HOUSE OF ASSEMBLY

Tuesday 19 April 1994

The SPEAKER (Hon. G.M. Gunn) took the Chair at 2 p.m. and read prayers.

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Criminal Law Consolidation (Stalking) Amendment,

Local Government (Miscellaneous Provisions) Amendment,

Pay-roll Tax (Miscellaneous) Amendment.

MEMBER FOR ELIZABETH

Ms Lea Stevens, to whom the Oath of Allegiance was administered by the Speaker, took her seat in the House as member for the District of Elizabeth, in place of Mr M.J. Evans (resigned).

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 7, 72, 85, 87, 90, 91, 93 and 121; and I direct that the following answer to a question without notice be distributed and printed in *Hansard*.

OWNER BUILDER HOUSES

In reply to **Ms HURLEY (Napier)** 24 March.

The Hon. J.K.G. OSWALD: As the house was constructed about two years ago, it presumably was approved under the Building Act 1971. The recourse available to the recent purchasers under that Act appears limited. In normal circumstances the council for the area could instigate a prosecution against the owner-builder alleging that he/she had breached section 10(2) of that Act by not performing the building work in accordance with the approved plans, specifications etc., in that the wet areas were not properly constructed. However, it may now be too late to commence such action, due to section 55(3) of the Building Act.

Any prosecution may lead to a conviction and a fine (which would be paid to the council under section 47) but would not hold any prospect of recompense for the new purchasers.

Had the house been erected by a licensed builder, a certificate evidencing the taking out of domestic building indemnity insurance would have had to be lodged with the council before work started on-site, pursuant to Building Regulation 10. Such insurance provides the owner with five years protection against the bankruptcy or disappearance of the builder during construction, or for faults which appear within five years of completion.

Details of the existence of domestic building indemnity insurance cover must be set out on the section 90 statement when a house is offered for sale.

Where a building has been approved and constructed under the Development Act 1993, which came into effect on 15 January 1994, there is greater protection for the first and subsequent purchasers.

The council can require a licensed builder to provide a statement, at the end of the job, that the building work has been carried out in accordance with the approval. Where there is an owner-builder, the council can require the statement to be furnished by a qualified, independent person such as an architect. This should ensure sound building outcomes for all jobs.

In addition, under the Development Act, any person (including the honourable member's constituents if the house were to be approved under the new Act) has a right to make a claim to the new Environment, Resources and Development Court under section 85. Action need not be taken by a council—it will be open to any person. Importantly, section 85 (6) empowers the Court to order the builder to pay money to any person who has suffered a loss arising from a breach of the Act, in addition to any other penalty it considers appropriate. Unfortunately that remedy does not appear to be available in the present case, which was built under the Building Act.

Even though better protection will now be available in future, people will be well advised to engage only licensed tradespeople to carry out building work for them, and to inquire as to the identity of the builder when considering a house purchase.

Details of the existence or non-existence of domestic building indemnity insurance cover must be set out on the section 90 statement when a house is offered for sale.

MOTOROLA

The Hon. DEAN BROWN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: Since its election, my Government has been aggressively pursuing an economic strategy to attract business back into South Australia once again. Today, I am pleased to announce the first decision by a major overseas corporation to set up business in South Australia under the new Liberal Government. Of course, this comes on top of the commitment by Mitsubishi to invest over $400 million in its Adelaide plant for the next model of the Magna.

South Australia has been chosen by one of the largest communication companies in the world, Motorola of the United States of America, as the site for a major software technology centre. This was confirmed by Motorola executives in Canberra today as they met with the Federal Industry Minister, Senator Peter Cook, to sign a Commonwealth Government Partnership for Development—what is often called PFD—agreement.

Motorola's commitment under the overall PFD agreement will involve investment, technology transfer, research and development and exports from Australia of over $200 million by the year 2000. Incidentally, Motorola executives met with the Minister for Industry and me yesterday morning and outlined their proposals to us.

The single most important and significant element of this undertaking is the creation of a world class software development centre to be known as the Motorola Australia Software Centre. The business for the centre will be generated from Motorola operating businesses worldwide.

The new Motorola Australia Software Centre will be at Technology Park, 12 kilometres north of Adelaide—a project which I initiated, of course, when the Liberal Party was last in Government. The centre will employ up to 400 highly skilled research and development engineers by the year 2000. Operations will commence in June this year. The project should contribute more than $60 million directly and indirectly to Gross State Product over a five year period and will have spin-off benefits to transport, services, construction, communication and manufacturing in South Australia.

The Economic Development Authority, through the Minister for Industry, Manufacturing, Small Business and Regional Development, has been negotiating this relationship with Motorola against strong competition from other States. Motorola had been considering various sites within Australia. However, no real consideration had been given to South Australia until the recent election. In the end, South Australia snatched this deal from Western Australia and New South Wales, despite concerted efforts by both States as recently as last weekend.

Motorola is one of the world's leading suppliers of wireless communications, semi-conductors and advanced electronic systems and services. Major equipment businesses include cellular telephones, two-way radios, paging and data communications, personal communications, automotive, defence and space electronics and computers.

Motorola has stated the key factors which led to the decision to locate in Australia were Australia's close proximity to regional growth markets, supportive Government policy and the availability and cost competitiveness of skilled personnel within Australia. In turn, what attracted Motorola to South Australia was:

- the commitment of the new Liberal Government to economic development and establishing high-technology industry;
- the professional approach and supportive role of the Minister and the Economic Development Authority;
- the quality of life in Adelaide to attract the employment of graduates and other professionals;
- the lower cost of living;
- the support of universities in this venture with the opportunities to form closer links;
- the Technology Park site, including links to the signal processing research institute and proximity to other computer companies.

A site has already been chosen by Motorola at Technology Park for the new centre, and work will commence on a new purpose-built 4 000 square metre building very shortly.

Motorola was a winner of the first USA national quality award in recognition of its superior company-wide management of quality. It has sales, service and manufacturing facilities throughout the world, conducts business on six continents and employs approximately 120 000 people. Its net sales in 1993 were $24 billion. This investment by Motorola is a most significant recognition of this State's credibility as a base for knowledge-intensive industry. It represents a great boost to our efforts to build internationally competitive industries for the future of South Australia. I commend the Minister and the EDA for the success that their hard work has brought to South Australia.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. S.J. Baker)—

Superannuation Act—Regulations—Commutation of Pension

By the Minister for Infrastructure (Hon. J.W. Olsen)—

Electricity Trust of South Australia—Superannuation Scheme, Trust Liabilities as at 30 June 1993

By the Minister for Employment, Training and Further Education (Hon. R.B. Such)—

Senior Secondary Assessment Board of South Australia—Report 1993.

STATE ECONOMY

The Hon. S.J. BAKER (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: I wish to make a statement to the House on the current situation regarding the State's credit rating. It is a statement that highlights the challenge our Government faces in the future as a result of the mistakes of the previous Labor Administration. South Australia's precarious financial position has again been exposed by a report from the international credit rating agency, Moody's Investor Services. Moody's latest report on the Australian States has reinforced the need for the Government to remain committed to its plan to reduce debt and restore the State's finances by a carefully managed process of asset sales and budget restraint.

In its report, Moody's said the State of South Australia was experiencing material, economic and financial difficulties. The report goes on to say that these factors reflect weaknesses, some apparently long term in nature, relating to the State's concentrated industrial base and demographic profile. These, Moody's said, are aggravated by a sluggish cyclical recovery that is impeded by the overhang of debt resulting from the failure of the State Bank. Perhaps the most significant line in the report states, 'These factors place the long-term rating under downward pressure.'

Let me stress, the Moody's report does not represent a rating action. However, South Australia as a State has been put on notice that the mistakes of the former Government must be corrected. Moody's now rates South Australia's long-term debt at AA2, equal to that of Tasmania, but behind Western Australia, New South Wales and Queensland. The importance of credit ratings cannot be overstated. The lower the rating, the more it costs the State to borrow on financial markets.

And why is South Australia's position the second worst in the nation? It is largely because of the gross errors of judgment made by the previous Government. Until 1991 South Australia enjoyed the top rating, namely, AAA, but, when the then Labor Government was forced to bail out the State Bank in February that year, the warning bells were triggered. South Australia's rating was dropped to AA1 and a year later it was again downgraded to AA2, where it now sits after a series of further bail-outs of the State Bank and SGIC. According to Moody's, 'The dramatic bank blow-out more than doubled the State's net and *per capita* debt. It represents an opportunity cost that the State Government still grapples with.' I would say that it is an opportunity lost by the previous Government.

While Moody's latest statement did not change South Australia's rating, it has caused some nervousness in the financial markets, with some SAFA bond yields widening after the release of the Moody's report. I am sure they will return to their previous levels as the markets analyse the Moody's report, which in effect does not contain any new information on the State's financial position. Much of Moody's statement was based on the budget delivered by the previous Government in August last year. On that point, the Moody's report is the much delayed outcome of a round of visits to the States, including South Australia, in October last year. I sincerely hope that in its rating review process Moody's will take into account the policies and actions of the new Government in restoring the financial health of this State. When Moody's returns to South Australia, which I anticipate will be later this year, we will prove that we are back on the road to financial health.

GAMING MACHINES

The Hon. S.J. BAKER (Deputy Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: I wish to announce that, in the budget session of Parliament, the Government proposes to

amend the Gaming Machines Act 1992 in two respects. First, the amendments will prohibit the holder of a gaming machine dealer's licence from holding a gaming machine licence, and prohibit any body corporate, individual or other entity that is related to, associated with, or subject to influence by, the holder of a gaming machine dealer's licence from holding a gaming machine licence or any interest in such a licence. Secondly, the amendments will prohibit schemes which have the effect of separately distributing the profits of gaming and the profits from liquor sales, or separately distributing a disproportionate share of such profits.

The intention of the first amendment is to prevent any cross holding of a gaming machine licence and a gaming machine dealer's licence, whether the cross holding is direct (as, for example, in the case of the same individual or company being the holder of both licences) or indirect (for example, through shareholdings, or personal relationships or other means of influence). The intention of the second amendment is to preserve the integrity of the scheme established by the Gaming Machines Act, which limits eligibility for a gaming machine licence to holders of hotel, club or general facility licences under the Liquor Licensing Act. This scheme would be frustrated if the holders of gaming machine licences structured themselves in such a manner as to permit the distribution of profits or a disproportionate share of profits derived from gaming to a party who has no real involvement in or commitment to the hotel, club or general facility concerned.

The Liquor Licensing Commissioner has raised concerns with me about the emergence of various schemes designed to allow non-genuine licensees to participate in the proceeds of gaming. None has yet been approved. These schemes could see arrangements whereby gaming machine manufacturers or others who do not have a genuine interest in the licensed premises would effectively fund gaming machines in hotels and receive profits from the machines. The effect of these arrangements would be to give non-genuine licensees the lion's share of the gaming revenue of the licensed premises, while the existing licensees would get the crumbs.

The Government believes that schemes which attempt to separate the hotel and gaming operations are a blatant abuse of the philosophy of the Gaming Machines Act and the Liquor Licensing Act and are contrary to the intent of the gaming machine legislation. Such schemes may also widen the potential for corruption. The Government's intention is to provide in the forthcoming budget session for the amendments to the Gaming Machines Act to have retrospective effect. Accordingly, any persons who are in the process of arranging their affairs in a manner that may run contrary to the spirit of the amendments I have announced would be well advised to await the enactment of these amendments. I would expect that the drafts of amending legislation will be available for comment before the next session commences. I am advised that the Hotel and Hospitality Industry Association supports the proposed amendments.

RACING BOARDS

The Hon. J.K.G. OSWALD (Minister for Recreation, Sport and Racing): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.K.G. OSWALD: I wish to make a statement about discussions I have had with the Chairmen of three of my statutory racing boards. This Government came to office with the strongest mandate for reform in the State's recent history. As Minister for Recreation, Sport and Racing, I have direct ministerial responsibility for an industry which makes a vital contribution to the South Australian economy. Indeed, racing's annual contribution to gross State product places it behind only agriculture, mining and the motor vehicle manufacturing industry in its economic value. It is just one reflection of this Government's determination to give a high priority to racing that my portfolio title was changed to include the word 'racing'. The Government has already taken legislative initiatives to assist the industry to return to a sounder footing.

However, I have been concerned since the election about the extent of dissatisfaction expressed to me from both the harness racing and greyhound codes about the administration of the industry. It has become very obvious that a significant number of owners, breeders and trainers are greatly concerned with the current style of administration and decision-making. It was because of these concerns and the Government's right, inherent in its strong mandate to put its own stamp of authority on Government administration, that I initiated discussions with the boards of the racing codes. I initiated those discussions mindful of the fact that under current legislation I have no power to remove board members and also that precedents and conventions exist for new Governments to review appointments to significant boards. I have had discussions with Mr Mark Pickhaver, Chairman, Harness Racing Board, Mr Des Corcoran, Chairman, Greyhound Racing Board, Mr Bill Cousins, Chairman, TAB and Ms Kate Costello, a member of the TAB board.

The House will recognise that the Government appointed positions of Mr Pickhaver and Mr Corcoran by convention give them membership of the TAB board. I asked each to step aside pending a consideration of the performance of the boards and the industry generally. I stated that the Government had clearly indicated before the election that it was keen to inject new ideas into the administration of harness and greyhound racing, as well as the TAB, and that board appointments were a key means of achieving this objective. The House should note that a fifth member of the TAB board, as stipulated by the Act, must be a representative of the South Australian Jockey Club. The present Chairman of the SAJC has advised me that he is quite happy to step aside if that is the Government's wish. However, as the Government does not appoint the club's officials, I am not in the same position to change the SAJC's representation on the board as I am with other industry representatives. I have to advise that Mr Pickhaver, Mr Corcoran, Mr Cousins and Ms Costello have all informed me that they do not intend to conform with convention and give the new Government the right to make appointments to the TAB board and the racing codes. Under current legislation I have no power to remove any member.

However, my invitation to them to stand aside will remain open during the parliamentary recess. If, during that period, the board members involved have not reconsidered their position, the Government will have to look at the legislation with a view to ensuring that the Government is able to take all necessary action to ensure accountability for performance of an important board and to help revitalise an industry which is vital to the economic well-being of our State and the creation of jobs.

In view of the position taken by the TAB board members, it is necessary in the interests of accountability that I share with the House some of the concerns the Government has about the performance of the TAB. Over the past three

financial years, the expenditure on board operations has increased significantly—from just under $25 million in 1989-90 to almost $33 million in 1992-93, a rise of almost 32 per cent. However, the profit from board operations has deteriorated in that time.

The House should also be aware that the Government has been concerned at difficulty in obtaining basic information which it believes should be forthcoming from the TAB as regards its involvement in Radio 5AA. The Government accepts its responsibility to monitor the financial management of the TAB on which the performance of 5AA is contingent. To do this, the Government must have access to an appropriate level of information. However, the Government has been frustrated in its efforts to receive such information. For example, on 7 February and again on 21 February, I sought information through the Chairman of the TAB on the revenues and expenses of 5AA. This did not include requests for staff salaries as reported in some media. On each occasion, that information was refused on the grounds that directors of Festival City Broadcasters have a specific liability to maintain confidentiality in respect to matters pertaining to that company.

However, the Government has legal advice that it is difficult to see how any conflict of interest could arise in the provision of this information given that the TAB is the holder of all share capital in 5AA and the TAB is subject to my direction and control as the Minister with responsibility for the administration of the Racing Act. It is also the opinion of the Government legal advisers that the Chairman of 5AA has misconceived the nature of my requests. The opinion states that for me to request information of the type set out in my correspondence with the board of the TAB is in no way an interference with the independence of 5AA. It merely puts me in a position to determine whether the TAB should continue to have an interest in 5AA or what that interest should be. It is a legitimate question on behalf of the public of South Australia and should not be denied.

For the TAB board directors to withhold information is not helpful or appropriate, especially if such information is necessary for the Government to make decisions. Nor should the Government be forced into requesting a shareholders meeting to obtain basic information which is an option we now—

Mr Atkinson interjecting:

The SPEAKER: Order! The member for Spence.

The Hon. J.K.G. OSWALD: —face as a result of this impasse. Since the State Bank debacle, the public's expectation and that of this Parliament is that Government instrumentalities and their subsidiaries will be accountable for their decisions, and it is unacceptable to the Government to have to call a shareholders meeting to obtain basic information. I note that the Chairman of the TAB now advises that he will call a shareholders meeting if I direct him to do so. If necessary, that direction will be given.

QUESTION TIME

SUPERANNUATION

The Hon. LYNN ARNOLD (Leader of the Opposition): Will the Treasurer give an undertaking that he will honour the Government's promises made prior to the election not to reduce the benefits available under existing superannuation schemes? If not, does this mean that all promises made prior to the election are under review pending the findings of the Audit Commission report? In response to a questionnaire issued by the Public Service Association prior to the election the current Government made five firm commitments to the State superannuation scheme. I quote as follows:

A Liberal Government will support the current level of benefits in the pension and lump sum scheme and there will be no retrospective changes.

The lump sum scheme will remain open to new members under a Liberal Government.

A Liberal Government will maintain its relative contribution to pension and lump sum schemes.

Superannuation entitlements of State Government employees will not be prejudiced by any accumulation of liabilities which cause financing difficulties in the future.

There are no plans to close off or limit access to superannuation under a Liberal Government.

The Hon. S.J. BAKER: I will answer the question in two parts. First of all, there are no plans to change the current arrangements. The second part I would like to address is the role of the Audit Commission. I remind the House that the Opposition has been fuelling wild rumours as to what the Audit Commission's report contains. The report was supposed to have been printed over a week ago, yet we have not seen it. We are not sure, although we knew on Friday that it still had not been printed. However, I want to take up the issue of what the Audit Commission report will or will not do. One thing we can be sure it will do is describe the past particularly well: incompetence, wastage, recklessness, mismanagement, the attitude 'It'll be all right, Jack' will all certainly play a large part in the Audit Commission report.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The member for Spence said this is a Party document. It is a document that will form the foundation of the future changes to our State financing and of the resurrection of this State as an important State: the most important State in Australia. It will not be like the many documents produced by the previous Government which were looked at, put under the shelf and forgotten because they all became too hard. I am sure the report will address the issue of what should have been done to deal with the problems that were faced by the Government in power prior to 11 December last year.

Further, the ALP has a choice: either it can be a constructive part of the resurrection of this State or it can be a negative force and continue with the sort of behaviour that brought the State to its knees. It has to make up its own mind.

AUDIT COMMISSION

Mr SCALZI (Hartley): Can the Premier advise the House when the report of the Audit Commission will be tabled in this House?

The Hon. DEAN BROWN: The Leader of the Opposition said in this Parliament last Tuesday, 12 April, that the Audit Commission report had been finalised and was currently being printed by Gillingham Printers. I did not know that. I hear these statements from the Leader of the Opposition and assume that he has some foundation or basis on which to make such assertions. He makes a lot of statements in here and I assume that he tries to check that his facts are correct. I did in fact check and found quite alarmingly on Friday, when I got a report back from the Chairman of the Audit Commission, that the report had not even gone to the printer at that stage.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I contrast some of the other statements made by the Leader of the Opposition. On Tuesday of last week he was asking, 'Will the Premier give an undertaking to release the Audit Commission report no later than next Tuesday?' I could not give that undertaking because I did not have the report, and I still do not have it. I then read in the *Sunday Mail* early on Sunday morning that apparently all the information in the Audit Commission report is already available.

So, the Leader of the Opposition was arguing in the *Sunday Mail* that, in fact, the Audit Commission Report should never have been prepared. However, later that day the Leader is out there on the radio waves asking when the Government will release the Audit Commission report. He is like a naughty schoolboy who wants to get his hands on a naughty comic to read it, but cannot admit it to the teacher. I have some news for the Leader of the Opposition: the Chairman of the Audit Commission expects the report to come to the Government as specified in the terms of reference, namely, by the end of April. I therefore have an assurance from the Chairman that I will have the printed report by the end of April. That being the case (and in line with the undertaking I have given), I give an undertaking that, assuming I have the report by the end of April, as I am told I will have, I expect to table it in this Parliament on Tuesday 3 May.

The Leader should also note that throughout I have given an absolute undertaking that I would table the report on the first sitting day in the House of Assembly after it became available: I have said that repeatedly. Therefore, any doubt about that should now be completely removed. The report is expected to come into this Chamber on 3 May.

HIV TESTING

The Hon. M.D. RANN (Deputy Leader of the Opposition): Does the Minister for Health believe that surgeons in South Australian public and private hospitals should have the right to insist that patients be tested for HIV and hepatitis B prior to surgery following the report released last week by the Royal Australasian College of Surgeons which identified cases of six Australian health workers infected with the HIV virus from patients? Releasing new infection control guidelines, the Royal Australasian College of Surgeons report revealed that at least four Australian nurses, one ambulance officer and one doctor had been infected with HIV at work. In all but one case the health workers had been badly stuck by a contaminated needle.

The college's guidelines say that patients undergoing surgery should now be tested for HIV and hepatitis antebodies. However, the college warns doctors that they may not perform such tests without the patient's agreement. The new guidelines say that, if the patient refuses, the doctor should have the right to refer the patient to another surgeon. The Minister will be aware that some doctors are critical of even these new guidelines released last week and say that compulsory pre-surgical testing should be introduced to protect health workers because prospective patients may not be aware that they have HIV or hepatitis B, or may not reveal their status.

The Hon. M.H. ARMITAGE: This is obviously a very important question, because I am sure that the Deputy Leader does not want anyone to catch AIDS inadvertently. The dilemma is that testing in the way that the Deputy Leader has talked about protects nobody—not one person—because clearly the Deputy Leader does not realise that there is a window period between when people get the virus and when they become positive. So, it makes absolutely no sense to rely on a test that says someone is negative. The only thing you can do to protect yourself is actually use proper infection control guidelines, and I have discussed them I think on two occasions with each body but at least once with both the Doctors Reform Society and the AMA. There is absolutely no point in relying on a test—

The Hon. M.D. Rann interjecting:

The Hon. M.H. ARMITAGE: No, I am saying that there is no point in relying on a test, because there is a window period. I am keen on efficacious results rather than testing and then relying on an unreal and unreliable result. We need proper testing and to ensure that everyone utilises proper infection control guidelines, whereupon they will be as safe as they can be.

