet about the building industry and the problems that exist within it, including some of the rorts under the safety provisions. I would have thought he would have kept quiet on those matters, but he operates on the open-mouth policy, so we will use the building industry as an example.

The building industry must be one of the worst places for threats. It is all right for an employee to threaten an employer, which happens every day of the week in the building industry, but under these provisions it is not on for an employer to reciprocate, even though that is the language used in the building industry. We know that it is a rough and tough industry and that the language is choice—vitriolic on occasions and threatening on many occasions. It just happens to be the way that certain union officials operate in this town.

To suggest that this legislation should provide protection for such people amazes me. The existing provisions allow for employees who are placed in a difficult situation, who are dismissed or injured to be protected under the Act. So, the original detail supplied by the Minister is already covered under sections 156 and 157 of the existing Act. We are now talking about a new ball game. What is detriment and what is threat? They will have to be interpreted by the State Industrial Commission, which will be seeing this part of the legislation for the first time.

Whether it exists in all its glory in exactly this terminology within the Federal sphere, I cannot say. It may well be very close. I am saying that in the industrial situation in South Australia I would have extreme reservations about the commission interpreting what is meant by threat and detriment. What is threat? Perhaps the Minister can explain that. An employer might say to an employee with whom he is having a few problems 'Look, you haven't been to work on time for the past two weeks. You've been out to the boozer at lunchtime and not doing your job. If you don't smarten up, I can no longer employ you.' Is that a threat? The circumstances I am talking about are not unusual. These things happen on occasions when employees do not perform. If a person is not performing in a particular job or the employer perceives that he would perform better in another area, is it detriment when the employer moves him? What is the interpretation of 'threat' and 'detriment'?

The Hon. R.J. GREGORY: What the member for Mitcham is doing is confusing the issue. Let us go through it again. Clause 26 provides:

(1) An employer must not—

(a) dismiss an employee from, or threaten to dismiss an employee from, his or her employment;

(b) injure an employee in, or threaten to injure an employee in, his or her employment;

or

(c) alter detrimentally the position of an employee in, or threaten to alter detrimentally the position of an employee in, his or her employment—

not because they are down at the pub boozing and not because they are not doing their work but—

in consequence of—

(d) the employee becoming or acting in the capacity of a member of a Committee;

(e) anything done by the employee as or in the capacity of a member of a Committee, or arising out of or consequent on the employee being or acting in that capacity;

(f) the employee becoming a party to any proceedings before the Commission or a Committee;

(g) the employee taking part or being involved in an industrial dispute;

or

(h) any evidence given or anything said or done or omitted to be said or done by the employee before the Commission or a Committee.

Let us go through what the committee is. I know that the member for Mitcham has a low regard for the Industrial Commission of this State because he has said so at least twice tonight. The committee is a conciliation committee. What the member for Mitcham and the member for Coles are saying is that it is fine to say to an employee who is to give evidence to the commission or the committee that this or that might occur and sure, it may be detrimental to an employer because they might be arguing for a wage increase or some other matter.

In that case the Act provides that an employee has to prove that threat to the court. In relation to a dismissal or an injury, the defendant has to prove that they did not do that. The doubting Thomases opposite should read the Federal Act, because there seems to be a belief that it does not contain this provision. Section 334 of the Industrial Relations Act provides:

(3) An employee shall not threaten to dismiss an employee, threaten to injure an employee in his or her employment, or threaten to alter the position of an employee to his or her prejudice:

(a) because the employee is, or proposes to become, an officer, delegate or member of an organisation, or an association that has applied to be registered as an organisation, or with intent to dissuade or prevent the employee from becoming such an officer, delegate or member;

(b) with intent to coerce the employee to join in industrial action;

(c) because the employee has made, or proposes, or has at any time proposed, to make, application to the commission for an order under section 136 for the holding of a secret ballot;

(d) because the employee has participated in, or proposes, or has at any time proposed, to participate in, a secret ballot ordered by the commission under section 135 or 136;

(e) because the employee has appeared or proposes to appear as a witness, or has given or proposes to give evidence in a proceeding under this Act, or with the intent to dissuade or prevent the employee from so appearing or giving evidence; or

(f) with the intent to dissuade or prevent the employee, being an officer, delegate or member of an organisation, from doing an act or thing for the purpose of furthering or protecting the industrial interests of the organisation where the act or thing is:

(i) lawful; and

(ii) within the limits of an authority expressly conferred on the employee by the organisation under its rules.