ENTERPRISE INVESTMENTS

Mr ROSSI (Lee): Can the Treasurer inform the House of progress being made on selling the Government owned Enterprise Investments?

The Hon. S.J. BAKER: Last Friday I announced that Enterprise Investments was for sale, in keeping with the outlined debt management strategy prior to the last election. That was one of the first items listed for sale as an asset that we were going to sell to reduce our debt. Of course, a number of others are on that list. The sale of Enterprise Investments will be an ongoing concern and will be by open tender. The management process for that sale will be undertaken by the Asset Management Task Force recently established by the State Government. I have asked the task force to deal expeditiously with the sale of Enterprise Investments and to protect the interests of Enterprise's investee companies.

I have said that one of our primary objectives in this sale is to maximise the proceeds that can be used to offset debt but we must take into account the overall economic benefits to the State of any offers received, including future access to development capital for South Australian companies. I believe that the sale will progress smoothly and indeed be the first of a number of assets that will be quit by this Government because we have been forced to reduce our debt as a result of the State Bank disaster and the performance of the previous Government. We are committed to that asset sales program, and this is the first of its type.

HIV TESTING

The Hon. M.D. RANN (Deputy Leader of the Opposition): Is the Minister for Health concerned about the incidence in South Australia of illegal pre-operation and antenatal HIV testing without patients' informed consent? In this week's Sunday *Age* the Melbourne surgeon David Westmore said he believed that some doctors were illegally testing patients for HIV prior to surgery. The Minister will be aware of similar allegations of such practices occurring in South Australia.

The Hon. M.H. ARMITAGE: I will certainly obtain a copy of the report and speak with the surgeon who believes that it may be happening. If he can give me proof, we will look at it.

ORGAN DONATION

Mr LEGGETT (Hanson): In light of concerns raised in New South Wales of the practice of families overriding the wishes of a patient to donate organs, will the Minister for Health outline the practice in South Australia?

The Hon. M.H. ARMITAGE: Organ donation is a very important part of our health system. It is one of those opportunities for people to give something to the health service to assist someone else in leading a better lifestyle. Last year 53 potential donors were referred to the transplant coordinators—a body which looks at the situation around South Australia and is situated at the Queen Elizabeth Hospital. Of those 53 potential donors, 27 went on to be actual donors and facilitated 120 donations. In other words, each person made their organs available to help, on average, four other people.

It is important to recognise that organ transplantation frees up a lot of money from within the health service. For example, with renal failure, dialysis costs about $30 000 to $40 000 per year in health costs. An organ transplant—a renal transplant—costs $25 000 in the first year and $7 000 thereafter. That means that in the first five years a kidney transplant actually saves the health system about $110 000. At the moment 108 people are on the active waiting list for kidney transplants. Organ transplantation is a very emotional subject, but in the Parliament we have often grappled with these difficult moral issues and have been vigilant in ensuring that patients give informed consent for a variety of procedures. The Transplantation and Anatomy Act, the Act in question, clearly gives priority to the patient's wishes. However, of the 26 cases out of the 53 potential organ donors that did not progress to donation, one case last year occurred because the family actually overrode the wishes of the donor.

In such circumstances, the doctors and the health system do not wish this to be a contentious issue and to cause unnecessary pain and anguish. Consequently, it is the practice to respect the wishes of the family and not to proceed with transplantation. It is fair to say that organ transplantation has broad community support, with 70 per cent of families of potential donors in intensive care agreeing to transplantation. However, only 38 per cent of driver's licences carry the little red dot to indicate the driver's willingness to donate his or her organs. The red dot is about the size of a 5¢ piece, perhaps less, and allows doctors to utilise the driver's organs.

I would urge all members of the community to take the opportunity in a calm, clear and rational way to think through how they may help at least four other people; and, further, to discuss the matter with their family, so that family members are under no allusion as to the person's wishes. I am sure, in that situation, many people will allow their licence to be endorsed and every one will benefit.

5AA

Mr FOLEY (Hart): My question is directed to the Minister for Recreation, Sport and Racing. Has the Government had any formal or informal discussions with any competitors of radio station 5AA, and will he outline the nature of these discussions? In particular, will he say whether these discussions concern the application by 5AA for a narrowcast licence?

The Hon. J.K.G. OSWALD: The issue that the honourable member raises with respect to my discussions with any other competitor—and every one in this Chamber would know that he is probably referring to the 5AD network—is a line that the honourable member attempted to run in the media over the weekend and again, probably, this morning—although I did not listen to the media this morning—to try to draw some sort of smokescreen away from what I said and the remarks that I alluded to in my ministerial statement. We must be very clear about what is the issue in the public arena today. It is not about the—

Members interjecting:

The SPEAKER: Order!

The Hon. J.K.G. OSWALD: —5AD radio station and the aspirations of the management of that radio station. It is about the condition and the situation that exists at the moment in the greyhound and trotting industry. If the member had been the shadow Minister for as long as I was, and then the Minister—

An honourable member interjecting:

The Hon. J.K.G. OSWALD: The honourable member should listen to what I am telling him. When he has been around as long as me, he will have a very fair grasp of what is happening in the trotting—

Mr Atkinson interjecting:

The SPEAKER: I warn the member for Spence for continuing to interject.

The Hon. J.K.G. OSWALD: —and greyhound industry. It is a walking disaster area, which I inherited from the previous Government. I received deputations from the industry for some 12 months prior to coming into Government, and they are still coming. The telephone calls are still coming—it is a walking disaster area. This Government can do just so much in legislating and injecting new capital back into that industry. However, it has no control over the ability to place a chairman on a board; it cannot influence the industry in the way it would like, and it reserves that right.

The honourable member asked about 5AD. I talk to all business people. I have spoken to Mr Cordeaux, but I have not spoken to him on this subject because it is not prudent for me to become involved in in-depth discussions on the aspirations of 5AD. As the Minister for Racing, the aspirations of 5AD are none of my business. My main concern is to try to know the answers or predict the answers as to what is happening in those areas for which I have responsibility. One of those areas happens to be the TAB, in case the honourable member has not picked it up by now. I have ministerial responsibility for the TAB. I also have some responsibility to the taxpayers of this State if the TAB's subsidiaries become involved in some sort of business venture.

The dilemma I have, as Minister for Racing, is knowing what questions to ask on behalf of the taxpayer about commercial decisions. If I am denied the opportunity of going to a board over which I have direction and seeking answers to basic questions, I am not in a position to ask questions on behalf of the taxpayer. We all went through the State Bank debacle, and we do not want to go through that again. If I am not to have that information, we will end up in the same boat, and no-one wants that. In 1984 it was fine, because you got away with that sort of thing; in 1994 the public expectation is that the Minister of the day, if he has responsibility, will seek the information. The Chairman of the TAB Board and the Chairman of the 5AA Board believe that I should not have access to this type of information. Legal opinion advises me that the type of information I am asking for is no more than you would find in the annual report at the end of the year. All this information is compiled and eventually comes

to me in the annual report. I repeat: I have a responsibility to ask questions, and to try to find out what is going on. I receive telephone calls from staff worried about their future. They hear rumours about two licences; and they hear rumours about selling off the station and what they are going to do on the narrowcast. However, as Minister, on behalf of the taxpayers, I cannot ask the questions because I am denied the basic information to put the questions together, and therein lies the problem.

That is not—and I conclude on this remark—the reason why I approached the Chairmen of the two racing codes. It is a disaster area, and when the honourable member starts visiting the codes he will find that there is a huge movement for change, for new blood and for some new injection out there. That is what this issue is about: so that I can go to the industry and put the Liberal Party's stamp on racing and move it forward.

An honourable member interjecting:

The Hon. J.K.G. OSWALD: The honourable member reacts to that. The Labor Party, during the whole term of its office, did precious little. The racing industry has been on its knees for some four to five years moving up to the last election. The industry is now going to receive an injection of new capital and, hopefully, we will do something about a statement, which is another issue for another day. The fact is that we are going places, but this Government reserves the right, as any in-coming Government has, to put its stamp on the administration, and that is what we seek to do.

COMMONWEALTH GAMES

Mr CONDOUS (Colton): Can the Minister for Recreation, Sport and Racing provide details of his recent meetings with Senator John Faulkner, the Federal Minister for Sport, and Mr David Dixon, the Secretary of the Commonwealth Games Federation, in relation to the possibility of Adelaide's bidding for the Commonwealth Games in 2002?

The Hon. J.K.G. OSWALD: I thank the honourable member for his question because I know of his intense interest in the Commonwealth Games movement and the fact that he is monitoring very closely our current negotiations with Canberra. The Lord Mayor (Henry Ninnio) and I visited Senator John Faulkner, the Federal Minister, in Canberra. We had a very detailed discussion. I also met with Mr David Dixon in Adelaide—we had breakfast together on Friday 8 April. At the Canberra meeting, Senator Faulkner acknowledged the quality of the Adelaide bid in past years, which was ultimately awarded to Kuala Lumpur.

He also offered his assistance to Adelaide through the High Commission offices overseas; he will advocate support for Adelaide through CHOGM; and he will also formally endorse the bid through Canberra. What is unresolved at this stage is whether Federal funding will be available, and members are acutely aware of the fact that this State cannot proceed until we have that absolutely locked up. I have had one communication from Senator Faulkner, which we are still examining in some detail because it is a 'Yes, but no thanks.' However, it still leaves the door open for future negotiations. I am pleased about that, because there is still some area for future negotiations.

The meeting with Mr David Dixon focused on the latest developments within the Commonwealth Games movement and the effects that might have on our individual bid. Mr Dixon, like Senator Faulkner before him, confirmed the excellence of our bid and the high profile of Adelaide overseas. He informed me that, in his opinion, at the end of the day it would be a two-horse race between Manchester and Adelaide for the games in 2002. I think that gave all of us some encouragement. He also updated us on the South African situation. We believe that South Africa, despite some discussion in the international arena, will not be a contender.

In summary, our position at this stage is that we will continue to proceed with our preparations for the bid in the year 2002. At the end of the day, much of it will depend on the final discussions with our Federal counterparts. Nevertheless, my officers are working with the Commonwealth Games Office very closely to coordinate the next step for the bid, and we are still very hopeful that we will be successful.

AUDIT COMMISSION

Mr QUIRKE (Playford): Will the Treasurer give a commitment that the proceeds from all asset sales made in response to the Audit Commission report will be used for debt reduction and that none of the proceeds will go into the Consolidated Account?

Members interjecting:

The SPEAKER: Order! There are too many interjections on my right. The member for Playford has the call.

Mr QUIRKE: Thank you, Mr Speaker. Last year the Treasurer stated that the proceeds from all Government asset sales should be committed to debt reduction. That was the position that he adopted.

Members interjecting:

The SPEAKER: Order!

Mr QUIRKE: Despite the criticism, the Treasurer is continuing to use the $647 million compensation from the Commonwealth to fund separation packages—a practice which he criticised when in Opposition—and he has not given any firm policy commitment—

Mr LEWIS: Mr Speaker, I rise on a point of order. The comments being made by the member for Playford at the moment are not, unless I am mistaken, a quote. Indeed, they are comments conveying his opinion to the House rather than an explanation of the question.

The SPEAKER: Order! Is the member for Ridley withdrawing leave?

Mr LEWIS: No, Sir. I am asking you to rule whether the member is commenting or explaining.

The SPEAKER: Order! The Chair cannot uphold the point of order. The Chair has given considerable latitude to members on both sides in explaining their questions. I point out to the member for Playford that his explanation should be particularly tight.

Mr QUIRKE: Thank you, Mr Speaker. The Treasurer has not given a firm policy commitment to use the proceeds from asset sales solely for debt reduction.

The Hon. S.J. BAKER: That tops all questions for the day. Watching the way the Opposition is travelling at the moment, it will probably get worse from here on. I was going to say, in reply to a previous question, that we expect some cooperation, not aggravation to further undermine this State. We continue to get the rubbish generated by the Opposition. It is about time that Opposition members woke up and realised that they are part of this State and our future and have to play a constructive role.

The extraordinary nature of that question relates to the fact that over a long period the former Government applied all asset sales or special financial gains, particularly through SAFA, into the budget. They were consumed in the budget

and lost forever. It is like saying, 'I am borrowing to pay the housekeeping bills.' That was the performance of the previous Government, Premier and Treasurer. I would remind everybody that, of the $647 million, some $263 million were already dedicated to the TSP process, $150 million were inserted in the recurrent budget for this financial year, and not very much is left at all, thank you very much.

Mr Quirke: What about asset sales?

The Hon. S.J. BAKER: If you want to discuss the issue of asset sales, just look at how much was ripped out of the State Bank in terms of revenue that was again brought to account in this budget. Some $300 million were hijacked out of the State Bank to prop up this budget so that a false surplus could be created. Where did the SAGASCO surplus go? It went into this budget. When the Opposition ask a question such as this, I wish it had some credibility and integrity.

In relation to the answer to the question, we have a huge debt overhang at the moment. We will separately account for those asset sales, but until we get that recurrent deficit down to zero there will obviously be some borrowing or usage of those sales moneys. We have to get that deficit down to zero. Any simple mathematician can tell you that, as soon as you use and have to raise deficit moneys through sales or smart financial deals, they are lost. If you are borrowing or using those sales for these purposes, they are lost forever. Our intention is to get the deficit under control so that all proceeds can be directly attributable to meeting the debt reduction target set by us in Opposition and now in Government.

5AA

Mr FOLEY (Hart): Does the Minister for Recreation, Sport and Racing still support the granting of a narrowcast licence to TAB radio station 5AA, and will he explain to the House the Government's intention for the future of this station?

The Hon. J.K.G. OSWALD: This is the intense questioning that the honourable member mentioned over the weekend he would subject me to in Parliament. I thank him very much for a very interesting question. Let us talk about the narrowcast licence and the need for narrowcasting. I will give you 28 minutes, if you like.

The SPEAKER: Order! I ask the Minister to be brief with his response.

An honourable member: Make it 27 minutes.

The Hon. J.K.G. OSWALD: Yes, 27 minutes, Sir. Narrowcast licensing to deliver racing services around the State will be a great asset. I have said this in the House and I repeat: to get the broadcast to country areas, which is one of the main problems, as the honourable member will find, this is an excellent medium for doing it. The alternative to get to country areas is to purchase existing country radio stations, which I think is not an option, first, because of the cost of doing it and, secondly, because the country radio stations do not want to be turned into a full racing format. The short answer is that I am very supportive of the future of narrowcasting. It is a very effective way of getting the medium around.

As regards the other questions, the whole purpose of wanting to know what is happening within the board is so that I can get involved. It is not the role of the Minister to tell the board what to do, nor is it the role of the Minister to get involved in the commercial decision-making of the board; his role is to be there and to know what is going on and to know where to direct questions on behalf of the taxpayer. At this time I am prepared to say that I am supportive of narrowcasting with 5AA. I cannot ask any more questions of the board until such time as it starts to provide me with some basic information and statistics, and then hopefully I will be able to ask further questions on behalf of the taxpayer as to where it is going. My support for narrowcasting has been aired in this place before and I say again: I am very happy with the medium of narrowcasting because we will not get racing out to country areas unless we have it.

Mr FOLEY (Hart): The Minister and I share the same concern about asking questions on behalf of the taxpayer.

The SPEAKER: Order! The honourable member will ask his question and not comment.

Mr FOLEY: My question is to the Minister for Recreation, Sport and Racing. Given the Minister's dissatisfaction with the level of information supplied to him by the board of radio station 5AA, why has he not asked for the resignation of the full board? In the Minister's statement to the House, he stated that the Government has been frustrated in its efforts to receive information from the board of radio station 5AA, but he has not called for the resignations of its Chairman, a former Auditor-General, Mr Tom Sheridan, and the other three members of the board.

The Hon. J.K.G. OSWALD: I think the honourable member ought to go back to my ministerial statement and take a careful look at its wording. There are persons on those boards whom I can ask to step aside. I cannot direct or order them, but I can ask some of the members to step aside, and every member of the TAB board, over which I have direction, has been approached.

Mr Foley: Mr Hodge—

The Hon. J.K.G. OSWALD: Mr Hodge has been approached. You may have left the Chamber to get your briefing and writing orders but, if you read the ministerial statement, you will find that Mr Hodge was spoken to.

Members interjecting:

The SPEAKER: Order!

The Hon. J.K.G. OSWALD: Mr Hodge is happy to step aside so that I can have a clean sweep and make reappointments. I also had discussions with Mr Fricker, and the same circumstances would apply. So, if the nominees of the former Government want to do the right thing by convention and step aside, there is an opportunity for the whole board to be reviewed and for new appointments to be made. There have been interjections across the Chamber already about the Party political affiliations of Mr Hodge, but he has volunteered to go.

Members interjecting:

The Hon. J.K.G. OSWALD: That would have to be done through the SAJC. This inane interjector in front asks whether I will accept his resignation but, if he had read or listened to the ministerial statement, he would find that I have no control or power over the SAJC nominations to the TAB board.

The SAJC is a racing club that appoints its own Chairman from its own elected membership: the elected membership puts up the Chairman and the flow-on goes to the TAB board. Mr Hodge has said, 'I will step aside if you want to have a clean sweep of the board and then be eligible to come back.' But I have no powers as regards Mr Hodge at all. The same applies to Mr Fricker, who was appointed only a matter of weeks ago. He is a very good member, and I have every expectation that he will make a major contribution in the future. He is very knowledgeable in the area, and I do not

think anything will decry from that. The fact of the matter is that we have a mandate to make change. There are serious problems in the two codes to which I have specifically referred. A huge head of steam has built up of people—owners, breeders and trainers—wanting change.

We have an opportunity to put a new direction into racing, and members of the Labor Party are digging in their toes. I note that the veteran performer of them all, Des Corcoran, has been on the radio non-stop since about Sunday. He is back at his vintage best as Des the politician, not Des the responsible member of the board; the old warhorse at large is having a marvellous time slagging me on the radio. I think he is enjoying it and he forgets he is not back in here. He is not a member of Parliament any more, but he is certainly having some fun out there. Nevertheless, the fact is that a head of steam has built up out there for change. This Government has come in with a mandate for change. You only have to look at the numbers on this and the other side: we spill across the Chamber. We have a mandate for change, and we want to implement the change.

QUEEN'S THEATRE

Mr CUMMINS (Norwood): My question is directed to the Minister for the Environment and Natural Resources. The Queen's Theatre in Playhouse Lane is the oldest theatre on mainland Australia. In view of the fact that this is heritage week and in view of this State's proud cultural heritage and the heritage associated with the theatre, what steps are being taken to restore that theatre?

The Hon. D.C. WOTTON: I thank the member for Norwood for his question. As he says, it is totally appropriate that this matter should be addressed this week, as it is heritage week. I am delighted to be able to inform the House that the Government has determined that some $50 000 should be made available to save and restore what is one of Australia's most significant heritage buildings, the old Queen's Theatre in Adelaide. Further to that, negotiations are currently under way to transfer ownership of the historic site to the State Government from its current owner, Group Asset Management. The Minister for the Arts and I will become joint trustees of the site on the transfer of land ownership. As the member for Norwood has said, the Queen's Theatre was built in 1841 and was the first purpose-built theatre to be established on mainland Australia. The theatre got a new facade in 1850 and became the Royal Victoria Theatre at that time. During its lifetime the building was used as the Supreme Court, a horse bazaar and, from 1928 until recently, a car park.

The old Queen's Theatre is a unique heritage building with a rich history that is an excellent illustration of the life and culture of early Adelaide and, indeed, of early Australia. I am pleased to say that there is already strong community support for the restoration of this building. I want to commend particularly the Friends of the Queen's Theatre group and its Chairman, well-known architect Brian Polomka, who has worked tirelessly with that team to promote the importance of the theatre as a national treasure. During my recent visit to Canberra I was able to make representation to the Federal Minister and also to the National Heritage Authority to seek their support in the preservation of this important heritage building in South Australia, and I am delighted to be able to say that they have agreed to provide some support, and I will take that matter further at a later stage. This is a very important building. It is an important heritage item for South Australia, and I am pleased indeed that the Government has been able to become involved in the preservation of this item.

RACING BOARDS

Mr FOLEY (Hart): My question is directed to the Minister for Recreation, Sport and Racing.

Members interjecting:

The SPEAKER: Order! The honourable member will ask his question.

Mr FOLEY: What are the changes to harness and greyhound racing which have been suggested to the Minister and which prompted the Minister to seek the resignation of the Chairperson of the greyhound and harness racing boards, and did the Minister raise these suggestions with the boards before asking the members to resign?

The SPEAKER: I ask the Minister to be brief in his response.

The Hon. J.K.G. OSWALD: The honourable member has had a pretty fair innings as to finding out what this issue is all about, what the Government's intentions are, and what were the motives behind my request of the Chairmen of the boards. That has been explained very clearly: if by now the honourable member has not grasped what was in my mind last week, I suggest he go back and read the *Hansard* a few times. Also, I suggest that the honourable member should not rely on my telling him what is wrong with the trotting and greyhound racing industry but should get around the industry and talk to a few owners, breeders and trainers, and they will tell him very clearly. I have discussed what is wrong with the industry with anyone who would listen, and everyone who is interested in it would know.

An honourable member interjecting:

The Hon. J.K.G. OSWALD: I suggest that the honourable member, who cannot help himself and interjects all day, should go out there: he has some interest in racing.

The SPEAKER: Order! The member for Spence has had a fair innings with interjections. I warn him for the second time.

The Hon. J.K.G. OSWALD: I suggest that members opposite go and find out, rather than relying on inane interjections across the Chamber to get short, two or three minute replies. It is a huge industry and there is a lot of work to be done out there. I suggest members opposite get out there and find out what is going on.

EAST END DEVELOPMENT

Mr QUIRKE (Playford): Will the Minister for Housing, Urban Development and Local Government Relations report to the House on what progress has been made at the East End Market development? At what point will land at that site be transferred to the developers, or is it the Government's intention to retain land ownership until retail sales of finished developments have taken place on that site?

The Hon. J.K.G. OSWALD: I am surprised that the Opposition has even asked a question on this subject, because the delay of the development has been caused through an incompatibility that exists where the two developments come together concerning the common dividing line. If the former Government had done its homework and staff work correctly, we would not be in this position today. It is just one of many problems that I inherited in the area of urban development that we have to wrestle with, come to grips with, negotiate

and get through to a satisfactory conclusion so that development will commence down in the East End, which has the capacity to be one of the most exciting urban development and housing areas that this city has seen for many years. It will be a privilege to live there and anyone who has any idea of wanting to go into inner city living should be getting in there early to make sure that they can do it.

We will get to the end point, negotiate and get the parties together to resolve the impasse that we inherited from the former Government. As far as the Liberman site is concerned, plans have been lodged and I would expect something to start to happen there shortly. I was pleased to see the week before last, although I may be wrong, that plans were lodged with the Department of Housing and Urban Development, so we can start to proceed. This is an important development and I hope that we can see some activity quickly on the site now that plans have been lodged.

MOUNT BURR MILL

The Hon. H. ALLISON (Gordon): Can the Minister for Primary Industries advise the House on the future of mill workers at the Mount Burr sawmill in the South-East following the extensive media and community speculation that the mill's future may be in doubt and that employees of the Mount Burr mill and their families and the local community could be facing unemployment?

The Hon. D.S. BAKER: I thank the member for Gordon for his interest in the forests of the South-East and the people at Mount Burr who received very shoddy treatment by the previous Government. This matter goes back to before the last election when I was on an extensive doorknocking campaign to try to hold the seat of MacKillop. I was shattered to hear on the news one day that the Hon. Terry Groom had announced that the Mount Burr mill would close. I thought that that was a lucky break in my campaign. However, not three hours later the candidate came on the air and said, 'Don't worry, people of Mount Burr, we will turn the mill into a museum.'

I wondered what was going to happen to the 100 workers and their families in Mount Burr and their future. However, with the knowledge of forests that the member for Gordon and I have gleaned over the years, I said to the people in Mount Burr, 'There is no reason for this mill to close. In fact, on coming to government a Liberal Government will ensure that the mill will not close.' I do not know whether or not that had any influence in my scraping home in that seat, but I can assure the House that the shabby treatment accorded to the people of Mount Burr by the previous Administration has not been forgotten by them.

But worse than that, after the election we said that the Mount Burr mill would not close and that there would be a review into the forest rotation to see how much more timber could be allocated to that mill. But there is more to say. Since then there has been union speculation in the district and the media that the Liberal Government would not honour its promise. I take exception to that. In fact, comments have been made by the Hon T.G. Roberts—the intelligent one—as follows:

> The Minister made statements on the radio and in the press that he would not talk to the union representatives but that he would talk directly to the workers to allay their fears about the future of the mill. I must say that he carried out the promise and duly met the employees at Mount Burr.

He went on to say that he did not believe that their fears were allayed. I did talk to the Mount Burr workers and had long discussions with them to say that the Liberal Government would honour its promise and that Mount Burr mill would stay open. As to the extra shifts that would be necessary for the mill to stay open, I indicated that that could not be ascertained until after the forests review, because that was the right and proper time to announce any expansion programs.

However, the union got very upset that I would not talk to it. One reason I would not talk to the union is the document that I have headed 'The Closure of the Mount Burr Sawmilling Operations'. I wonder who put out such a document? I point out that on 9 December 1993, only two days before the election, a document to close Mount Burr mill was signed by the Construction Forestry Mining Employees Union, Mr Q. Cook, the Public Service Association, Ms J. McMahon, the Automotive Metal and Engineering Workers Union, Mr M. Tumbers and the Electrical, Electronics, Plumbing and Allied Workers Union, Electrical Division, Mr R. Geraghty, to close down the Mount Burr mill.

The reason why I would not talk to the union was that it sold out 100 workers at Mount Burr two days before the election. Only two days before the election they sold those workers down the drain. The Liberal Party will honour its promise, those people will be employed at Mount Burr and that township will get up and running again.

5AA

Mr FOLEY (Hart): My question is directed to the Minister for Recreation, Sport and Racing.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The member for Hart.

Mr FOLEY: Unlike the Premier, I do not turn to the cameras when I address the House. Is the Government considering the sale of radio station 5AA?

The Hon. J.K.G. OSWALD: No.

LANDCARE

Mr EVANS (Davenport): My question is directed to the Minister for the Environment and Natural Resources. What progress has been made on the major soil, water and vegetation management projects in the Mount Lofty Ranges that have been funded through the national landcare program? As a resident of the Mount Lofty Ranges, I am aware that the ranges is one of the most complex and environmentally sensitive and important regions. The region is important for its agricultural significance and it plays an important part in the State water catchment area. I understand that the State Government has received funding in 1993-94 for these projects.

The Hon. D.C. WOTTON: I appreciate the interest that the member for Davenport has in this subject and I am pleased to advise him and other members of the House that a number of substantial actions have been undertaken by several Government departments and also the Local Government Association working in close consultation with each other. I will refer briefly to some of those actions which include the identification of functions and objectives for a catchment centre to be located in the central Mount Lofty Ranges; and the identification of staff from within the Water Resources and Resource Conservation and Management

Division of my own department and the Department of Primary Industries to be located at the catchment centre to work on a range of coordinated projects and programs.

Other important initiatives include the development of a proposal for the formation of a community based advisory committee to advise on the management of the Mount Lofty Ranges program and centre. In addition, a number of major projects have been commenced since December last year. Some projects include a community survey of barriers to the implementation of best land and water management practices, the preparation and implementation of riparian land management plans for a number of our waterways, including the Torrens, the Onkaparinga and the Inman rivers, and a greater involvement of local government in land, water and vegetation management.

The Government is very much aware of its responsibilities in this area. I appreciate the statement made in the member for Davenport's question: this is a very complex and important area, and it is one that the Government intends to ensure is preserved because of the importance of the area to the State of South Australia.

UNIVERSITY OF SOUTH AUSTRALIA

Mrs PENFOLD (Flinders): My question is directed to the Minister for Employment, Training and Further Education. Is it correct that the Whyalla campus of the University of South Australia is to be closed or downgraded?

The Hon. R.B. SUCH: I thank the member for her question and interest. Before focusing specifically on the Whyalla campus, I should point out that I am very conscious of the need to ensure that throughout South Australia there is proper provision of training and education for country people in particular because, of all the groups that have been most disadvantaged in the State in the past several decades, it is country people. It is important in terms of education and training that they have opportunities which will encourage people to stay in the country.

As Minister, I have no direct control over the University of South Australia, but I did inquire of the Vice-Chancellor about the position regarding the Whyalla campus because I heard the member for Giles, who came out of semi-retirement, interviewed on the radio. I must say his interest was much more professional than that of the Deputy Leader in the Salisbury campus issue. The Vice-Chancellor has advised me that the university has a policy of reviewing every unit of the university every seven years and has indicated there is nothing sinister about the Whyalla review. It is just a routine part of this quality assurance process.

There is no suggestion that Whyalla will be closed or downgraded. In fact, the university's plan is to increase student numbers in Whyalla and to increase the range of activities at that campus. In particular, the university intends to introduce post-graduate programs in Whyalla for the first time and to continue with a building program that will provide accommodation for students on that campus. In short, there is no plan to close that university campus or to downgrade it.

SUPPLY BILLS

Mr BASS (Florey): My question is directed to the Treasurer. Are public statements by a senior member of the Opposition about the provision of only one Supply Bill to cover appropriation until late this year inconsistent with previous negotiations between the Government and the Opposition? I will not explain the question, as I think members opposite may be able to understand it.

The Hon. S.J. BAKER: I was amazed to hear comments last week on ABC radio—and I do not know what agenda it is running, but ABC radio was reporting the Leader of the Opposition in another place as saying there was some lack of accountability because we had reduced the number of Supply Bills from two to one. I do not know whether he actually talked with his colleague, the former Treasurer, but the former Treasurer was negotiating with me last year on the matter of doing just that. He said to me—and I agreed at the time—that it is a complete waste of time to have two Supply Bills; they are just a talkfest and do not add anything to the Parliament or to accountability.

Then I heard the dulcet tones of the Hon. Mr Sumner over the radio saying that this was a shocking change and that somehow the Government was going to be lacking in accountability to the people of South Australia as a result. I wish members of the ALP in their Caucus meetings would actually talk to one another about issues, rather than running off at the mouth like some of them do, and check with the people previously responsible for this area as to what prevails. We had an agreement that, irrespective of who won Government at the election in 1993, we would reduce the number of Supply Bills from two to one. That was the arrangement at the time. We just decided to cut out the waste of Parliament's time and get on with the serious debates of the Parliament by taking away one of those Bills. The one Bill we will now have will take us right through the whole of the appropriation process from 1 July until the Appropriation Bill is assented to. It was a sensible change. I cannot understand what the Opposition is doing in another place.

SUPPLY BILLS

The Hon. FRANK BLEVINS (Giles): I seek leave to make a brief personal explanation.

Leave granted.

The Hon. FRANK BLEVINS: The Deputy Premier has just made a statement that we had an agreement about the number of Supply Bills being reduced from two to one after the election. I can assure the House that there was no such agreement. Whether or not I agree with the issue is another question.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

The Hon. LYNN ARNOLD (Leader of the Opposition): Last Thursday the Minister for Employment and Training and Further Education made some comments in relation to the South Australian Institute of Languages in answer to a question by the Deputy Leader. He made comments that I believe were offensive. They were offensive to me and to Mr Romano Rubichi. I notice that the Minister is leaving the Chamber now in a typically gutless way. His comments were offensive also to many communities in South Australia. (I

take it back: the Minister is in fact staying in the Chamber.)

He said that I had signed the cheque that he referred to. He was wrong. I did not sign the cheque. It was appropriately signed by Public Service officers. He then said I had sought to influence the outcome of the election the day before the election. That was wrong. As I will detail in a few moments, this matter was publicised many months before, and while it would have been hoped that many communities in South Australia would be impressed with this and other initiatives of the Government in multiculturalism, it certainly cannot be taken that something that was received by a person on the day of the election, if not after the election—I am not exactly sure when it was received, because if it was signed and posted, it would have been received after the election—could in any way have won any votes—

The Hon. M.D. Rann interjecting:

The Hon. LYNN ARNOLD: —or had any big influence. He then said the languages to be investigated included languages in Canada. That also was wrong. It was never the suggestion, as I will detail in a few moments, that any oral history work was to be undertaken in Canada. He then said that the matter of the sending of the cheque was a breach of caretaker provisions, and again quite clearly he was wrong. Again, as I will detail in a few moments, this matter was included in the budget brought down in August last year. It was publicised at the time with a press release that came out. It was scrutinised in the Estimates Committee. Indeed, there was a question from the then Leader of the Opposition, now Premier, on this matter. So, the caretaker provisions applied to no new initiatives being undertaken during the caretaker period. This was not a new initiative of the caretaker period—it was done in the budget earlier in the year and publicly announced on that occasion.

He then said that only trade related languages are important. Not only was he wrong, he is wrong, and I know that many in the communities of South Australia would vehemently express that point of view. Trade related languages are of course important but they are not the only ones that are important. Community languages in South Australia are clearly also very important.

I want to detail exactly what transpired with respect to this particular payment to the South Australian Institute of Languages. At budget time last year there were a series of grants that were additional to the programs of the Government in multiculturalism, additional to the programs of the Government in language education at all levels of education, and those grants amounted to some $240 000. I repeat the point: they were additional. Along with that budget, a press release was issued that detailed an allocational fund and oral history project to help preserve minority languages and dialects still spoken by some older South Australians of non-English speaking background. I interpose: it was referring not to those in Canada but to those in South Australia. The now Premier, on 14 September, asked a question of me on this matter; the answer I gave appears on pages 48 and 49 of last year's *Hansard*, and I refer the Minister to that particular matter.

My work in language education and the promotion of languages is well appreciated by communities in South Australia and extends—

Mr Quirke: And beyond.

The Hon. LYNN ARNOLD: —well beyond the boundaries of South Australia. I was the one who put in place the committee, chaired by Professor George Smolicz, which laid the foundation for many of these important things. That led, for example, to the LOTE program, the establishment of SASSOL, and activities well respected around the country. I believe that the Minister's comments are offensive to those Friulanies in South Australia, for example, who speak Friulan or Furlan, and the Hon. Julian Stefani is one who comes from such ancestry. The Minister's remarks are offensive to those who speak Ladino, as does the Lord Mayor of Adelaide, Henry Ninio. The Minister's remarks are offensive to those who speak Ladin, and they are offensive to those who speak Barossa Deutsch, which is one such language that will be examined under this oral history project. The Minister says that this is of no account. He then slights the work of SAIL. In terms of trade related languages I would ask that he question what SAIL has done in Russian, Korean and Arabic—all languages that I believe will have important significance on the trade potential of South Australia. He has some beef: he is obviously a failed lecturer from the tertiary sector himself. He has some vendetta that he wants to take out against the Institute of Languages.

The Hon. R.B. SUCH: I ask the honourable member to withdraw that offensive remark.

THE ACTING SPEAKER (Mr Bass): The Minister has requested that the remark be withdrawn, and I ask the Leader of Opposition whether he withdraws the remark.

The Hon. LYNN ARNOLD: Am I obliged to, Mr Acting Speaker?

The ACTING SPEAKER: It is not unparliamentary. I request it.

The Hon. LYNN ARNOLD: I will not withdraw it. He makes offensive remarks like that.

The ACTING SPEAKER: Order! I note that the honourable member has refused to withdraw. The honourable member for Kaurna.

Mrs ROSENBERG (Kaurna): The Noarlunga Together Against Crime report for 1994 is now released on the crime audit survey of the Noarlunga council area conducted in 1993. Noarlunga Together Against Crime (NTAC) is funded by the crime prevention unit of the Attorney-General's Department as part of the South Australian crime prevention strategy. The key aims of NTAC are to create a safe, violence-free Noarlunga with encouragement of the community to solve its problems and to have the community participate in the solution of all problems of crime in the area.

The crime audit survey was done by Reark Research on behalf of the City of Noarlunga, with 800 individuals being interviewed at random from 15 years of age and older and 26.4 per cent of the respondents coming from within the Kaurna electorate. This audit is particularly important to show respondents' perception of the key crime areas so that prevention strategies and education programs are accurately targeted, and the survey reveals that 39.6 per cent of males and 43.4 per cent of females perceive crime to be very common in Noarlunga compared to Adelaide. Those respondents over 65 years of age were the group least likely to believe that crime was very common compared with those in the age group 20 to 39 years who were most likely to believe that it was very common. Those older members of the community have had more contact with Neighbourhood Watch groups, etc., and so probably see more of the prevention strategies in action than the younger groups see. The younger groups are more likely to become victims and hence perceive a much higher level of crime as existing.

This has important consequences on how we approach the marketing of crime prevention strategies and to whom. The

areas perceived to be the worst crime areas in Noarlunga are the car parks around Collonades, the railway station, Collonades Tavern and the Noarlunga interchange. This perception of the lack of safety at the interchange is a contributing factor to lower public transport usage and is being addressed by the upgrade of the Noarlunga Centre. Property crime, car theft and graffiti rated high as the perceived highest crime areas. The clearly expressed, most commonly perceived problem of property crime indicates a greater role for prevention strategies which visibly highlight the effects against property damage, for instance, those of School Watch, Taxi Watch, Home Assist and Neighbourhood Watch.

Over one-half of the respondents believe that crimes were committed by locals, and this is actually the case, with approximately 75 to 85 per cent of crime involving local offenders. Offenders cleared by the police in 1992 indicated this percentage as being committed by local people. Overwhelmingly, they consider that employment was the key factor to the crime level, 76.3 per cent believing this. Unemployment, family values breakdown and lack of youth facilities were the three key factors perceived to contribute to crime. It is shown that the majority of offenders come from the unemployed but it is certainly not the case that the majority of unemployed commit crimes. The family abuse and juvenile offending link is quite significant; therefore, early intervention into abuse or prevention strategies are doubly important. Alcohol is a major contribution to crime and yet is perceived to be less of a causative factor than hard drugs. The community's acceptance of alcohol abuse must be addressed as part of the overall strategy.

Considering the horrific unemployment levels of Noarlunga, there is a relatively low number of juveniles coming into contact with the juvenile justice system. This may, however, be because they are not being apprehended. Those people aged 30 to 39 were most likely to be victims, while the elderly and young were the least likely to become victims. Residents stated that they did not feel safe to walk at night, had taken security measures in their homes and frequently stayed home purely because they feared break-ins. Most alarmingly, 30 per cent surveyed were unaware of any crime prevention strategy, while 80 per cent said they were unaware of any State Government crime prevention strategy in Noarlunga. We need to do much more to sell the work done in this area. This Government has already taken many positive steps to put initiatives in place, and we must really now start to market them correctly.

The report made several recommendations: first, that the public role in crime prevention needs to be promoted; secondly, that crime prevention strategies in family violence are essential; and, thirdly, that public awareness of crime prevention needs heightening. A key recommendation has now been implemented, with the establishment of a team at Christies police station specifically for dealing with youth, and Neighbourhood Watch, etc., should be extended wherever possible. I congratulate the Noarlunga Against Crime group for this report.

Mr FOLEY (Hart): I would like to continue the issue that I raised today in Question Time regarding the Government's handling of the TAB board and its subsidiary board 5AA. Without a doubt, it would have to be agreed that the Minister's handling of this issue has been somewhat haphazard—

Mr Quirke: And heavy handed.

Mr FOLEY: —and extremely heavy handed; it has been all over the place. The Minister has obviously had difficulty in coming to grips with this issue and first decided, midway through last week, that he wanted to take some action. Instead of having the decency to contact these people and meet with them face to face to talk through his concerns, he chose simply to pick up a telephone and ring them, which I think is a very unprofessional and unfortunate way to handle such a delicate and complex issue. We then had the Minister or his staff leak the story to Adelaide's media over the course of the weekend. That saw an issue appear, I think on the Saturday night evening news, and then later in the day on Sunday, with a report being buried in the *Sunday Mail* somewhere towards the back of the paper.

At that stage, some three or four days after the Minister first asked these members to stand down, he was not yet ready to go public and state his reasons why. It took the Opposition, through my efforts yesterday (Monday), to try to piece together what is at the crux of the issue as far as the Minister is concerned. We were able to reveal yesterday that there was a broader and wider issue at hand here: it was not simply one of simplicity that the Minister was trying to portray. I suspect his ministerial statement was prepared some days ago. With the Opposition raising this issue yesterday and introducing the 5AA issue into it, he has tacked a third page onto his ministerial statement to explain away the 5AA issue.

As much as the Minister and members opposite may wish to make fun of the Opposition's questioning at certain points today, it is clear that we have been able to draw out from the Government some wider difficulties it is having in the running of this organisation. What I find unfortunate is that, and as peculiar as it is in political life—perhaps not quite so peculiar—we have had four members of the TAB board identified. To use a crude expression, they were picked on by the Government simply because they are Labor appointments.

When this Government has been in Government a little longer—and we have the Minister sitting here in the Chamber who is a good one at making off the cuff remarks without really thinking through the responsibilities of Government, as we saw during the contribution from the Leader of the Opposition—there will be the day when that Minister signs a cheque. He should wait his time and become a little more confident in his job before he starts trying to be the tough political operator that he tried to be the other day in slurring the Leader of the Opposition.

Mr Meier interjecting:

Mr FOLEY: You will be a Minister one day and we will see what happens when you sign cheques. We will see what comes back to haunt you.

The Hon. R.B. Such interjecting:

Mr FOLEY: Remember when it was a budget allocation. I will not debate that, anyway.

An honourable member interjecting:

Mr FOLEY: You would be called a cheat, and that would hurt. This Government will see things differently when it has been in office a bit longer and learnt a bit more about the responsibility of Government. It will learn that you cannot get good, decent people to serve on boards if you treat them in the shabby way it has treated this board. We all know that Des Corcoran is a former political figure, and as such I cannot run away from the fact that as a political figure and a former Labor Premier the Government has asked him to resign. He has served the TAB board particularly well over the past 11 years. As a former Premier he has much to

contribute to public life today. When we look at other members of the board—Kate Costello, a prominent Adelaide lawyer; Bill Cousins, a former State Manager of Mutual Health and former Chairman of the Calvary hospital; and Mr Pickhaver, a well known barrister in Adelaide—we see good people appointed to do a particular job for the TAB. They do not deserve to be treated in the shoddy, haphazard way that this Government has chosen to treat them.

When members opposite have been in Government a little longer and learnt about responsibility in Government, they may realise that you do not treat people like this. It will come back to haunt them. If they want to stack their boards full of Liberals and their own people, one day that will come back to haunt them. I am concerned about the way that the Minister has handled the issue—

The SPEAKER: Order! The honourable member's time has expired.

Mrs PENFOLD (Flinders): I wish to inform members of the House about the outstanding achievement of the small community of Elliston on the West Coast of Eyre Peninsula in the electorate of Flinders. This small community of 250 residents in the Elliston township, with only 1 400 in the district council area, recognised its need for a suitable all weather aerodrome and set about building one of its own. While it is not yet finished, the major earthworks have been completed. The people of Elliston recognised that to help their local economy they had to increase the potential for tourists to visit their town and district. They recognised that this was one of the only ways to help create employment in the town and give them any hope of retaining their young people. An all weather airstrip will bring tourists to Elliston and this part of the West Coast of Eyre Peninsula because it is unique as a tourist destination.

It is a very picturesque destination, a collection of immense cliffs of brilliant colours with a wild, unpredictable and often raging sea, and its remoteness is timeless. It is truly a tourist destination of world class. However, the airstrip was also seen as making it possible to increase the commercial activity for Elliston. The community can see that an airport will allow local business access to the outside world. An airstrip will allow various products from the sea, such as rock lobster and abalone, to be flown out of Elliston direct rather than be transported by road. With very limited resources, the community set about the huge task of building a modern airstrip in a district noted for its undulating sandhills and limestone outcrops.

Work commenced in November 1993 when drilling and blasting operations began removing the rocky outcrops. About 15 000 cubic metres of rock was blasted and work on bringing in filling started on 14 January this year. The carting of filling was completed on 28 February in what was one huge voluntary working bee. In all, the voluntary labour totalled over 5 500 man hours. Many local farmers left their farm operations for nearly 2½ weeks at a stretch to help with this community project. Given the poor season that these farmers experienced last year and the low commodity prices and high import costs that they have had to bear, this has been a marvellous example of community support.