We now come to the definition of 'dispute'; and members opposite again demonstrate their ignorance. One cannot get matters into the Industrial Commission before there is a dispute. Members opposite are saying that employers can threaten workers and say that they should not engage in action that brings about a dispute before an industrial commission or before the committee system. They want employers to be able to do that with impunity. All I can say is shame on them.

The Hon. JENNIFER CASHMORE: Mr Chairman—

The CHAIRMAN: The member for Coles has spoken to this clause three times. I am afraid that I cannot allow her to contribute at this stage.

Mr S.J. BAKER: Again, we had a one-sided response. The Minister is right when he talks about the various provisions that relate to whether or not a person is acting in the capacity of a member of a committee. A number of provisions apply. If an employee is deemed unsatisfactory for the reasons I explained previously, obviously the extension of the existing provisions causes further problems. There will be many occasions where disputes arise and people do not perform satisfactorily. Threats will be made in terms of, 'If you do not get some work done or if this dispute does not stop, you will no longer have a job.'

Despite what the Minister said, a person could be caught under these five provisions, where their job performance was quite unsatisfactory. This is a normal situation in a dismissal case where an employee has been acting unsatisfactorily. The position I explained earlier pertains. The extension of this to threatened detriment does not assist. Adequate protection exists in the Act and I certainly hope that this area will not be introduced into the South Australian legislation.

The Committee divided on the clause:

Ayes (19)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Blevins, Crafter, De Laine, Duigan, Gregory (teller), Hemmings, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Payne, Plunkett, Rann, Robertson, Trainer, and Tyler.

Noes (12)—Messrs Allison, P.B. Arnold, D.S. Baker, and S.J. Baker, Ms Cashmore (teller), Messrs Eastick, S.G. Evans, Goldsworthy, Lewis, Meier, Oswald, and Wotton.

Pairs—Ayes—Ms Gayler, Messrs Hamilton, Mayes, Peterson, and Slater. Noes—Messrs Becker, Chapman, Gunn, Ingerson, and Olsen.

Majority of 7 for the Ayes.

Clause thus passed.

Clause 27—'Employee not to be discriminated against on certain other grounds.'

The Hon. JENNIFER CASHMORE: The Opposition opposes this clause for substantially the same reasons as it opposed clause 26. Clause 27 amends section 157 of the principal Act, which provides that an employer must not dismiss an employee from, or injure an employee in his or her employment by reason only of the fact that the employee is or is not a member, officer or delegate of an association or is entitled to the benefit of an award or industrial agreement.

Clause 27 goes considerably further than the present provisions under section 157. In effect, it means that union representatives are untouchable. There appears to be no limit to the lengths to which the Government will go to protect union representatives regardless of the responsibility or otherwise of their actions.

Clause passed.

Clause 28—'Employee not to cease work for certain reasons.'

The Hon. JENNIFER CASHMORE: Our opposition to this clause is based on the same premises as our opposition to clauses 26 and 27. The rights of employees not to cease work for certain reasons are already in place. The arguments advanced by the Opposition against clauses 26 and 27 are equally valid against clause 28.

Clause passed.

Clause 29—'Employers to keep certain records.'

The Hon. JENNIFER CASHMORE: I move:

Page 14, line 12—Strike out paragraph *(b)*,

Our opposition to clause 29 is consistent with that to previous clauses which strike out from subsection (3) of section 159 of the principal Act the word 'three' and substitute the word 'six'. Argument has already been canvassed and applies equally to clause 29.

Amendment negatived; clause passed.

Clause 30—'Person convicted may be ordered to make payments.'

The Hon. JENNIFER CASHMORE: The Opposition opposes clause 30 for the same reasons as it opposes clause 29, the preceding clause which alters the period of three years by extending it to six years under section 159 of the principal Act.

Clause passed.

Remaining clauses (31 and 32), schedule and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 1 a.m. the House adjourned until Thursday 16 March at 11 a.m.