In the huge earthmoving operation, 14 tiptrucks (12 of them owned by local members of the community) were used to shift the filling. Three bulldozers were used to push up the filling and level it at the site, while a water tanker and tractor were also provided by the community. Four articulated loaders were loaned by the community and made short work of loading the trucks in an operation which started at daylight from Monday to Friday for four weeks. These same farmers had properties to run, stock to attend to and their own concerns for the future. However, they left all that behind for the sake of their community. It truly demonstrates the enterprise and resourcefulness of people who live in these communities.

The work undertaken by the community has meant that the cost of building the Elliston aerodrome has been reduced in real terms from $450 000 to approximately $130 000. There is much to do. The runway still has to be rubbled, and an unloading and parking apron is yet to be built with lighting and fencing to be installed. Funding for these facilities is still to be resourced. Members would acknowledge the huge effort made by this small community to provide it with an airstrip. Once this facility is completed, the Elliston community will have a mantle of safety that it has never had before. Night or day, a flying doctor or ambulance aircraft will be able to fly into the region to lift out anyone requiring medical evacuation as a result of illness or injury.

The airstrip will mean that the State's medical retrieval team can fly out anyone unfortunate enough to warrant such a mercy mission. This is a mantle of safety that many other communities have already and take for granted. It is a mantle of safety which, when the airstrip is completed, will be valued by the people of Elliston and its district. I am pleased to report that my admiration for these hard working and resourceful people is shared by many members of this House.

Mr QUIRKE (Playford): I received a letter the other day from a constituent, as follows :

> Dear Mr Quirke,
> Please find attached letter from State Bank as per phone conversation on Wednesday 6 April. Thank you for your help and your voice for the small people of this State.

The letter from the State Bank is as follows:

> During February 1994, the bank announced a revised fee structure for State Bank Everyday, Blue Passbook and High Interest Savings Accounts, effective 1 March.

The letter was dated March 1994, but it did not arrive until the end of March. It announced increased costs for ordinary people—people who bank with the State Bank. It announced that increase after they had already been charged. The letter continues:

> As you are a valued customer, I thought it useful to personally explain the new fee structure and how you can enjoy fee free banking with the State Bank.

Let us find out exactly how this system works. The letter continues:

> A monthly account keeping fee of $2 will apply for accounts with a monthly balance of less than $300.

It is not $100, as it was a few years ago, which, in itself, was an absolute disgrace (and I said in this House that it was an absolute disgrace)—it is now $300. It continues:

> The monthly cheque and across-the-counter withdrawal fee will be 50¢ per transaction. However, the first five transactions per month of this type are free.

That is very big of them. It continues:

> You can enjoy fee free banking with an Everyday Account by:
> · maintaining an account balance of $300 or more and no account keeping fee will apply;
> · maintaining an account balance of $5 000 or more and no account keeping or transaction fees will apply;

It is $5 000! It continues:

· reducing your cheques and across-the-counter withdrawals to five or less transactions per month;

Other options include using the State Bank automatic teller machines, electronic agencies, EFTPOS, credit cards and automatic payments, which are free of transaction fees. The letter goes on to discuss the other accounts, but the key issue is that unless you have a healthy bank balance the State Bank of South Australia will deduct $2 from your account each month. Most of my constituents do not have $300 to leave in the bank. It is not practical for some people to leave $300 in their bank accounts, particularly those who unfortunately are either unemployed or pensioners, whose social security benefits are paid into a bank account and who have supported the State Bank of South Australia over the years and before it the Savings Bank of South Australia.

We now find that this bank, which is meant to be for the little people—that is the stuff we hear on TV every night—is hurting them more than any of the other banks. My constituents cannot afford these sort of account keeping fees. The State Bank is chasing people away in droves to other banks. That might be its intention; it may well be that it is saying to my constituents, 'Unless you leave $300 with us as a minimum balance, unless you have $5 000, we do not want you. Off you go—go somewhere else.' As I have said in the House many times, I have always called into question the social purposes of the ownership of the State Bank, and I certainly do on this occasion. I hope that, when this speech is read in the State Bank castle, some of the comments that have been made are noted, because this is an absolute disgrace to the poor people of this State, and I hope that they vote with their feet.

Mr MEIER (Goyder): I wish to bring to the attention of the House a letter I received recently from a constituent, as follows:

I own a mechanical repairing business in Bute, specialising in both motor cars and agricultural machinery repairs. On 28 January 1994 my previous mechanic gave two week's notice. I immediately started advertising, asking for written applications to fill the position. Interested applicants required motor mechanic and diesel experience. Knowing Australia's poor economic state and the extremely high unemployment rate, I prepared myself for an influx of letters from eager job hunters. To my amazement, I received only three written applications who, after careful consideration, were found to be unsuitable for all that this job requires. I also had a handful of people ring to inquire, but they never followed through with an application.

I think I'm fair in saying that I've covered the whole of South Australia in my attempts. I've advertised in our local paper, *Yorke Peninsula Country Times*, and also the *Flinders News*, and Saturday's *Advertiser*. I am registered with the CES, Statewide, who have broadcast on radio station 5AU, but to no avail. I'm still without a mechanic. I'm willing to consider all applications. I'm offering a full-time position, award wages and a friendly working environment. I want an honest, capable and hard working person who I can rely on to leave in charge when I am away from the shop.

It's obvious to me that the unemployed aren't prepared, or are just too lazy, to travel to seek employment. The 'job seekers' aren't interested in seeking a job at all. There's no need. Why work when they can receive a reasonable sum, with plenty of benefits, whilst sitting at home. Something is wrong with the system, when there's a perfectly good job offering, and no-one wanting to fill the position. What's happened to the hard working Australians of yesteryear? Values have certainly changed, and not for the better.

I can inform the House that I was very disappointed to receive this letter and to realise that, whilst northern Yorke Peninsula has very high unemployment, it was not possible for a mechanical repair business in that area to employ a person as a mechanic with diesel experience. It reflects on our system. I believe that the Federal Government will have to address this problem if, as my constituent suggests, there is no incentive to obtain work; and, if, as he suggests, there is no incentive to go out and find employment. I would hope that the Federal Government looks at this issue much more than it has and that we start to get this country and, in particular, this State moving again.

In the last two minutes I wish to draw attention to an article in this week's *City Messenger*. The article mainly refers to the person who is often known here as the 'fabricator'—the Deputy Leader of the Opposition. The second paragraph of the article states:

Opposition Deputy Leader Mike Rann said the South Australian Economic Development Authority report which lists the projects was full of 'candy floss' and did not stand up to scrutiny.

The article then lists some projects that the Deputy Leader was not happy about being listed as part of the step forward. I say to the Deputy Leader: it is about time that he stopped his constant knocking of this State and started to support it. It is quite incredible. Not only is he knocking but he is fabricating issue after issue. We have heard it in Question Time, and I thought the press was well aware of it. The press has ignored most of his contributions. In fact, it saw through him years ago. However, it appears that the reporter responsible for this article has not seen through the Deputy Leader and did not check with Government officials, because I can tell the House that this Government is moving full steam ahead, and the number of projects we have in our own right is quite incredible. I mention the Cathay Pacific pilot training program; the reopening of SABCO; the reopening of the Onkaparinga mill; the ACI glass bottling investment; the Mitsubishi redevelopment program; and, only today, the Motorola company coming to this State. We are advancing flat out.

MEMBER'S REMARKS

The Hon. R.B. SUCH (Minister for Employment, Training and Further Education): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.B. SUCH: During the grievance debate the Leader of the Opposition—

An honourable member interjecting:

The SPEAKER: Order! The Minister has leave to make a personal explanation.

The Hon. R.B. SUCH: —made offensive remarks about me. In fact, he described me as a failed academic. The record will show that that is completely wrong. He also suggested that I had offended people in various language groupings and ethnic groupings. That is completely untrue. In answer to a question last Thursday I did not suggest that only languages that could be used for trade purposes were important. I made no assertion about community languages whatsoever. I draw members' attention to page 759 of *Hansard* last Thursday, and ask them to read exactly what I said.

SITTINGS AND BUSINESS

The Hon. S.J. BAKER (Deputy Premier): I move:

That the time allotted for—

(a) completion of the following Bills:
Industrial and Employee Relations,
Retirement Villages (Miscellaneous) Amendment,
Adelaide Festival Centre Trust (Miscellaneous) Amendment,
Limitation of Actions (Recovery of Taxes and Substantive Law) Amendment and
(b) consideration of Message No. 17 from the Legislative Council—
be until 6 p.m. on Thursday.

Motion carried.

MEAT HYGIENE BILL

The Hon. D.S. BAKER (Minister for Primary Industries) obtained leave and introduced a Bill for an Act to regulate the processing and sale of meat to ensure its wholesomeness; to repeal the Meat Hygiene Act 1980 and the Poultry Meat Hygiene Act 1986; to make consequential amendments to the Local Government Act 1934 and the Prevention of Cruelty to Animals Act 1985; and for other purposes. Read a first time.

The Hon. D.S. BAKER: 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.

Introduction

The Government is pleased to introduce the *Meat Hygiene Bill 1994*. The Bill results from twelve months of intensive negotiation and consultation with industry and governments at State, Federal and local levels. It follows several formal reviews examining aspects of meat processing (culminating in the 1992 McKinsey Organisational Development Review of the Department of Agriculture and a report on meat hygiene regulation by the Business Regulation Review Office) and sustained pressure from rural communities and industry groups for review of slaughterhouse trading rights.

The Bill reflects improvements in industry practices since the formation of the South Australian Meat Hygiene Authority in 1980 and recognises the maturity of the meat processing industry in this State. It does so by establishing the role of industry in regulatory policy, in the introduction of best practice in industry/Government co-regulation of meat quality and in facilitating trade in South Australian meat products under mutual recognition.

In adopting this approach to regulation of meat hygiene the Government is keeping pace with developments in other States, particularly Queensland, Victoria and Tasmania, where there is a determined move towards quality assurance and flexible controls at plant level, together with a greater role for industry in administration of regulations at State level.

With the introduction of mutual recognition, new legislation is necessary to clarify the conditions for unrestricted trade in wholesome meat within South Australia, and so facilitate trade across State and Territory borders, that is free of cumbersome and unnecessary paperwork. Material deficiencies in the current legislation, notably the lack of provisions covering processing of game meat (e.g. kangaroo) and other secondary meat processing operations also require correction.

Objectives

The *Meat Hygiene Bill 1994* repeals and replaces the *Meat Hygiene Act 1980* and the *Poultry Meat Hygiene Act 1986* to provide a framework for the hygienic processing of livestock, poultry and game meat in South Australia.

The principal objective of the legislation is to ensure that all meat and meat products processed in South Australia for consumption by the public or by domestic pets is wholesome. In this sense, wholesome means free of any condition which might compromise the physical health or the well-being of a consumer of meat or a meat product and in which the concentration of any residue present does not exceed the Maximum Residue Level ("MRL") prescribed for that substance.

A new industry body (the South Australian Meat Hygiene Advisory Council) will be created to advise the Minister directly on policy and administration of the Act, functions formerly conducted by the Meat Hygiene Authority. This represents a significant shift of role and responsibility of industry, which has no representation on the existing Authority.

The new legislation is designed to allow all major sections of the domestic meat industry to operate within a framework of quality assurance, with flexible levels of control directly related to product safety standards and company-run quality assurance systems.

That is, although regulatory controls based on independent (Government) inspection on-plant will remain as an option, the legislation also provides for more flexible arrangements with those operators who are willing and able to introduce approved safeguards into the production process and agree to regular audits of company quality assurance programs. The principle is established that, subject to consistent compliance with nationally accepted hygiene standards within externally audited quality assurance programs, competent operators at any level of domestic production can process meat without imposition of external (government) full-time meat inspection.

Meat processing in a wider range of facilities will be allowed, providing prescribed standards of hygiene and wholesomeness are met. In effect, operators will be able to seek accreditation based on the standard and capacity of their facilities and processes and on their level of training and competency. Those with higher capacity and competence will be able to become accredited for larger and more sophisticated programs of production and enjoy greater market mobility.

Existing controls on pet food will be retained. Under quality assurance programs, the potential exists for substantial improvement in standards of pet food production, providing more confidence in safety of pet food and further reduction in risk of entry of substituted meat into both export and domestic markets through the pet food route.

All activities provided for in the legislation will be funded by major stakeholders according to a formula which includes a commitment from the State Government, reflecting its community service obligation to public safety.

The legislation is designed to complement the provisions of the Food Act by taking up control of all meat processing occurring before retail sale and excluding processing operations directly associated with retail operations. Continued close liaison with the Health Commission on Food Act implementation policy (at operational level as well as through the Meat Hygiene Advisory Council) will ensure programs are complementary and no duplication of service occurs.

In order to meet the objectives, the legislation will—

- incorporate or operate by reference to various national Codes of Practice and other relevant standards as the basis for accreditation and quality assurance programs;
- provide for appointment of meat hygiene officers in Primary Industries (SA) and the contracting of external specialist agencies or persons as necessary for audit and inspection work;
- enable the raising of funds by way of fees and charges to ensure both effective and efficient administration of the regulations and an equitable balance of contributions by key stakeholders;
- provide for the imposition of appropriate penalties for non-compliance;
- allow a property owner or occupier to slaughter his or her own stock on a home property for use by those residing on the property.

Explanation of Key Provisions

Administration

There will be a new regulatory administrative structure, comprising—

- The South Australian Meat Hygiene Advisory Council, which will advise the Minister directly on meat hygiene policy and the administration of the legislation. The Council will be representative of all major industry and public bodies with a stake in the safety and wholesomeness of meat products, and will have an independent chairperson.
  Although the full Meat Hygiene Advisory Council is a large body, the legislation provides for the Council to "determine its own procedures", that is, a core working group nominated by the Council would obtain inputs from specific Council representatives on relevant issues, co-opt inputs from non-Council sources and appoint sub-committees (from within or outside the Council) to formulate advice on specific issues.
- A core management group within the Primary Industries Department to administer the regulations, with power to

engage field enforcement staff, on a contract basis if necessary, to ensure cost-effectiveness of inspection, audit and training services.

Accreditation

The cornerstone of this Act is certification or "accreditation" of operators, on quality assurance or external inspection programs, to replace licensing of premises. It is proposed that meat processing operators be accredited to engage in specified activities, notably the slaughtering of animals and the secondary processing of meat, including smallgoods production and the processing of game meat. Those activities would be conducted in accordance with approved quality assurance programs to be developed, implemented and audited under the supervision of the Minister.

To operate legally, all meat processors must be accredited.

Accreditation requirements will include—

- adherence to an approved quality assurance ("QA") program, which will include internal (that is, company-employed) product inspection and process audits; or
- full-time inspection by an external agency approved by the Minister; or
- a program of regular inspection (by an external agency) of premises and process, together with compliance with a routine partial QA (or product monitoring) program.

The legislation will allow for operation under full-time or periodic inspection in lieu of QA in the following instances—

- from the introduction of the legislation until such times as approved quality assurance programs are implemented at the various premises;
- where processors choose to operate under full-time or periodic inspection at their own cost rather than implement or adhere to approved quality assurance programs;
- in the event of non-compliance with a QA program approved by the Minister;
- in other circumstances which, in the opinion of the Minister, warrant these strategies.

Under this legislation, the Minister will grant accreditation to the operator, not the premises or the product, on the basis of—

- presentation by the operator of relevant information about the proposed processing program, including
  - * the types and classes of meat involved, the manner in which the meat is to be processed, the maximum daily throughput of stock and product and the premises, vehicles, plant and equipment to be used;
  - * details of any quality assurance program proposed, or inspection service required.
- assessment of the operator's proposal by the auditing agency.

Accreditation will be granted if the Minister is satisfied that—

- the operator is a suitable person to hold the accreditation;
- the processing program complies with relevant standards and codes.
- that either the proposed QA program is appropriate or satisfactory inspection arrangements are made to ensure wholesomeness of the products.

The legislation provides for variation, transfer, suspension or revocation of accreditation under appropriate circumstances, including appeal provisions.

Audit and Inspection

The legislation provides for engagement, on contract, of approved agencies or persons to provide independent audit and inspection services on the Minister's behalf.

In addition, the State (through meat hygiene officers of the South Australian Department of Primary Industries) will provide specialist audit, inspection and compliance expertise for referral and backup to contracted agencies as required.

Processing companies themselves will be encouraged (and where necessary for full compliance with standards, compelled) to employ staff qualified in meat inspection, public health and quality assurance management, to carry out required inspectorial and QA functions on-plant. Such company staff would be approved (as QA managers) by the Minister.

In all meat processing plants independent, consistent audit or inspection will be applied to ensure compliance with the conditions of accreditation.

Quality assurance is already informally practised by the majority of small "owner-operators", who are totally responsible for the product and the process from slaughter to sale. These are considered "low-risk" and the majority have no wish or need to expand. For this reason a class of processors with restricted trade access (related to throughput and specified outlets) will be retained. A form of quality assurance or product monitoring program will also be made available for these operators, to enable those prepared to enter such a program to reduce inspection costs.

All operators seeking unrestricted trade of meat or meat products (that is, anywhere in the State and under mutual recognition, interstate) will be required to reach nationally accepted standards of production. These standards will normally be approved National Codes of Practice.

This legislation recognises the increase in risk to public safety when meat is subject to wholesale. More formal systems of quality control will be required in all wholesale operations to minimise risk of compromising product wholesomeness.

Powers of Meat Hygiene Officers

The Minister will appoint meat hygiene officers who will oversee the inspection and enforcement functions. The powers the legislation grants to a meat hygiene officer will be similar in thrust to the powers under the current Act and will be all, and only, those adequate for the purposes of the Act in ensuring wholesomeness of meat products.

Inspection and enforcement staff employed by a contracted agency or meat processing company will conduct routine QA audit activities with specific reference to the compliance agreement with the operator. A meat hygiene officer will become actively involved in field activities where specific statutory enforcement powers are required.

Funding

The system will be part-funded by the State, recognising a community benefit of this legislation; the remaining funding will be obtained from—

- fees for initial accreditation (including inspections/audits required) and for amendment of accreditation;
- an annual service fee for operators, including a minimum number of audits or inspections;
- additional charge (at full cost recovery) for additional inspections and audits;
- fees for approved inspection or audit agencies;
- fees for approved quality assurance managers.

Initial accreditation fees, amendment fees and annual servicing fees will vary with the size of the operation, the range to be set by regulation. In addition, the Minister will be empowered to set from time to time charges or fees in respect of the inspection of premises, animals, product etc. and the audit of approved QA programs.

Transitional Arrangements

After initial passage of the legislation, a "changeover day" will be determined, when the Act will be proclaimed. The period between passage and proclamation is likely to be about five months, during which the Advisory Council will be appointed, regulations will be prepared, product monitoring and quality assurance codes of practice will be produced, fees and charges will be determined and tenders for external services let and filled.

From changeover day, existing operators of meat processing plants will have "temporary accreditation" pending development of a processing program for approval and granting of full accreditation. The operators will be required to apply for full accreditation within three months.

Consultation

Informal consultation with industry has been ongoing since the late 1980's, as a result of sustained concern and political action from sections of the meat industry and rural communities. There has been particular concern over the administration by the Meat Hygiene Authority of country meat trading rights, lack of opportunity for industry to participate in policy decisions of the Authority and more recently the rising costs of inspection in abattoirs.

Following reports by McKinsey and Company (Organisational Development Review, December 1992) and the Business Regulation Review Office (August 1993), the Department of Primary Industries launched a formal consultation process with key industry and government groups, including the Government Adviser on Deregulation, aimed at producing a joint strategy for legislative change.

Following a combined industry-government workshop in November 1993, convened to identify the key issues and confirm industry's commitment, an industry working group was convened by the South Australian Farmers Federation to formulate a position. The industry position paper was considered by the Government and subsequently released, with comment, for wider industry and community consideration. The consultation process was then consolidated with an expanded Meat Hygiene Consultative Committee.

A Government Position Paper was released for discussion in March 1994 outlining the regulatory and structural aspects of the proposed meat hygiene legislation including detailed discussion of the intended content. Reaction from industry and community groups has been generally supportive. Concerns are mainly over operational plans and procedures and these are to be finalised in the period between passage of the Bill and the changeover day.

Summary

In summary, this Bill reflects improvements in industry practices since the formation of the South Australian Meat Hygiene Authority in 1980. It recognises the maturity of the meat processing industry in this State by establishing its formal role in working with the Government to determine regulatory policy. While clearly establishing nationally accepted codes of practice as the standards for public safety through meat hygiene in South Australia, it provides greater flexibility for industry to move to best practice in cost-effective controls through adoption of total quality management systems in all sectors of the industry.

The Bill provides for effective industry/Government co-regulation of meat quality and a framework for facilitation of trade in South Australian meat products both within the State and interstate under mutual recognition.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

The definition of "meat" sets the scope of the Bill.

The Bill applies to meat intended for human consumption or consumption by pets.

The Bill covers processed products such as smallgoods where the nature of the meat is altered or the meat is mixed with another substance, but it does not cover processed products where the meat is cooked.

The Bill does not cover fish or anything excluded from the definition of "meat" by regulation.

Clause 4: Meaning of meat processing

The definition of "meat processing" sets the scope of the accreditation requirements included in the Bill.

"Meat processing" is broadly defined and includes each of the steps of killing animals or birds, preparing meat and producing meat products (other than by cooking). It also includes packing, storing or transporting meat.

Clause 5: Meaning of wholesome

The definition of "wholesome" is used both in relation to the activities of meat processors and sellers of meat. Meat is not wholesome if—

- the animal or bird from which it comes is diseased or residue affected or died otherwise than by slaughter; or
- it does not meet regulatory standards; or
- it is not fit for human consumption or consumption by pets as intended.

Only diseases specified by the Minister by notice in the *Gazette* are relevant.

Clause 6: Meaning of marked as fit for human consumption

This definition is relevant to the offence of using a non-official mark to indicate that meat is fit for human consumption (see clause 24). The Minister can determine official marks by notice in the *Gazette*.

PART 2

MEAT HYGIENE ADVISORY COUNCIL

Clause 7: Establishment of Advisory Council

Clause 8: Functions of Advisory Council

The Council is to advise the Minister on the operation of the Act and on issues directly related to meat hygiene in this State.

Clause 9: Composition of Advisory Council

The Advisory Council contains broad representation from industry and from those involved in administration.

Clause 10: Terms and conditions of membership of Advisory Council

Membership is for a maximum of 3 years at a time. Grounds for removal are set out.

Clause 11: Procedures of Advisory Council

The Council is required to meet at least once every six months and at other times directed by the Minister. The Council may determine its own procedures but must keep minutes. The Minister must make the minutes and any reports of the Council to the Minister available for public inspection.

PART 3

ACCREDITATION OF MEAT PROCESSORS

Clause 12: Obligation to hold accreditation

A person who processes meat must be accredited and must process the meat in accordance with the conditions of accreditation.

The following exceptions are set out in the clause:

- a person killing their own animals or birds and processing the meat for their own consumption;
- a person killing wild game and processing the meat for their own consumption;
- a person obtaining meat from an accredited source and processing it only—
  - in the course of the retail sale of meat;
  - in the course of a restaurant type business;
  - in the course of a food or pet food production business where the meat is cooked;
  - in a domestic situation.

Clause 13: Application for accreditation

This clause governs the manner in which an application is made, the information that must be provided and the carrying out of inspections for the purposes of determining the application. It provides that an applicant must prepare a proposed processing program setting out the classes and quantity of meat to be processed and how the meat is to be processed. The program is to cover preparations, processing and clean-up as well as maintenance of premises, equipment and plant. It enables an applicant to propose to follow a quality assurance program—an inhouse program of checks and records for the purposes of ensuring compliance with the processing program and other requirements of the Bill.

Clause 14: Temporary accreditation

The Minister may grant temporary accreditation for a period up to 6 months while considering an application for accreditation.

Clause 15: Grant of accreditation

The Minister is required to grant accreditation if satisfied that the applicant is a suitable person, that the proposed processing program is satisfactory and that the proposed quality assurance program or inspection arrangements are satisfactory.

Clause 16: Conditions of accreditation

Accreditation is subject to conditions set out in the clause and to any further conditions imposed by the Minister. The conditions set out in the clause are generally aimed at ensuring that the processing program is followed and that a quality assurance program, full-time inspection or program of periodic inspections is in place. If a processor elects to have a quality assurance program, the records resulting from that program are to be audited from time to time. The conditions may require that the quality assurance program be managed by a person approved by the Minister. If significant problems are found on an audit or, in the case of an accreditation subject to periodic inspections, during a program of inspection, further audits or inspections are to be carried out, generally at the cost of the holder of the accreditation. The inspections or audits may be carried out by an approved inspection or audit service.

Clause 17: Annual return and fee

The holder of an accreditation is required to provide the Minister with an annual return and to pay an annual fee. Accreditation is of unlimited duration.

If the holder of an accreditation fails to comply with these requirements, the accreditation may be suspended and ultimately cancelled.

Clause 18: Variation of accreditation

The Minister may impose further conditions, vary or revoke conditions, vary an approved processing or quality assurance program or revoke an approval of a quality assurance program or a quality assurance manager. A variation is not to take effect for 6 months unless the holder of the accreditation agrees otherwise.

Clause 19: Application for variation of accreditation

This clause governs the manner in which an application is made, the information that must be provided and the carrying out of inspections for the purposes of determining the application.

Clause 20: Transfer of accreditation

An accreditation is transferable (unless the conditions of accreditation provide otherwise) to a suitable person who has capacity, or has made arrangements, for ensuring compliance with the conditions of accreditation.

Clause 21: Suspension or revocation of accreditation

The circumstances in which the Minister may suspend or revoke an accreditation are set out and include breach of conditions or commission of an offence against the Act or regulations. The holder of an accreditation must be given 14 days to respond to a proposed suspension or revocation.

Clause 22: Surrender of accreditation
The holder of an accreditation may surrender it to the Minister.

PART 4
SALE AND MARKING OF MEAT

Clause 23: Sale of meat for human consumption
It is an offence to sell meat for human consumption that has not come from an accredited source or that is not wholesome.

Clause 24: Marking of meat for human consumption
It is an offence to use an official mark indicating that meat is fit for human consumption except in accordance with the conditions of an accreditation or the regulations.

Clause 25: Sale of meat for consumption by pets
It is an offence to sell meat for consumption by pets that has not come from an accredited source or that is not wholesome.

PART 5
ENFORCEMENT
DIVISION 1—INSPECTION AND AUDIT

Clause 26: Approved inspection or audit services
The Minister may approve a person or body to be an approved inspection or audit service and enter into an agreement relating to the provision of services by that person or body for the purposes of the Act. The services would relate to inspections or audits required to be carried out by conditions of accreditation.

Clause 27: Appointment of meat hygiene officers
The Minister may appoint meat hygiene officers or enter into an arrangement with the Commonwealth or a local government authority for the provision of meat hygiene officers.

Clause 28: Identification of meat hygiene officers
Meat hygiene officers are required to carry identification and produce it for inspection on request.

Clause 29: General powers of meat hygiene officers
Meat hygiene officers are given general powers to enable them to administer and enforce the Act and regulations. They may not break into residential premises without a warrant.

Clause 30: Provisions relating to seizure
This clause details how a meat hygiene officer is to deal with meat, animals or birds or anything else seized by the officer.

Clause 31: Offence to hinder, etc., meat hygiene officers
The maximum penalty for hindering or disobeying a meat hygiene officer is a division 6 fine ($4 000) and for assaulting a meat hygiene officer, a division 5 fine ($8 000) or division 5 imprisonment (2 years) or both.

Clause 32: Offences by meat hygiene officers, etc.
The maximum penalty for abuse by a meat hygiene officer is a division 6 fine ($4 000).

DIVISION 2—COMPLIANCE ORDERS

Clause 33: Power to require compliance with conditions of accreditation
A meat hygiene officer may issue the holder of an accreditation with a notice requiring the holder to take specified action to rectify a contravention of conditions of accreditation or to ensure compliance with those conditions or prohibiting the holder using premises, vehicles, plant or equipment until those conditions are complied with. The notice can be varied.

Clause 34: Offence of contravening compliance order
The maximum penalty for disobeying such a notice is a division 4 fine ($15 000).

PART 6
APPEALS

Clause 35: Appeal to Administrative Appeals Court
A right of appeal to the Administrative Appeals Division of the District Court is provided in relation to—

- a refusal to grant accreditation;
- a decision relating to conditions of accreditation or to an approved processing or quality assurance program;
- a revocation of approval of a quality assurance program or quality assurance manager;
- a suspension or revocation of accreditation;
- a compliance order issued by a meat hygiene officer.

PART 7
MISCELLANEOUS

Clause 36: Exemptions
The Minister is given power to issue exemptions, individually or by class, by notice in the *Gazette*.

Clause 37: Delegation
The Minister is given power to delegate functions or powers to a public servant.

Clause 38: Immunity from personal liability
Immunity is provided to meat hygiene officers or other persons engaged in the administration of the Act.

Clause 39: False or misleading statements
The maximum penalty for knowingly making a false or misleading statement is a division 5 fine ($8 000) or division 5 imprisonment (2 years).

Clause 40: Statutory declaration
The Minister may require information to be verified by statutory declaration.

Clause 41: Confidentiality
Information relating to trade processes or financial information obtained in the administration of the Act is not to be divulged.

Clause 42: Giving of notice
This clause provides for methods of serving notices under the Act.

Clause 43: Evidence
This clause provides evidentiary assistance for the prosecution of offences.

Clause 44: General defence
A defence to a charge of any offence against the Act is provided of taking reasonable care to avoid the commission of the offence.

Clause 45: Offences by bodies corporate
Each member of the governing body and the manager of a body corporate are guilty of an offence if the body corporate is guilty of an offence.

Clause 46: Continuing offences
A penalty of one-fifth of the maximum penalty for an offence is payable for each day that the offence continues.

Clause 47: Regulations
The regulations may incorporate standards or codes as in force from time to time.

SCHEDULE 1
Repeal and Transitional Provisions

The *Meat Hygiene Act 1980* and the *Poultry Meat Hygiene Act 1986* are repealed.

Previous licence holders are to be given temporary accreditation on the commencement of the Act. They then have 3 months within which to apply for accreditation and provide the relevant details.

SCHEDULE 2
Consequential Amendments

Amendment of Local Government Act 1934 and Prevention of Cruelty to Animals Act 1985
Reference to premises licensed under the *Meat Hygiene Act 1980* are updated.

Mr ATKINSON secured the adjournment of the debate.

LIMITATION OF ACTIONS (RECOVERY OF TAXES AND SUBSTANTIVE LAW) AMENDMENT BILL

Second reading.

The Hon. S.J. BAKER (Deputy Premier): I move:

That this Bill be now read a second time.

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

Leave granted.

This bill amends the *Limitation of Actions Act 1936* in two ways.

First it amends section 38 of the *Limitation of Actions Act*.

In 1993 the *Limitations of Actions Act* was amended so as to introduce a limitation period applicable to actions for recovery of money paid by way of invalid tax to a period of 12 months. Since that amendment, other jurisdictions have introduced a shorter time period. As the repayment of invalid taxes often involves windfall gains to some individuals, and the necessity to impose even higher taxes on others so as to recoup the amounts repaid, it is desirable that this State also reduce the period.

The amendments to section 38 when the Bill was introduced in another place provided that the limitation period applicable to actions for recovery of money paid by way of invalid tax was reduced to 6 months. This was amended to retain the 12 month limitation period but to impose an 8 month transition period.

The Northern Territory, Australian Capital Territory and Tasmania amended their Limitation of Actions legislation during 1993 to reduce their limitation periods for the recovery of invalid taxes to 6 months. Victoria, New South Wales, Queensland and Western Australia currently have a limitation period of 12 months.

A 6 month limitation period would result in a substantial saving of State revenue required to be repaid if any of our major taxes are held to be invalid and I will be moving to restore the six month limitation period.

Provision will be made for a transition period, giving those persons who were, prior to this amendment, entitled to claim recovery of an invalid tax, but who are by virtue of this amendment out of time, a 2 month transition period from the date this amendment comes into operation in which to institute proceedings to recover invalid tax payments.

Further, a limitation is imposed on the right of recovery to cases where the tax has not "flowed on" or been "passed on" to the consumer.

The inclusion of a passing on defence within this State's *Limitation of Actions Act* will reduce the prospect of windfall gains by those that ultimately have not borne the burden of the tax. It may also lead to a substantial saving of revenue to be repaid, in the event of constitutional invalidity of a tax levied by the State.

The second amendment supplements the amendment to section 38A which was enacted last year. The 1993 amendment provided that a limitation law of the State is a substantive law of the State.

This provision directs courts in other jurisdictions as to how South Australian Limitation periods are to be treated but does not deal with how courts in South Australia are to treat limitation periods of other jurisdictions.

The Standing Committee of Attorneys-General in June 1993 endorsed a model bill which provided that if the substantive law of another place is to govern the proceedings, the limitation law of that other place is to be regulated as part of the substantive law of that other place, and is to be applied accordingly in proceedings before the courts of the enacting jurisdiction. If all jurisdictions enact the model provisions the problem of forum shopping for favourable limitation periods will be resolved.

The model bill endorsed by the Standing Committee of Attorneys-General has now been enacted in several jurisdictions. New South Wales has included a provision similar to the 1993 South Australian amendment but Victoria has not. Because of the Victorian provisions (and possibly some other jurisdictions), Victorian limitation periods will continue to be treated as procedural in actions in South Australian courts unless the model provisions are enacted in South Australia.

The new provision also provides, as does the model bill, that the amendments apply to causes of action that arose before the commencement of the amendment but not to proceedings instituted before the commencement and that if a court is exercising a discretion under a limitation law of another jurisdiction, it is to exercise that discretion in a manner comparable to the way in which the courts of that jurisdiction would exercise the discretion. The provisions of the bill apply to New Zealand.

The 1993 amendment and the model provisions are complementary. The 1993 amendment is necessary to ensure that South Australian limitation periods are given effect to by courts in other jurisdictions where the model provisions have not been enacted and the model provisions are necessary to ensure that the model provisions are effective in those jurisdictions where they have been enacted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

The amendments to section 38 are to come into operation on assent. The other amendments are to come into operation on a day to be proclaimed.

Clause 3: Amendment of s. 3—Interpretation

A definition of "limitation law" is inserted for the purposes of the new section 38A inserted by clause 5.

Clause 4: Amendment of s. 38—Limitation on actions for recovery of money

The amendment to section 38 retains the limitation period of 12 months for an action for recovery of an amount paid by way of invalid tax.

For those who paid an invalid tax more than 4 months before the commencement of the amendments, actions for recovery of the amount must have been started within 8 months after that commencement.

New subsections (3a) and (3b) prohibit recovery of an amount paid by way of an invalid tax to the extent that the amount has been passed on to others and has not been, and will not be, paid back.

Clause 5: Substitution of s. 38A—Limitation laws are substantive laws

Section 38A currently provides in effect that a limitation law of this State is a substantive law of this State.

The new section additionally provides that a limitation law of another State or a Territory of the Commonwealth or of New Zealand is a substantive law of that place.

Clause 6: Application of substituted s. 38A

This clause provides that the substituted section 38A applies to a cause of action that arose before its commencement unless proceedings based on that cause had already been started.

Mr ATKINSON secured the adjournment of the debate.

INDUSTRIAL AND EMPLOYEE RELATIONS BILL

In Committee.

(Continued from 14 April. Page 773.)

Clause 30 passed.

Clause 31—'The deputy presidents.'

Mr CLARKE: I move:

Page 14, lines 4 to 7—Leave out subclauses (1) and (2) and insert—

(1) The President of the court is the President of the commission.

The amendment is similar to that which I moved when the Committee dealt with the clause under the heading 'The President.' For the sake of consistency, the arguments that I advanced in respect of the President apply equally to the deputy presidents of the court and commission: all deputy presidents of the court should also be deputy presidents of the commission rather than being separate appointments.

I know that the Minister will say, 'It is not obligatory on the Government of the day to appoint a separate deputy president of the court and of the commission; it is a discretionary factor.' If that is the case, it ought to be subject to more rigorous scrutiny by the Parliament than simply giving *carte blanche* to the Government effectively to appoint another President and a number of new deputy presidents, all with their associated costs in terms of salaries and other on-costs, plus the costs of their own staff. For those reasons, and for the reasons that I advanced in respect of clause 30, the Opposition is opposed to the clause and seeks the support of the Committee for the amendment.

The Hon. G.A. INGERSON: The Government is opposed to this amendment. I find it amazing that suddenly the Opposition has this newfound concern about the costs of the commission and we now have a cost conscious Opposition. It is a pity that we did not have that three or four years ago when it blew $3.15 billion for us.

For the same reasons as I have given previously, we believe that we ought to have the ability to appoint as a deputy president a person who may not necessarily have legal qualifications. Because of that, we need some flexibility. We believe that it is a separate tribunal and that the Government, through Parliament, ought to have the opportunity to make separate decisions on those grounds.

Amendment negatived; clause passed.

Clause 32 passed.

Clause 33—'Term of appointment.'

Mr CLARKE: I move:

Page 14, lines 25 and 26—Leave out subclause (1) and insert—

(1) An appointment of a Deputy President of the Commission will be for a term expiring when the appointee reaches 70 years of age.

This is a very important amendment, for reasons which I have advanced earlier in Committee on the appointment of members of the commission and of the court. The Bill provides:

An appointment as the President or a deputy president of the Commission will be for a term specified in the instrument of appointment.

That derogates from the notion of the independence of the judiciary. The amendment seeks to reinsert what is in the current Act, that is, that appointees to those positions hold office until they reach 70 years age—the same as for a Supreme Court judge.

I reiterate the importance of these positions. The President and deputy presidents of the commission are fundamental to the standards of living of hundreds of thousands of South Australian workers and their families. There should never be any suggestion that those persons, in the exercise of their duties, could be influenced by virtue of the fact that they are there for a fixed term.

When the Minister spoke on a similar matter last week, he referred to the fact that they would be appointed for six-year terms. The Minister also referred to other statutory bodies, such as the Equal Employment Opportunity Commissioner, whose appointment is for a fixed term, the Trade Practices Commissioner and others. But in no way can it be said that those commissioners approach the importance to the average working man and woman in this State of the members of the Industrial Relations Commission in terms of their influence and the rulings that they make on award claims and State wage case claims, which affect 300 000 workers and have enormous ramifications for Governments and their budgets with respect to claims that they grant or do not grant regarding the Government's employees. It is vital if South Australia is to maintain its current and well deserved record over many years stretching back over successive Liberal and Labor Governments, but more so Labor Governments, of very good labour relations and very low levels of industrial disputation.

Much of that is due to the commission's standing in the eyes of the participants who go before the commission, of the general community and of those employees who appear before the commission through their elected representatives in accepting the umpire's decision. Whilst they may disagree with the rulings of the commission, as I have from time to time, I have always felt comfortable with the fact that those officers of the court and commission have been free and seen to be free of any possible political interference in the carrying out of their duties. The same argument that the Minister turns to use against me and my amendments in this area could equally apply to the Minister's argument. Why does he not have his colleague the Attorney-General submit a Bill to change the tenure of the Supreme Court justices from life to a fixed term? Why does he himself, or the Cabinet of which he is a member, not seek to amend the terms of appointment of other members of the judiciary, such as district court judges and the like, to a fixed term?

The Minister would not do it because, even if he believed it was right, he would know it would cause too much of a stink amongst members of the judiciary and the legal fraternity. I wish that in many respects the members of the legal fraternity paid as much attention to this area of the law in terms of judicial office holders as they would with respect to members of the Supreme Court. The argument that the Minister uses about the Commissioner for Equal Opportunity and the like and the oath that persons such as the occupant of that office make is equally valid with respect to justices of the Supreme Court, yet no-one in this House or in this Parliament would dare suggest that a justice of the Supreme Court should be appointed other than for life, to ensure the independence and integrity of that court. We ask for no more with respect to the workers court and commission, and we would urge the members of the Committee to support the Opposition's amendment.

The Hon. G.A. INGERSON: We oppose the amendment. As I said on previous occasions, we believe that term appointments should occur through the Industrial Commission and that term appointments are more flexible and will assist in ensuring better accountability to the community at large. Commissioners of other statutory bodies, particularly equal opportunity, have been referred to. But if that is not a high or important enough position for the honourable member opposite to recognise as having similar status to that of industrial commissioners, perhaps he will accept that the review commissioners, who I understand adjudicate 1 400 cases a month, have reasonably onerous and important status as far as the workers are concerned and are appointed on a five year term. I hope the honourable member opposite is not questioning their integrity in any form.

I find it quite amazing that there is any inference at all that at the end of a term any member who had taken the oath of support of the office would be controlled by any Government. That suggestion is absolutely absurd. It is also important to note that our Bill does not require that the appointment of the President or the deputy presidents of the commission be for a term: it simply enables such appointments to be made. We oppose this amendment.

The Committee divided on the amendment:

AYES (10)

Arnold, L. M. F.	Atkinson, M. J.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

NOES (27)

Armitage, M. H.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Brokenshire, R. L.
Condous, S. G.	Cummins, J. G.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A. (teller)
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Wade, D. E.
Wotton, D. C.	

Majority of 17 for the Noes.

Amendment thus negatived.

Mr CLARKE: Has the Government had any correspondence or discussions on the issue involving this clause or with the Chief Justice of the Supreme Court?

The Hon. G.A. INGERSON: No.

Clause passed.

Clause 34 passed.

Clause 35—'The commissioners.'

Mr CLARKE: I move:

Page 15, lines 17 to 25—Leave out subclauses (3) and (4) and insert—

(3) An enterprise agreement commissioner must be a person with experience in industrial affairs either through association with the interests of employees or through association with the interests of employers and the number of enterprise agreement commissioners of the former class must be equal to, or

differ by no more than one from, the number of enterprise agreement commissioners of the latter class (part-time commissioners being counted for the purposes of this subsection by reference to the proportion of full-time work undertaken).

(4) An industrial relations commissioner must be a person with experience in industrial affairs either through association with the interests of employees or through association with the interests of employers and the number of industrial relations commissioners of the former class must be equal to, or differ by no more than one from, the number of industrial relations commissioners of the latter class (part-time Commissioners being counted for the purpose of this subsection by reference to the proportion of full-time work undertaken).

The amendment relates to the appointment criteria relating to an enterprise agreement. Because we do not know how many enterprise agreement commissioners will be appointed—there may be one or several—if there is more than one, the same should apply as for industrial relations commissioners so that, in terms of the classes from which they are drawn, from employer representatives or from employee classes, they differ in number by no more than one. That does not appear in the current clause in relation to enterprise agreement commissioners. Industrial commissioners are dealt with in subclause (4) and the only difference between my amendment and the Government's proposal is that the words 'a person of standing in the community', are deleted and the subclause would provide that one must be 'a person with experience in industrial affairs'.

Clearly, 'a person of standing' does not appear in the Act; it does not appear in the Federal Act, and the matter involving 'a person of standing' is a subjective one. There are always many people who may be considered by the Government of the day for appointment to these important positions, all of whom probably have standing in the community; it is a pretty nebulous concept. My amendment simply provides that a person appointed to these important positions should have experience in industrial affairs through association with the interests of either employees or employers.

As to subclause (3), my amendment simply brings into the appointment process of enterprise agreement commissioners the same criteria as laid out in subclause (4). It provides that multiple appointments cannot all be drawn from the one class and must be equal as near as practicable, except that they may vary by up to a maximum of one.

The Hon. G.A. INGERSON: The Government opposes the amendment. In the case of enterprise agreement commissioners, it is our view that a person of standing in the community may not necessarily be a person directly involved with employer or employee associations. It could just as easily be an academic or someone outside. It could be an employer, as such, and we believe that we need to provide for a broad range of people for that position. As it relates to industrial relations commissioners, I do not see any reason why there should not be the same definition. The reality is that they are from employee or employer associations. It has been traditional to have a person of standing in the community with industrial experience and I would have thought that that is exactly what the Opposition would support.

For example, I would have thought that John Lesses was a person of standing in the community, with experience in the industrial arena. I would have thought that Lindsay Thompson was a person with standing in the community with industrial experience on the employer's side. I just use those two people as examples and I am not suggesting for a moment that we might ask them or that they might accept.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: In terms of numbers, it has been a tradition, and a tradition that we would uphold, that there ought to be two commissioners from the employee side and two commissioners from the employer side, and that has never been in question.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: As to enterprise agreement commissioners, the clause provides for a person with standing in the community and, as I said, it might be an employee, an employer or an academic but it is one person. If the member opposite had read the Bill, he would see that this person is a new addition to the commission, and we believe that the opportunity should be provided look at the community at large in filling this position. In consequence, we oppose the amendment.

Mr LEWIS: I have restrained myself from participating in the debate up to the present but, given the attitude implicit in the remarks of the member for Ross Smith, it is necessary for me at least to put something on the record regarding his and his colleagues' opinion of what ought to be enshrined in legislation to protect the industrial relations club members as he created them along with a few other fellow travellers in the past couple of decades, during the bulk of which time the Labor Party has been in office.

The Minister has clearly explained that what we need is a breath of fresh air. It seems to me that the member for Ross Smith and the rest of the Labor Party and their fellow travellers out there in the United Trades and Labor Council, the trade union movement and the ACTU need to remember that, unless someone comes along and removes the dinosaurs from the pack, they will go down the same way as the dinosaurs did.

More particularly, let me draw a more relevant analogy. For several centuries Chinese mandarins told the emperors what they must do and what they must not do, how they must do it, whom they need to do it with and why they would be doing it, regardless of what the emperors were being told or understood of the effect it was having on Chinese society. Whilst it suited the mandarins to continue doing that and the Chinese society supported those mandarins in the way in which they believed that they were entitled to be supported and to which they had become accustomed, they nonetheless had the rest of the world pass them by until eventually the regime collapsed and they disappeared with it.

That is exactly the situation now confronting parts of western society involving industrial relations, particularly as we find it here in South Australia. We need to understand the sociology of industrial relations much better than we do at present. It is not about the pathological necessity to create conflict so there can then be a process of reconciliation and resolution. It should be about ensuring that the maximum number of people possible being able to obtain employment and through that employment enjoy the highest possible level of prosperity. Our approach must become the same as at present in Singapore. For a little over 10 years now, they have aimed at full employment. They balance the cost of wage inputs with the capacity of the economy to pay, to provide the prosperity for the people who live there.

They have done it so successfully that they now have to import labour. They import it from other economies where the people cannot get employment of any kind, even at the low wages being paid in those nearby countries with such poor wage rates. The Singaporeans therefore show us the model of industrial relations which we need to adopt to

ensure that we can provide work for the majority of people living in South Australia who want to work and who want to enjoy prosperity. So we must in their interests, and to hell with the industrial relations club—and the sooner the better.

The Committee divided on the amendment:

AYES (10)

Arnold, L. M. F.	Atkinson, M. J.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

NOES (27)

Armitage, M. H.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Brokenshire, R. L.
Condous, S. G.	Cummins, J. G.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A. (teller)
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Wade, D. E.
Wotton, D. C.	

Majority of 17 for the Noes.

Amendment thus negatived.

Mr CLARKE: In the Minister's response to my amendment, there seemed to be a suggestion that only one enterprise agreement commissioner would be appointed, but a perusal of clause 35 suggests that there is no limit to the number of enterprise agreement commissioners that may be appointed. Industrial relations commissioners can also hold dual appointment as enterprise agreement commissioners. My concern is not so much with the words 'standing in the community' or whatever—if that is what the Minister wants to use, that is fine, although at the end of the day I will have a quibble about it—my principal concern is that more than one enterprise agreement commissioner can be appointed and they can get out of step and defeat the very point that the Minister has referred to, namely, the longstanding agreement that has transcended both sides of politics whereby appointments to the industrial relations commission are drawn equally from both sides of employer and employee classes, although they can get out of kilter by up to a maximum of one. Will the Minister respond to my concerns in that area as to whether the Government would be prepared to reconsider its position in light of that?

The Hon. G.A. INGERSON: In giving my explanation, I said it was the intention of the Government to have only one enterprise agreement commissioner. That is our initial intention. Because there are things like holidays and sick leave, etc., we would appoint one of the industrial commissioners with a dual responsibility to fill in at any time if there was any change in relation to the enterprise agreement commissioner, and that refers specifically to holidays, sick leave or any other reason for absence. Initially, it is our intention to appoint only one enterprise agreement commissioner.

Mr CLARKE: Following the Minister's response, would he give an assurance that, if the Government does proceed to appoint more than one enterprise agreement commissioner, the Government would ensure that such an appointment reflects a balance between employee and employer classes, as for industrial relations commissioners? In the instance that he has referred to involving the appointment of only one enterprise agreement commissioner, with an existing commissioner possibly being appointed to act in instances of sick leave and annual leave—and I obviously accept what the Minister says about that—would he give an assurance also that in the case of an appointment of a part-time enterprise agreement commissioner, for want of a better term, that person would be drawn from a different class than that of the original enterprise agreement commissioner to ensure a balance in representation as near as practicable?

The Hon. G.A. INGERSON: If the Government does have to appoint another person, it will appoint another person of standing in the community. In other words, the Government is interested in appointing the best person for the job. This issue of one from this side and one from that side, as far as the enterprise agreement commissioner is concerned, is not on. If it happens to be that the best person for the job comes from the employee side and the first one is from the employers, so be it. In the enterprise agreement area it will be the best person for the job.

Clause passed.

Clause 36—'Term of appointment.'

Mr CLARKE: I move:

Page 15, lines 27 to 29—Leave out subclauses (1) and (2) and insert—

(1) An appointment of an industrial relations commissioner or an enterprise agreement commissioner will be for a term expiring when the appointee reaches 65 years of age.

This is a further amendment moved by the Opposition relating to the independence of the commission. It specifically takes out reference to the appointment of an enterprise agreement commissioner or an industrial relations commissioner for a period of only six years. In our amendments we are seeking to reinsert the provision in the current Act, which is that commissioners are appointed to 65 years of age. I have already made the point on numerous occasions during the course of the debate, both in my second reading speech and also during the Committee stage, as to why I believe this matter is so important. The independence and integrity of the commission should be seen as such by the general community whereby the commissioners are appointed until 65 years of age.

To date, none of the arguments put forward by the Minister on this point assuage my concern. The more I hear from the Minister in answer to questions—for example, the questions he answered with respect to clause 35—the more concerned I am that enterprise agreement commissioners will all be drawn from one class, provided the Minister believes that they are the best person for the job. That worries me because that is very much in the eye of the beholder. It strikes at the heart and belittles in many respects what the Minister has said about industrial relations commissioners who, in clause 35, have to be drawn from different classes representing employers and employees. He says that he will appoint the best people for the job as enterprise agreement commissioners, but he does not really care about industrial relations commissioners—he will appoint them on an equal basis from both sides of the fence.

That does concern me, particularly in the area of term of appointment for six years. An enterprise agreement commissioner or an industrial relations commissioner could be influenced in terms of what decisions he or she may make because they are on a fixed term of six years, as the Minister

has already said in answer to previous questions. Without belabouring the point, because I have extolled the virtues of our amendments on many occasions, I strongly urge the Committee to support my amendment. It is vitally important that the Industrial Relations Commission retains its independence. It is, as I say, a tribunal for workers. It is more significant than the Supreme Court of South Australia because it deals with one's daily life, whereas the Supreme Court, for most people, affects you only if you happen to be in the dock at that particular time. The Industrial Relation Commission sets out what you will earn and your conditions of employment for something like 40 years of your working life—if you are fortunate enough to have a job that long.

The Hon. G.A. INGERSON: The Government opposes the amendment. I am fascinated at how the member thinks the Industrial Relations Commission is only for workers. It never ceases to amaze me. What about the people who happen to employ them? I wish the member for Ross Smith would recognise that the tribunal is there for employers as well. It is not a one sided exercise; it is a commission for both sides. Instead of talking about only the workers' tribunal, when next he rises the honourable member should talk about both sides of the coin.

The Government has a very strong view that term appointments should apply to commissioners. As I have said before, the equal opportunity commissioner, the review officers and all the important worker protection people in industrial relations separate to the commissioners, have term appointments. I would have thought that there was nothing wrong in making this consistent with that principle.

There is an issue that I do want to correct. I have been advised that, in answer to a question earlier about contact from the Supreme Court, the Attorney-General has received a letter of comment from the Chief Justice. When the question was asked it was my understanding that it was asked of me personally, but in fact it was asked in respect of the Government. I have been advised that the Attorney-General received such a letter. We oppose the amendment.

The Committee divided on the amendment:

AYES (10)

Arnold, L. M. F.	Atkinson, M. J.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

NOES (24)

Armitage, M. H.	Ashenden, E. S.
Baker, D. S.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brokenshire, R. L.	Condous, S. G.
Cummins, J. G.	Greig, J. M.
Hall, J. L.	Ingerson, G. A. (teller)
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Wade, D. E.	Wotton, D. C.

Majority of 14 for the Noes.

Amendment thus negatived.

Mr CLARKE: Given the Minister's reply concerning correspondence received by the Attorney-General from the Chief Justice, will the Minister provide the Committee with a copy of the correspondence from the Chief Justice and also the Attorney's reply?

The Hon. G.A. INGERSON: It is not normal for the Government to table correspondence from the Chief Justice to the Attorney. That question would be more suitably asked directly of the Attorney in another place, and I expect the honourable member to take up that option.

Clause passed.

Clauses 37 to 39 passed.

Clause 40—'Constitution of the Full Commission.'

Mr CLARKE: I move:

Page 18, line 2—after 'enterprise agreement commissioner' insert '(but a commissioner whose determination is subject to appeal or review by the Full Commission cannot be a member of the Full Commission for the purposes of the appeal or review)'.

The difficulty with the Government's Bill is simply that, if there is only one enterprise agreement commissioner and that commissioner's decision is subject to an appeal or review, one third of the Full Commission will consist of the very person who is being appealed against. The Government could get over it by appointing more than one enterprise agreement commissioner, as the Minister has already stated, to take into account sick leave and other absences. Another enterprise agreement commissioner could be appointed from existing industrial relations commissioners.

If that is the case, that would be all right, except the amendment put forward by the Opposition is far clearer, particularly in circumstances where there will be only one enterprise agreement commissioner, at least initially, and, if there is an appeal or review against that person's determination, that person cannot sit on the full bench of appeal. It would be completely contrary to all the principles in this area, where a determination is subject to an appeal, for the commissioner to sit on the appeal bench. It is like going from Caesar to Caesar. I urge the Government to support the Opposition's amendment.

The Hon. G.A. INGERSON: The Government opposes the amendment. It is our view that the amendment is unnecessary. Under this Bill the President of the Industrial Relations Commission will continue to determine the composition of the full bench of the tribunal. There is therefore no need for this practice of the tribunal to change. The Government's Bill spells out that proceedings of the commission must be in accordance with the principles of natural justice, and this requirement alone is sufficient to address the matter raised in the amendment.

Amendment negatived; clause passed.

Clauses 41 to 47 passed.

Clause 48—'Functions of the committee.'

Mr CLARKE: I move:

Page 21, after line 12—Insert subclause as follows:

(2) The Minister must refer legislative proposals of substantial industrial significance to the committee for advice at least two months before a Bill to give effect to the proposals is introduced into Parliament.

I note that in reading part 5, dealing with the Industrial Relations Advisory Committee, it almost duplicates all existing provisions of the separate Act relating to the Industrial Relations Advisory Council, of which I had the pleasure of being a member for some years. However, one important omission relates to the provision in the existing Act when industrial legislation of significance or substance is to be introduced, whereby the Minister will give two months notice to the Industrial Relations Advisory Council in order for the representative of the social partners, the employers

and employees, to have the opportunity to debate important industrial relations matters amongst themselves and their constituent groups before the Government comes in and formally introduces legislation into the Parliament. I know that there is an out with respect to the existing legislation, namely, that the Minister can waive the two months notice, as indeed he did with respect to both the WorkCover legislation that this Parliament is currently debating and the Bill now before us. That is a weakness in the existing Act dealing with the Industrial Relations Advisory Council.

I have sought to remedy that through my amendment, which makes it mandatory for at least two months advice to be given to those social partners, the employers and employees, before legislation of substance can be put before the Parliament. It is a very important concept because this Bill, as I pointed out in my second reading contribution (and I think the Minister and I agree), is probably the single most important piece of legislation that the Government will introduce into this House this session, almost certainly for this year and, possibly (if I can crystal-ball gaze), for the term of this Parliament. I raised with the Minister in my second reading contribution my great concern and opposition to the fact that such important legislation was brought in with virtually no consultation with all of the social partners.

You could well imagine that, if I was sitting in the Minister's place opposite and he was sitting where I am currently and I was introducing legislation of this magnitude, which impacted significantly on employers, and I granted the same degree of consultation and time for employer organisations to study the Bill and its ramifications, to talk to their legal advisers, to have discussions with parliamentarians and be in a position to debate the matter in the public arena adequately, there would be a huge hue and cry in the *Advertiser* and in media outlets generally that we were employer bashing.

That situation did not occur under past Labor Governments. Industrial relations amendments were debated and discussed with employer organisations well before legislation came before Parliament. I was involved in some of those negotiating committees between the Government and the UTLC and always we were told, both by the Minister and his advisers, that the legislation had to first be run past the various employer organisations, and that always occurred well before the legislation actually came before the Parliament.

Because of the roughshod way in which the Minister and the Government have sought to have this IR Bill jammed through this House of the Parliament, jammed through this session of Parliament—a most fundamental piece of legislation on which we are all agreed—and in such a short period of time without adequate public debate, the Opposition seeks to make sure that in the future such a situation never occurs by ensuring that at least two months notice be given. I can count as well as anybody else and it is unlikely that, barring a miracle, I will suddenly acquire 14 extra votes when this matter is finally put to the test.

However, members opposite should remember that they will not be in government forever and, when I happen to be the Minister for Labour and I am introducing legislation which will be impacting on employers, do not whinge to me about inadequate time being given to employers to consult and to look at the legislation; do not talk to me about two months notice or any periods of notice, because I will apply the same generous rule that the Minister has applied to the UTLC and to the Opposition in this matter. And, if any members opposite are still members of the House at that time, in the not too distant future, do not complain to me when you receive similar treatment.

The Hon. G.A. INGERSON: What a fascinating comment. One thing is for sure: I do not think I will ever have to worry about the member opposite being the Minister. I hope he does give us the same set of rules. The consultation process commenced on 13 January—within three weeks of the Liberal Party being elected to government. A meeting was convened between the UTLC and me—I see it was Matthew O'Callaghan. The meeting lasted for an hour and we discussed the Bill. From then until 12 April there have been 18 formal meetings, 28 hours in total, plus two meetings cancelled by the union, not by the Government—in 17 weeks of government.

I have attended nine of those 18 meetings, so half of the meetings have been attended by the Minister. I refer to industrial relations generally. As it relates to the IR Bill, there have been 13 formal meetings in five weeks since its release. I do not think any group in the community has had more consultation with the Government on any particular Bill. One thing is for sure: I know that the employers have not had that time. We have not spent the time with the employers because they can understand the need for change, and they understand clearly that—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Of course they were supportive, because they had woken up, like 64 per cent of the community has woken up, to the fact that it was time for change. This is the most moderate industrial relations Bill that this Parliament is likely to see. This is not a right wing industrial relations Bill. Some 50 changes in this Bill support the employee. That is a fascinating statistic when the member for Ross Smith opposite keeps talking about the Liberal Government being opposed to the worker: 50 amendments are directly in favour of the worker.

Those amendments were made not just as a throw and play away to the workers but because the Liberal Government genuinely believes that some of the issues it has amended in their favour needed to occur. Probably the most fundamental of all is the right for the worker to join or not to join a union. Just as an aside: today, the Supreme Court announced and supported the Government's right to go down the line it went in relation to union dues. Not only did it say that the Government had the right to do that but that the agreement did not prevent it from doing it. The Supreme Court awarded costs in favour of the Government.

Clearly, the court, like the Government, recognises that a newly elected Government has the right to make administrative decisions but it also tends to support, whilst not directly saying it, the right for people to join or not to join a union and not to be stood over by a group of union leaders—

Mr CLARKE: That has nothing to do with it.

The Hon. G.A. INGERSON: I can add my little bit. Workers have the right to not be stood over by the union heavies, as the honourable member opposite keeps bringing to the attention of this House. We have consulted widely on this Bill. The union movement has had by far the greater share of consultation. I understand the difficulties they had with this Bill, but this Government has clearly sat down with them in the past five weeks and spent many, many hours running through the Bill. I do not expect them to agree but do not talk nonsense and say that we have not consulted.

Regarding this amendment, we have widened the opportunity for industrial Acts to be considered under the IRAC

legislation. We are enabling Bills such as the equal opportunity legislation to now be considered by this committee as it relates to industrial relations matters. We do not believe that putting in a fixed period of consultation is of any advantage to anybody. There ought to be flexibility. This Government is committed to consultation and to making sure that the existing IRAC committee is brought more into line with the way the Government wants to operate. We intend to use that committee far more broadly in the future. We oppose this amendment because it is inflexible.

Amendment negatived; clause passed.

Clauses 49 to 57 passed.

Clause 58—'Constitution of the office.'

Mr CLARKE: I move:

Page 24—

Lines 9 and 10—Leave out subclause (2).

After line 10—Insert new clause as follows:

Appointment and conditions of office of employee Ombudsman

58A. (1) The employee ombudsman is appointed by the Governor for a term of office expiring when the appointee reaches 65 years of age.

(2) The office of employee ombudsman becomes vacant if the employee ombudsman—

(a) dies; or

(b) reaches 65 years of age; or

(c) resigns by written notice given to the Minister; or

(d) becomes mentally or physically incapable of carrying out the duties of the employee ombudsman's office; or

(e) is removed from office by the Governor on presentation of an address from both Houses of Parliament asking for removal of the employee ombudsman from office.

(3) The employee ombudsman can only be removed from office is he or she becomes mentally or physically incapable of carrying out the duties of the employee ombudsman's office or if both Houses of Parliament present an address to the Governor asking for removal of the employee ombudsman from office.

This really puts the acid on the Government about how dinkum it is with respect to an employee ombudsman. It is a gross distortion of the truth to use the term 'ombudsman' when the person who will be appointed to that position, if the Bill gets through, will be not an ombudsman but an employee of the Government directly responsible and accountable to the Minister of the day. The employee ombudsman is supposed to investigate and to assist employees, whether or not they be members of a union, advise them on their rights, make representations to the enterprise commissioner if they believe there has been coercion and exercise the powers of an inspector and the like. The Government is a large employer under State legislation and the employee ombudsman is not only an employee and accountable directly to the Minister but his or her conditions of employment are influenced by decisions of the Government and what transpires in this Parliament relating to offers and counter offers that might go forward between the Government of the day and its employees with respect to wages and conditions.

The Minister and the Premier, in Opposition, announcing their policies in June last year with respect to industrial relations and in their campaign advertising to the public at large, kept emphasising that they would appoint an employee ombudsman, the clear inference being that it would be a person independent of Government who would be able fearlessly to stand up for the rights of workers and ensure that the Government behaved itself as an employer. The State Government employs close to 80 000, if not 100 000, people in a whole range of different occupations. Some are in remote areas of the State where there are only one or two wandering around the place and others are in greater concentrations.

How can we have an employee ombudsman who is answerable to the Minister? How can we have a State Government employee who believes that there has been coercion by management into agreeing to an enterprise agreement going to the employee ombudsman and asking that a complaint be investigated, possibly a complaint against the Minister for Industrial Affairs? The employee ombudsman would say, 'So-and-so inspector or employee in your department believes that you or your agent has coerced them into accepting an enterprise agreement'. He may decide to do it, or discretion may become the better part of valour and he will turn around and say, 'How can I go to my boss and say that he has strong-armed somebody into accepting an enterprise agreement without the boss getting annoyed with me and perhaps removing me from office or injuring me in some other way in my employment?' That would be the natural reaction of any human being. Those of us who have worked in subordinate positions have had that weighing on our minds at one time or another.

The intent of the amendment is clearly to say, 'If we are to have an employee ombudsman, let us have one who is free of any political interference and who is appointed, as is the South Australian Ombudsman, until age 65 and can be removed from office only by a resolution of both Houses of Parliament.' That is an ombudsman. What the Minister is giving us is a lackey—a person who is subject to the whims and direction of the Minister and who can do no more than the Minister allows him or her to do, whether it involves State Government or private sector employees.

Likewise with respect to employers, as the Minister reminded me. It may be that an employer complains about the behaviour of a registered association but feels constrained about approaching the employee ombudsman who is directly responsible to the Minister rather than a person who is answerable to the Parliament.

If members opposite were fair dinkum, I would say that, when they were campaigning during the election and were asked questions about industrial relations, they would have said, 'Don't worry about the scare tactics being put forward by the UTLC or the unions. We are going to appoint an employee ombudsman who will look after your interests and who will be an independent person free of Government.' The legislation does not say that. The legislation makes clear that that person is subject to the direction and control of the Minister. As the member for Florey will appreciate, from his position as the former Secretary of the Police Association, members of that association may want to complain to the employee ombudsman at some time in the future. How confident will they feel about complaining to an employee ombudsman who is not an ombudsman but is a mere lick-spittle and lackey of the Minister of the day? I urge the Committee to support the amendment which gives real meaning to the term 'ombudsman'.

The Hon. G.A. INGERSON: Perhaps we should start from that point. According to *Collins Australian Pocket Dictionary*, the definition of 'ombudsman' is not what the Opposition thinks it is. An ombudsman is 'an official to investigate citizens' complaints against the Government or its servants'. There is nothing about independence or the need to have a special office that does not report to the Minister. The dictionary definition is what I would have thought it meant, not a convenient definition placed on it by the

Opposition. The reason we have put 'employee' in front of it—and I do not think that we need to explain that to members opposite—is that clearly it is a person who will investigate citizens' complaints against the Government or its servants as they relate to employees. It is clear and precise. I should have thought that was the beginning point.

The second point is that the employee ombudsman is an inspector. That is further on in the clauses. For the member for Ross Smith to suggest that an inspector cannot and would not investigate any complaints against the Government is absolutely ludicrous. As a matter of fact, we have an example right now of an inspector who is concerned about some of the health problems at Leigh Creek and who has made some comments to me about those issues. The ombudsman will be an inspector with the same conditions as an inspector.

As regards the comment about general control, I have been advised that the effect of the words 'general control and direction' in Bills means that the employee ombudsman will, in matters such as those of an administrative nature, be required to seek the direction of the Minister. The word 'general' was put in the Bill because that is its understanding—administrative control of the Minister. It is obvious that the Minister ought to have administrative control—in other words, the cost of this whole process—within his management.

There is no suggestion that the employee ombudsman will not have independence. This structure is set up so that there can be independence. We believe that this structure, which gives the employee ombudsman the role of an inspector, gives him all the powers that are required for him to be independent of and to comment on the functions of the Government in the industrial arena and, as I said, that is already being done now.

The structure will also allow the employee ombudsman to take a wider view than that, for example, to look at the situation involving outworkers, women of non-English speaking background and generally the employment of women in the work force. I would have thought that this provision set up a pretty wide and opportune position. I am amazed at members opposite in this regard, because the union movement is coming to me and saying that this is the best thing to be done by any Government for a long time, and it is even suggesting to me privately who should be nominated for the position. It is absolutely fascinating that the unions and their executive are interested in this job exactly as it is written now. They see it as an opportunity for one of their members to be in a position to do a job that they believe has needed doing for a long time, to be an independent person with relevant powers to look after certain areas where we accept there is abuse.

That is the reason we have set this up. We believe that individuals in the community who are not covered by awards or, more importantly, the growing number of people who are not covered by unions, will have an independent representative to go before the commission. It is an excellent position, which is supported very strongly by the Government. As a consequence, we oppose this nonsense amendment.

The Committee divided on the amendments:

AYES (10)

Arnold, L. M. F.	Atkinson, M. J.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R. t.)	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

NOES (26)

Armitage, M. H.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Brokenshire, R. L.
Condous, S. G.	Cummins, J. G.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A. (teller)
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Wade, D. E.	Wotton, D. C.

Majority of 16 for the Noes.

Amendments thus negatived; clause passed.

Clause 59—'Ministerial control and direction.'

Mr CLARKE: The Opposition totally opposes clause 59, for much the same reasons that I advanced with respect to our opposition to clause 58. I will not go through all those points again, but for the record I say that the arguments that were used with respect to clause 58 apply equally to this clause. In the debate on clause 58 the Minister referred to clause 59 and read out the passage that 'the employee ombudsman is subject to the general control and direction of the Minister'. I would be interested to hear his response to our opposition to that clause and to know whether in respect of 'general control and direction of the Minister' the employee ombudsman can do anything other than accept any lawful order, instruction or any other direction given by the Minister on any matter involving the functions and the way that person carries out their duties.

If there are some court precedents or something of that nature that somehow qualify the Minister's control over the employee ombudsman, my colleagues and I would appreciate getting that information. The words 'subject to the general control and direction of the Minister' mean that the employee ombudsman can do nothing that is not sanctioned by the Minister. If the Minister wants to direct the employee ombudsman to do something or not do something, to investigate or not investigate, that is well within the powers of the Minister.

I fail to see how this person can be independent of the Minister of the day to do as he or she pleases if the Minister issues a direct contradictory instruction. Can the Minister assure me that somehow or other I have misread those plain and simple words? Can the employee ombudsman defy an instruction from the Minister of the day in the performance of his or her duties? I would be only too pleased to have that recorded, especially if the Minister can refer to case precedents that would support his argument. As I said, for all the other reasons that I have advanced about the need for independence for the employee ombudsman, I oppose the clause.

The Hon. G.A. INGERSON: As I said in the previous explanation, as a senior officer of the Public Service it is essential and appropriate that the employee ombudsman be subject to the general direction and control of the Minister. Legal advice given to the Government in the drawing up of this legislation can be restated, as follows:

> . . . the effect of the word 'general' control and direction in the Bill means that the employee ombudsman will, in matters such as those of an administrative nature, be required to seek direction of the Minister.

This provision is in many Acts of the Parliament and has been put there on legal advice. The intention relates to the administrative role of the employee ombudsman. I mentioned earlier the example of an inspector and ETSA. I have been further advised that ETSA is required to go before the Magistrates Court to justify its action as a result of an inspector taking on that role. As I said, the employee ombudsman is an inspector and, clearly in the instance of ETSA, the Government and this Minister in particular have not interfered and would not interfere with the role of an inspector. The employee ombudsman has that role and I would have thought that members opposite would clearly see the direction proposed by the Government.

In the next clause the general role and functions of the employee ombudsman are clearly set out and, because they are part of the Bill, those functions cannot be overridden by any Minister. We do not agree with the amendment. We believe that there is significant independence of the employee ombudsman as it relates to this role because we have given the position the status of an inspector. The Government opposes the amendment because we believe the independence of the employee ombudsman is justified.

Mr BRINDAL: I have not been in this place as long as the Minister, but most of the Bills I have seen, if there is ministerial control, include the words 'subject to the control and direction of the Minister'. As I understand from what the Minister has told the Committee and what he has said in his second reading explanation, the use of the word 'general' is a departure from what is the normal practice in this legislation and is meant to denote that there will be not specific but general control. I understand that that was what the Minister said, but perhaps he will confirm that for the Committee, because the member for Ross Smith seems to have trouble with it.

The Hon. G.A. INGERSON: Clearly, that is the situation. The advice we have been given is that the inclusion of the word 'general' refers principally to the administrative actions concerning the employee ombudsman and the relationship with the Minister. It is our intention to do it that way because we recognise the need for the employee ombudsman to have a certain amount of independence. We have given the employee ombudsman the status of an inspector, because an inspector has significant powers under this legislation.

Mr CLARKE: The Minister referred to an inspector's report on ETSA and the matter going before the Magistrates Court. At present the inspector is a person responsible to the Minister for Industrial Affairs. ETSA is responsible to another Minister, and there is at least some separation between the inspector laying the complaint and his immediate boss the Minister for Industrial Affairs. As to the words 'and direction of the Minister', is the Minister saying that, in the case of directions being given by the Minister to the employee ombudsman either not to proceed with an investigation or not to make an appearance in the commission—a specific direction to do something in the carrying out of his functions—the Minister has no such power? Can the Minister not issue such an instruction to the employee ombudsman?

The Hon. G.A. INGERSON: My advice is that the general control and direction by the Minister relates to the administrative role of the Minister in controlling costs and the administration of this area. It is my view that the Minister cannot and in this specific case will not have any influence over the employee ombudsman, other than in this general administrative sense.

Mr CLARKE: The Minister said it was his view, but is that substantiated by legal advice that he cannot issue a direction to the employee ombudsman in the performance of his function? The Minister said that would be the case so long as he remains Minister, that he would not issue such an instruction, but Ministers come and go, and we are dealing with the principle and not the individual. Is the Minister saying that the Minister cannot issue an instruction to the employee ombudsman to do or not do something in the performance of his duties—not about whether he fills in his annual leave or long service leave forms but as to the actual carrying out of his or her functions?

The Hon. G.A. INGERSON: It is my legal advice that this clause is about the administration of the position, which is why we put in the words 'general control'. Secondly, it is my understanding that any misuse of power by the Minister would be exactly that—a misuse of ministerial power. Members opposite would clearly understand what that means in terms of the ministerial role.

The Committee divided on the clause:

AYES (27)

Armitage, M. H.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Brokenshire, R. L.
Condous, S. G.	Cummins, J. G.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A. (teller)
Leggett, S. R.	Lewis, I. P.
Matthew, W. A.	Meier, E. J.
Olsen, J. W.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Wade, D. E.
Wotton, D. C.	

NOES (10)

Arnold, L. M. F.	Atkinson, M. J.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

Majority of 17 for the Ayes.

Clause thus passed.

Clause 60—'General functions of employee ombudsman.'

Mr CLARKE: I move:

Page 24, lines 22 to 25—Leave out paragraph (d) and insert—

(d) to represent employees in proceedings if their rights and entitlements are in issue and it is in the interests of justice that such representation be provided; and

If you are going to have an employee ombudsman, or a lackey, whatever you want to term the person, because he or she is certainly not independent, and if you want to give them something to do, make sure they have some meaningful work to do. That is the purpose behind paragraph (d). If we read the general functions of the employee ombudsman, they are as follows:

(a) to advise employees on their rights and obligations. . .

(b) to advise employees on available avenues of enforcing their rights. . .

(c) to investigate claims by employees or employee associations of coercion—

and very importantly—

(d) to represent employees in proceedings related to an enterprise agreement matter if there are grounds to suspect coercion in the negotiation of the agreement or some other special reason justifying the employee ombudsman's intervention in the proceedings; and

(e) to investigate the conditions under which work is carried out in the community under contractual arrangements with outworkers and other examinable arrangements.

The difficulty, particularly with paragraph (d), is that the employee ombudsman has the right to represent employees in industrial proceedings before an enterprise commissioner only if there are grounds to suspect coercion in the negotiation or some unspecified other special reason. I do not know what 'other special reason' means. There is no definition to it, and it can be as broad or as narrow as the commission, the full commission or court may determine it to be.

I would not have thought that my amendment would meet with opposition from the Government. We have heard long and loudly from the Government that the employee ombudsman will fearlessly represent the interests of the workers, whether they be unionists or non-unionists. However, the Government's Bill deliberately circumscribes the powers that the employee ombudsman has to intervene in matters before the Industrial Commission to matters such as suspected coercion. There was an example I used last week in the Committee stage of 100 employees, 51 of whom supported the enterprise agreement because nothing happened to them—they might have even got a 5 per cent pay rise—and the other 49 who were shift workers and who felt they had a raw deal because they lost their shift penalties. Those 49 workers would be totally reliant, in many respects, if they were non-members of any registered association, on using the employee ombudsman to represent their interests before the enterprise agreement commissioner to argue that they received a bad deal and that they were substantially disadvantaged under the terms of that agreement.

The employee ombudsman, according to the general functions, only has the power to advise those employees, 'Yes, I think you are right, you are being screwed but, if you want me to represent your interests before the enterprise agreement commissioner, I cannot do it because you cannot point to any coercion or suspected coercion in getting the 51 people to agree to the enterprise agreement. In fact, the 51 could not wait to sign it because they received a five per cent wage increase for nothing. That is not coercion; in fact, they were delighted with the result.'

However, the 49 shift workers who got the shaft will say, 'Well, we think we have been substantially disadvantaged.' What are their rights? Under paragraph (b) the employee ombudsman could say to those 49 non-unionist shift workers, 'Look, what you could do is refer to "enforcing their rights under awards and enterprise agreements". However, that is not much use to you. Paragraph (c) is not much use because no coercion was used, even though you got the shaft because 51 people thought it was a pretty good idea. Paragraph (e) is not much use because you are not outworkers and I am not empowered to look at that area. I am an industrial inspector, and an industrial inspector looks at the way work is done, whether or not there has been observance of an award or an enterprise agreement. If you have not been paid in accordance with that award or enterprise agreement, I can do something about that. I can take the employer to court for underpayment of wages. However, in terms of representing your interests, I cannot, as of right, appear before the enterprise commissioner and argue on your behalf that the loss of your 15 per cent shift penalty substantially disadvantages you. Whilst no coercion has been used, on the merits of the case you have been substantially disadvantaged as a result of this agreement by the 51 other employees and therefore the enterprise commissioner should not certify the agreement.' The only option would be if the enterprise commissioner allowed some latitude with the words 'or some other special reason'.

What I suggest to the Minister is this: if he agrees with my example and an employee ombudsman would have the ability to represent the interests of those 49 shift workers who have been shafted, he would support my amendment because it reads, 'to represent employees in proceedings'—of right, not having to get the approval of the enterprise commissioner—'if their rights and entitlements'—and those words are used deliberately to encapsulate as many possible things that affect an employee/employer relationship—'are in issue and it is in the interests of justice that such representation be provided.' I would have thought, given the rhetoric we have had from the Government when it was in Opposition on this matter as part of the mandate it was claiming, that my amendment falls fairly and squarely within what it promised the public at the last election.

I suggest to members opposite, particularly the member for Unley, who I think has a sneaking suspicion about some of these Bills—a bit like the WorkCover debate and so on—that all they have been told by the Minister and the Government does not square with reality when you examine the legislation. If the Minister wants to give effect to the types of examples I have used to ensure that these employees can, as of right, use the employee ombudsman to appear in these matters and are not limited, in his argument, to suspicion of coercion but are able to argue the merits as to whether the minority of employees may be substantially disadvantaged in the agreements, he should support my amendment. It does no violence to the Government's position, if indeed the Minister supports the contention that I am putting; in fact, it makes it far clearer than the current paragraph (d), which limits the powers of the employee ombudsman to intervene in proceedings before the commission.

The Hon. G.A. INGERSON: The Government does not support the amendment, principally because it takes the employee ombudsman into the area of awards. All the advice I have had from the union movement is that it does not see the need for a further role for an outsider in the awards area. We recognise under this provision that the general rights to investigate and advise employees with respect to any individual matter under awards and agreements is already there. We do not see that there is any need to expand that. However, a specific representative role before the commission for the ombudsman is provided.

I would have thought that the example the honourable member used clearly came within these provisions. If 49 per cent of the employees in the so-called example he used have a problem, they can approach the employee ombudsman under the 'other special reason' provision. They could take their case prior to the agreement being reached. The enterprise agreement area no longer has special conditions in State law for unions to veto an action after the event. There is no special opportunity for the employee ombudsman to intervene after the event. Everybody has the opportunity to put their 20¢ worth in prior to an agreement's being reached. It is at this point that the employee ombudsman could be used by that 49 per cent if they believed they were getting an unfair deal.

It is also the Government's view that, as I said at the start, there is no need for the employee ombudsman to be involved in the award conditions area. Unless I am mistaken, in 99.9 per cent of cases representation is by the employer association, an individual or by the unions or an individual. Not too many times is it by an individual employee. In almost

every single instance the unions are involved. It is in that area that we do not see any need for the employee ombudsman. Since this amendment broadens it to cover this area, the Government opposes it.

Mr BRINDAL: In connection with this clause I ask the Minister whether this Bill comes before us with the backing and support of his department, whether he has had Crown Law look at it and whether he thinks he or the member for Ross Smith is best qualified to comment on the implementation of Liberal policy.

The Hon. G.A. INGERSON: I thank the member for giving me the opportunity to clearly put down who is controlling this debate. Liberal policy clearly sets out the need for an office of employee ombudsman, the need for its general independence, the need for its role in the area of outworkers, its role as an inspector and its role generally as the office for individuals to approach if they are not represented by a union or association.

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

The Committee divided on the amendment:

AYES (7)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Stevens, L.	

NOES (27)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Condous, S. G.	Evans, I. F.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.(teller)
Kerin, R. G.	Leggett, S. R.
Matthew, W. A.	Meier, E. J.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

Majority of 20 for the Noes.

Amendment thus negatived.

Mr CLARKE: Regarding clause 60(1)(d), the Minister said that the Opposition's amendment would introduce the employee ombudsman into award matters. Paragraph (d) relates specifically to representing employees and proceedings related to an enterprise agreement. It is not an award matter: it is an enterprise agreement matter. The Government, when in Opposition, stated that the employee ombudsman would have the ability to represent unionists and non-unionists to ensure that they were not substantially disadvantaged in terms of conditions of employment.

The example I used previously was the 49 shift workers who are a minority and who would not have an automatic right to be able to use that employee ombudsman—to have that person represent their interests before the enterprise agreement commissioner for the purposes of making out a case notwithstanding that there had been no coercion and notwithstanding that there was a bare majority in support of the enterprise agreement under which they themselves had been substantially disadvantaged. Would it not be a fact that those persons would then have to try to seek, through the use of their own solicitor or some other agent for whom they would have to pay out of their own pocket, the sort of protection that the Minister and his Government said they would be automatically granted by virtue of the employee ombudsman?

The Hon. G.A. INGERSON: The employee ombudsman would be able to represent employees under clause 60(1)(d) which provides 'or some other special reason justifying the employee ombudsman's intervention in the proceedings'. It is our view that it is in the area of enterprise agreements where there is not always likely to be union involvement or an agency basis to negotiate on behalf of employees. In that instance the employee ombudsman could be involved in that area before the commissioner on their behalf. We believe that is an adequate cover. As I said earlier in explanation of the amendment, we do not believe that the employee ombudsman needs to be involved in the awards system because—and the honourable member opposite would know better than anyone in this place—most awards are set by unions and associations representing employers.

Clause passed.

Clauses 61 to 63 passed.

Clause 64—'Basis of contract of employment.'

Mr CLARKE: My proposed new clause provides:

Page 26, line 6—Insert new clause as follows:

(1) A contract of employment must provide for employment by the hour, day, week or another period specified by award covering the employment.

(2) In the absence of an express provision, a contract of employment is taken to provide for employment by the week.

(3) Remuneration accrues under a contract of employment from day to day unless the contract provides for employment by a period of less than one day, in which case remuneration accrues in respect of each such period.

The Opposition seeks to insert this new clause in lieu of existing clause 64, which provides:

A contract of employment may be for a fixed term, or on a monthly, fortnightly, weekly, daily, hourly or other basis.

The amendment seeks to make clear, as does the existing Act, that in the absence of any express provision a contract of employment is to be taken to provide for employment by the week. I think that is important as a matter of principle because employees, whether they work for large or small employers, are not familiar with the different forms of the contract of employment, whether it be monthly, fortnightly, or whatever, particularly where there are a number of small employers who are not well versed in industrial law. The principle of a contract of employment for many years now, unless there were express provisions to the contrary, has always been that one is deemed to be hired by the week and is entitled to a week's pay or notice if services are to be terminated. It is important to maintain that concept.

The terms provide for flexibility in the case of employees who are employed and paid on a monthly basis, or by the hour if they are casuals, or X number of specified hours in the week—for example, permanent part-time employees. In any event, they are catered for under the amendment, subclause(1). However, we also say that, unless there is an express provision in terms of the contract of employment, it shall be deemed to be a weekly contract of hire, and that is particularly important for those who work for small employers who are not very well versed in industrial law or who do not have access to human resource managers and the like.

The Hon. G.A. INGERSON: We believe that this amendment is unnecessary and that it reduces employment flexibility. There should be no statutory presumption of weekly hired employment, as the Bill adequately protects

employees by providing for the accrual of wages week to week. The amendment also seeks to provide for wages to accrue from day to day. This conflicts with a number of existing award provisions which provide for wages accrued from week to week for persons who are weekly hired. Such an amendment could potentially give rise to under payment claims in respect of a day's pay, notwithstanding that full wages were paid on a weekly, fortnightly or monthly basis. We believe that this proposition is ridiculous and should be rejected.

Clause passed.

Clause 65 passed.

New clause 65A—'Ordinary hours of employment.'

Mr CLARKE: I move:

Page 26, after line 15—Insert new clause as follows:

65A. For the purposes of an award, enterprise agreement or contract of employment, the maximum number of hours per week that may constitute ordinary hours of employment is 38.

This is a very important amendment. The Government, when in Opposition and since winning office on 11 December, has made great play of the fact that the legislation would contain certain minimum standards, some of which have been enumerated in the Bill, dealing with annual leave, sick leave, parental leave and rates of pay. What is not provided for anywhere is the maximum number of ordinary hours that may be worked.

I should have thought that was one of the most fundamental safeguards in any Bill which allows for an enterprise agreement. If workers are covered by an award, there are standards in the State Commission which provide for a maximum number of hours to be worked as ordinary hours—namely, 38. They have been enshrined since the early 1980s when the metal trades moved from a 40 hour to a 38 hour week and that has been picked up in the State Commission. The 40 hour week was enshrined by decisions of the Commonwealth Commission and by the full State Commission in the late 1940s. That is still the provision with respect to persons covered by an award which sets out the maximum number of ordinary hours that can be worked without the payment of some penalty.

The Bill allows for enterprise agreements to come into force where there are no maximum limits of ordinary hours that can be worked. Nothing in the Bill prevents an employer saying to an employee as part of an enterprise agreement, 'You must work 50, 60, 70, 80, 90 or 100 hours a week as part of your ordinary hours of duty.' That is crystal clear from the absence of any safeguard in this Bill.

Even in New South Wales—and I understand the Minister drew some ideas from the legislation introduced by Greiner—the legislation provides for a maximum 40 hour week in ordinary time, although it can be averaged over 52 weeks of the year. In some weeks one could work more than 40 hours, but if it were averaged out over 52 weeks it cannot exceed 40 hours a week.

The conservative Government in Western Australia has also brought in a maximum of 40 hours per week. If persons work 60 hours a week, they do not get overtime under their enterprise agreement—I am not suggesting that the Minister should adopt the Western Australian system—but the additional 20 hours in that week must be paid at the ordinary hourly rate. If one works 60 hours in a week, one does not get paid $400 a week, or the 40 hour a week pay, but one must be paid for the hours worked in excess.

This Bill contains no provision which would prevent any employer, in negotiations with their employee under the enterprise agreement, demanding and having employees work in excess of a 38-hour week in ordinary hours and denying the payment of penalty rates or overtime. My amendment is very simple and does no more than retain the *status quo*. The 38-hour week is an accepted part of the normal maximum entitlement that an employee can be expected to work as part of their ordinary hours of duty. It is in all the State awards and all the State industrial agreements.

If the Government truly wants to bring in at least these minimum legislative safety nets it will support my amendment, because that will enshrine the 38-hour week as the maximum number of hours that an employee can be asked to work as part of their ordinary hours of duty. It is no different in principle from having a safety net and legislative minimum standards for sick leave, annual leave or basic rate of pay. Therefore, the Government should have no problem whatsoever in supporting the amendment.

The Hon. G.A. INGERSON: We do not believe that it is appropriate to consider this matter in terms of a minimum legislative standard, and I will give some reasons. First, some awards contain more than 38 hours, some do not contain any limit and some contain less than 38 hours, so it is absolute nonsense for the honourable member to suggest that all awards have 38 hours maximum. I will read again the agreements currently going before the commission. The first matter involves flexible hours, and I quote:

All employees shall work 38 hours per week over a two week cycle with a minimum working requirement of 76 hours.

The second point, to which the honourable member really ought to listen, provides:

This agreement allows for up to 100 hours to be worked over the two week cycle on the basis that the time worked above 76 hours is accumulated and taken off in lieu of payment.

In other words, here we have a registered agreement in which 100 hours is suggested as a possibility over two weeks—50 hours a week, a little more than 38 hours—registered and agreed to by a union.

Mr Clarke: What's the registered agreement over a four week cycle?

The Hon. G.A. INGERSON: Over a four week cycle it is 200 hours—50 hours a week. So, here we have a former union member saying that these agreements are not being registered. Here is one, and there are many others similar to it which are registered by the union movement in cooperation with employers to vary away from the 38-hour week. It is absolute arrant nonsense to say that the 38-hour week is a fixed standard to which employers, employees, associations and unions are agreeing today.

A huge number of these agreements are being registered before the commission, and the member opposite ought to catch up with what is going on instead of coming into this place and throwing this ideological claptrap around as to what is happening in the real world. What we need is a flexible system in which enterprise agreements can be negotiated with or without the union, with agents or members of the enterprise negotiating changes that suit that enterprise and then having them registered in the commission so there is that safety net. But do not come into this place and talk old hat about what the member opposite says is in every single award, because it is not in every single award. It is about time these experts who come into this place with all this froth and bubble knew some facts about what is going on in the real world.

It is our view that this issue is best dealt with award by award, and that is being done in the commission right now, as the member opposite knows; he was part of those negotiations. If you want to keep people within the award structure, negotiate this sort of thing, but if people want to move out of it by agreement they ought to be able to. Here is the simple fact: registered agreements are being entered into right now, and it is not something the Liberal Party might have dreamt about. I am referring to agreements into which unions in this State are currently entering by their droves, understanding clearly what is going on.

The new member for Elizabeth would know that in several factories in her area 12-hour days are being agreed to right now: three 12-hour days for three weeks and four 12-hour days for the other week. Who is doing that? The unions are negotiating that with the employers and they are doing that right now. They are implementing 12-hour days right now as an accepted standard within that enterprise. It is a pity that the honourable member does not check up on what is happening in the real world. His own union mates are sitting down with employers and, on behalf of employees, freely negotiating these changes right now. What this Bill is all about is flexibility and enabling individuals in the enterprise agreement area to get more flexibility.

The other fascinating point is that not even members of the Labor Party federally—and I reckon they are the most draconian group of individuals in terms of industrial relations—have a 38-hour week in their enterprise agreement area. The Federal Minister of Industrial Affairs has set up the tightest system in the whole of Australia in terms of favouring the unions, yet he has not done this. Do you know why he has not done it? Because he does not agree, either, with the 38-hour week as the standard for the future. We will not support this measure.

Mr BRINDAL: I seek your guidance, Mr Chairman. As we are in the Committee stage, discussing an amendment to the Bill, and as every member has the right to ask questions, do I have a right to ask a question of the member for Ross Smith in whose name the amendment appears?

The CHAIRMAN: The honourable member has the right to speak three times to any issue during the Committee stage and, if the honourable member would like to raise a point, the member for Ross Smith may choose to respond.

Mr BRINDAL: In the light of his amendment, can the member for Ross Smith tell me the hours that are laid down in the teachers award—which is a State award—and will the honourable member deny the facts laid before the Committee by the Minister just now?

The CHAIRMAN: The member for Ross Smith does not have to respond. If he cares to he can; it is at his discretion.

Mr CLARKE: I am not aware of the teachers award specifically, but I am aware that in most common rule awards in the private sector, whether they be clerical or a range of others, it is based on a 38-hour week or a cycle adding up to 152 hours over a four week cycle as a maximum, which does provide for that very flexibility that the Minister has talked about.

The Committee divided on the new clause:

AYES (8)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Stevens, L.

NOES (29)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Gunn, G. M.	Hall, J. L.
Ingerson, G. A. (teller)	Kerin, R. G.
Leggett, S. R.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

Majority of 21 for the Noes.

New clause thus negatived.

Clause 66—'Form of payment to employee.'

Mr CLARKE: My proposed new clause provides:

Page 26, line 17—Insert the following new clause:

66.(1) If an employee does work for which the remuneration is fixed by an award or enterprise agreement, the employer must pay the employee in full, and without deduction, the remuneration so fixed.

(2) The payment must be made—

(a) in cash; or

(b) if authorised in writing by the employee or in an award or enterprise agreement by an employee association whose membership includes the employee or employees who do the same kind of work—

(i) by cheque (which must be duly met on presentation at the bank on which it is drawn) payable to the employee; or

(ii) by postal order or money order payable to the employee; or

(iii) by payment into a specified account with a financial institution.

(3) However, the employer may deduct from the remuneration—

(a) any amount the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee; or

(b) any amount the employer is authorised to deduct and pay on behalf of the employee under an award or enterprise agreement.

(4) An employee may, by giving written notice to the employer, withdraw an authorisation under this section.

(5) This section does not prevent a deduction from remuneration authorised or required by law.

(6) Despite the other provisions of this section, remuneration may be paid by the Crown to an employee by cheque or by payment into an account with a financial institution specified by the employee, but, if payment is by cheque, there must be no deduction from the amount payable because the payment is made by cheque.

I oppose the clause. The Opposition's amendment seeks to reinsert in the Bill the same provisions as apply under the present Act. No case has been made out by the Government to delete the existing provisions with respect to the payment of employees. It gets down to fundamental rights. Every worker has—and has had since the Truck Act of 1834, which was imported into South Australia when we became a Colony in 1836—the right to be paid in the coin of the realm. This right goes back to 1834, from the very first days of our settlement. It has been moderated over time to take into account new forms or methods of payment and the Opposition's amendment provides for people to be able to say, 'Yes, I agree to be paid by cheque, electronic funds transfer or other than by cash if it is my own free wish to do so.' This clause gives the employer the absolute right to direct employees to be paid by cheque or electronic funds transfer

into a financial institution of the employer's choice and not that of the employee.

It is absolutely scandalous that that should happen. Over the course of award restructuring and various other negotiations that take place between unions and employers for wage increases, improved productivity and the like, there is often a trade-off between being paid in cash and being paid by some other form. Many agreements have forced employers to say, 'Yes, I want the efficiency of paying by cheque or electronic funds transfer.' Then the union or employee has been able to say, 'Yes, I will accept that but on certain conditions. First, you pay into the bank, credit union or building society of my choice and not one of your choice.' For example, for many existing employees when they move to that method of payment the employer will agree to pick up the FID and BAD taxes, rather than the employee not only having to pay income tax on the wage earned but also FID on their wages being paid in and also in respect of money withdrawn as wages. As I said, it is to be paid into the financial institution of their choice.

The Government's Bill takes that choice away from workers and provides that employees can be directed as to how they take their pay without some of those conditions being met. The Bill also takes away the right for an employee to say, 'We have tried your electronic funds transfer and your payment by cheque methods, but your cheques keep bouncing. When I go to the bank, credit union or building society the money is never in the bank account at the time I need it. Therefore, I am withdrawing your right to pay me in that manner and I insist on being paid in cash.'

Under this provision the Government is taking away all the negotiating and bargaining positions of employees in terms of the payment of their wages by means of a cash system *vis-a-vis* an electronic funds transfer system. The Act already provides that, where a registered association agrees to insert it into an award, it can become an award condition that workers can be paid by other than cash.

In fact, I did it myself under the clubs, hotels and motels award, which was a consent award variation after we had circularised all members of that industry to find out whether or not they agreed to that position. We received an undertaking from the employer organisations that the employees would have the right to have their wages paid into any financial institution of their choice with all the associated taxes being met by the employer. We were able to do that because we were able to say to the employer, 'If you don't, our members will insist on being paid in cash.' It made the employers more flexible as to the way they paid their employees. This Bill takes away that right.

This is really a very mean, petty and stupid clause. It is the sort of cloak the Minister and the Government use to gain some degree of respectability after what they did to the unions in the public sector in February of this year when they unilaterally withdrew the payroll deduction facility. I know we will hear a song and dance about the Supreme Court decision today, but that does not answer the point because the existing Industrial Relations Act already provides that workers can choose freely to authorise their employer to deduct union fees from their pay. If at any time an employee chooses not to pay their union dues through the payroll deduction facility, he or she has the right to communicate to their employer in writing that they no longer wish their union dues to be paid, and the employer is obliged immediately to cease paying them. All those protections for employees and employers alike in that area are contained in the existing Act. But, no, the Minister, to try to cloak his unilateral decision back in February this year with some respectability, says that an employer cannot be required under an award or an enterprise agreement to deduct from an employee's remuneration membership fees payable to an association. Under an award or an enterprise agreement, employers cannot be forced to provide for a payroll deduction facility. That decision was made in 1972 in the case of *Portus v. ANZ Bank*. I know that the Minister is worried about the High Court challenge taking place at the moment involving Comalco in Tasmania, which withdrew payroll deduction facilities from the union and its members not because it was administratively difficult and not because it was costly or inefficient but as a pay-back to that union in relation to enterprise bargaining negotiations.

I have an even better example of the vindictiveness that can be used in this area, and it involves Pasminco BHAS in Port Pirie at the end of last year. Because the union with which I was involved had the hide to take four unfair dismissal cases to the Industrial Commission, and even had a greater hide in winning those cases, the company withdrew the payroll deduction facility and said to me in conference before the commissioner, 'We are withdrawing the payroll deduction facility because you dared to take unfair dismissal proceedings before the commission, and you and your members dared to participate in stop-work meetings over the retrenchment of 140 employees at Port Pirie in April last year.'

Because those members participated in a legitimate dispute involving the sacking of 140 employees out of just over a thousand, and because the union had the temerity to use the facilities of the Industrial Relations Act and take four unfair dismissal cases, that company—not because it was administratively inconvenient, not because it was costly and not because it was inefficient; but because, in the words of their representative who appeared before the commissioner concerned, 'You did your job as a union'—withdrew that facility. Basically, that is why the company did it.

I have faith that the High Court will overturn the Portus case. That is what the Minister and his employer mates are sweating about; because the Portus decision stands a very good chance of being knocked on the head by this most recent challenge before the High Court, on which a decision has not yet been handed down. The Minister is trying to pre-empt any High Court decision to overturn the Portus case by saying that, even if the High Court says it is an industrial matter and that it is capable on the merits of the case to be made an award of the commission, we are going to expressly forbid the commission from having that power. Of course, with the enterprise agreement it is a nonsense because it is an agreement whereby, unless the employer agrees to payroll deductions in the first instance, they cannot proceed.

Subclause (4) provides:

> An employer has a discretion (which cannot be fettered by contract) to make reasonable administrative arrangements concerning the deduction and payment of money on behalf of an employee. . .

They already do that. However, the Minister cannot help but again try to give himself some respectability about what the Government did with the public sector unions by requiring the periodic re-authorisation of payments. As I said earlier, the current Act is quite simple. It provides that a worker may choose to have their union dues deducted from their pay; it has to have the agreement of the employer in the first instance; and the employer can, and often does in the private sector, apply a commission charge with respect to that. If an

employee wishes at any time to stop the payment of their union subscriptions, they can do so and the employer must, under the existing Act, cease payment of union subscriptions if that is the written desire of the employee concerned.

I also draw the Committee's attention to subclause (2) (d), which again is a very lousy and mean provision. It provides that when an employment contract has come to an end the employer has the automatic right to deduct any outstanding liabilities owing to the employer. At the moment it is a fundamental principle that you cannot take away from a worker's wages what is that person's right. If an employer believes they have a legal right to moneys from a worker for outstanding liabilities, the employer must go before a court and establish their case—

Mr Brindal: That's rubbish!

Mr CLARKE: No, it's not rubbish. If the member for Unley would shut up for a minute and listen, he might learn something. If a boss tells a shearer or whatever that he owes him money for bed and keep, he must take him to court and prove his case and then obtain a court order requiring the employee to pay it back. It is enormously different if an employer can decide to take away that money from a worker automatically on termination of their employment. An employer could say, 'You owe us $1000. I will deduct it from your long service leave or your annual leave. If you think I am wrong, you can sue me.'

The worker may be moving interstate or from a country district to the city. He may be in a very invidious position whereby, if he wants to sue to reclaim his money, it will be three months or six months down the track before he can obtain a court order and, further, he might have to fly back from, say, Brisbane to Adelaide not once but on three occasions to appear in court as a witness. That is an enormous disincentive for the worker, but it is a major incentive for an employer to withhold any legal entitlement and say, 'You sue me for it'. The balance of power is very clearly in the hands of the employer, and it massively disadvantages workers, particularly those in itinerant industries or who are required as part of their occupation to travel long distances throughout the State.

In addition, it is a huge cost burden on employees who will have to decide whether it is worth taking legal action in a situation where an employer owes them, say, $600. The employee will probably work out that it will take him at least three months to sue his employer and that it will cost him $1 500 in legal fees, so he will just give it away. That is a massive intrusion into the rights of workers, and it should not be countenanced by any member of Parliament.

The Hon. G.A. INGERSON: Here again we have this seemingly one sided view that the workers are the only people who are covered by this Industrial and Employee Relations Bill, that the employers do not have any rights at all.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: It seems pretty fundamental to me that that right can be tested on the other side. What is the big deal? If the honourable member reckons he can run up a bill and walk away and think that is magic and it is his right to get all that, I just think he is in the wrong world—I think he is in cuckoo land, as a matter of fact. I think it is about time that some balance was put into this exercise, and that is what this Bill is all about. We oppose the amendment. We believe that under freedom of association an individual has the right to choose.

Mr Clarke: That's what the present Act gives you now, you clown!

The Hon. G.A. INGERSON: I never cease to be amazed at the low level of understanding of the member opposite. This is a re-write of the existing legislation. If you re-write existing legislation, there are sure to be some areas that are similar. In the re-write of the existing legislation, there are some areas that are exactly the same and there are other areas that are different, not only because the Government philosophically wants to make changes—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Absolutely right. In rewriting the legislation, the Government asked the draftsperson to put it into plain English. So there are some areas of the Bill which everybody will agree to disagree on that do change the emphasis. That emphasis has been changed not in a deliberate sense but in the rewriting of the legislation. In this instance, it is deliberate. There is no question that there is an insertion to provide a balance whereby, if an employer has liabilities against a worker, he or she has the ability to make a claim.

The Government's proposal provides some flexibility for the industrial parties, this time in relation to the payment of wages to employees. It also allows employees and employers to agree amongst themselves on how the wages should be paid—whether they go into a financial institution or what. However, the Opposition's amendment again seeks to give trade unions the extra right to determine whether authorisation will be given through an award or enterprise agreement for direct payment. Why should the union be given a direct right? If an employee says, 'We want the union to organise it', that is okay, we have no problem with that, but no organisation—a union or an employer association—should have a fundamental right in law in front of anybody else. Neither I nor the Government accepts the right of the union movement to have this very special arrangement to suit itself.

Let us dispel any doubt at all—as far as this Government is concerned, the union movement has a role to play with its members, and it has a role to play if its members give it that right on each individual occasion. It is not an automatic right whereby it stands up and says, 'We the union movement represent all employees', because that is absolute arrant nonsense. As far as the Government is concerned, that will change. If the union movement wants to represent workers, it must earn that right. It does not have *carte blanche* rights in front of the law, and that is the change that this Government will introduce through this legislation.

Also, this amendment clearly goes a lot further in reinstating some of these special rights. The Government just does not accept that. It is purely and simply for that reason that the Government will not support this amendment and will not support in this place, in the next four year term, any fundamental right that places the union movement in front of the individual.

Mr CLARKE: I draw the Minister's attention to section 153 (iii) of the current Act, which provides:

> From money payable to an employee under subsection (1), an employer may deduct and pay on behalf of the employee—
>
> (a) any amount that the employer is authorised, in writing, by the employee to deduct and pay on behalf of the employee; and
>
> (b) any amount that the employer is authorised to deduct and pay on behalf of the employee under the provisions of the award or industrial agreement.
>
> (4) Where the employee withdraws in writing

(a) the authorisation given pursuant to subsection (2a)(a) (no other authorisation having been given under subsection (2a)(a) or (b)), the employer must pay the employee in cash; or

(b) the authority given pursuant to subsection (3) with respect to a deduction and payment which was authorised by the employee, the employer must cease to make that deduction and payment.

Will the Minister explain what special privileges or rights trade unions have with respect to the deduction of union fees from an employee's wages under the existing Act as compared with the Government's own Bill?

The Hon. G.A. INGERSON: In the existing Act, as the member opposite would know, subsection (2a)(b) provides that registered associations have a special right in deciding how money should be paid into financial institutions. I would have thought that that is a fairly special right that nobody else necessarily would want. That is in the existing Act, and it is a very special provision. As far as we are concerned, we are not prepared to accept the amendment.

Let us talk about union fees. The member opposite has been champing at the bit about union fees. Back in February the Government made a decision with respect to union fees. In the Supreme Court today, a decision was made about union fees. It is an interesting judgment, and I ought to quote it because it is worth putting it on the record. In relation to union fees and the right of the Government to make decisions on how union dues should be collected, it says:

> The changes are not changes to the framework agreement. It is simply the proposed method of conditions on which deductions will be made in the future. That is not, in my opinion, a breach of the agreement.

I might also point out that, as part of this decision, there was an allocation of costs. We reckon that it will cost the PSA something of the order of $20 000 to play games. This is the sort of thing this Government is not prepared to tolerate. We will go to court every time any union wants to take us on with respect to freedom of association and the right of individuals. If we have to go to the High Court, we will do that, too. If there is any suggestion of our not being able to introduce rights for individuals to choose whether they belong to an association, whether an association controls where their money will go, or has any opportunity to control that without their individual support, we just will not wear it.

If there are examples in which individuals choose to use their union, we do not have a problem with that, but we will no longer allow in this State a special condition and a special position as it relates before the law. That is a fundamental position of our Party. It has been well versed in the community, and it will continue to be well versed in the community. One of the interesting issues that is surveyed on a monthly basis by Roy Morgan is that of compulsory unionism and union membership.

It is interesting that any Government that wants to take on the issue of compulsory unionism is almost absolutely guaranteed 80 to 85 per cent of the public vote, including trade union members. You could not possibly have 80 to 85 per cent public support if trade union members were not also agreeing with that issue. We are trying to remove this special position. We will support very strongly any other measure related to freedom of association.

Mr BRINDAL: The member for Ross Smith was powerful in his elucidation of the right of workers to be paid in cash, and the argument, I suppose, has some merit. I therefore ask the Minister whether any Government employees are paid in cash. I do not believe they are. Who arranged for the change from payment in cash for all Government workers to electronic transfer method, and is the Minister aware of any industrial bonus or benefit granted to Government workers when they were compelled to change to electronic transfer of funds?

The Hon. G.A. INGERSON: I do not believe any members of Government are paid in cash, but I am not absolutely sure. I believe most are either paid by cheque or have their pay put into a special designated account by electronic transfer. I understand that the union movement was involved in making sure that that occurred, because there is a significant advantage in that. I think that is their right.

Mr Clarke: I am not opposed to that.

The Hon. G.A. INGERSON: I am answering the member for Unley, not your trivia. I would have thought that that was the role of the union movement—to be servicing its members and obtaining better financial arrangements for them, guaranteeing that cash is not pinched along the way or that workers receive their cash payment on a fixed Thursday, Friday or whatever. I would have thought that that was the role of the union movement. What I do not accept as the role of the union movement is to have special treatment after agreements have been made in the industrial system. I do not expect the union movement to have special treatment in front of a law unless it has the absolute majority of the members—in other words, 100 per cent—supporting it in that action. In many instances I do not believe that that is the case.

Mr CLARKE: The Minister made reference to today's Supreme Court decision. Would that not give the lie to his statement that the current legislation gives the unions a special and unique position?

The Hon. G.A. INGERSON: The current legislation will make sure.

The Committee divided on the clause:

AYES (26)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Brindal, M. K.	Brown, D. C.
Buckby, M. R.	Caudell, C. J.
Condous, S. G.	Evans, I. F.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Ingerson, G. A.(teller)
Kerin, R. G.	Leggett, S. R.
Matthew, W. A.	Meier, E. J.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Such, R. B.
Wade, D. E.	Wotton, D. C.

NOES (8)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D.(teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Stevens, L.

Majority of 18 for the Ayes.

Clause thus passed.

Clauses 67 to 71 passed.

Clause 72—'Persons bound by enterprise agreements.'

Mr CLARKE: My proposed amendment provides:

Insert new clause as follows:

72. (1) An enterprise agreement may be made between—

(a) an employer or two or more employers who together carry on a single business; and

(b) a group of employees, or a registered association of which a majority of the employees who constitute the group who are to be

bound by the agreement are members or which is a party to an award that covers, or would but for the enterprise agreement, cover a majority of the employees who constitute the group.

(2) A person who becomes, or ceases to be, a member of a group of employees defined in the enterprise agreement as the group bound by the agreement, becomes or ceases to be bound by the enterprise agreement (with no further formality).

The Bill as a whole is very important, but we are now dealing with some of the most fundamentally important issues that can arise relating to enterprise agreements. My amendments to clause 72 are on the supplementary sheets that were issued this afternoon. This amendment seeks to delete subclause (1)(b) and to replace it. It is very important that this amendment should be made. The Bill provides that an enterprise agreement may be made between an employer or two or more employers and a group of employees, a group of employees being whatever they define themselves to be, whether it is just a small part of the enterprise or the total work force. Under the Bill, registered associations can enter into an enterprise agreement on behalf of employees if, and only if:

(a) notice has been given to the employees as required by regulation; and

(b) the association is authorised, in writing, by a majority of the employees currently constituting the group to act on behalf of the group.

That is extremely undemocratic, and I can appreciate why the Minister and his employer mates want to bring it in. The amendment provides that an employer can still enter into an agreement with a group of employees, some of whom may be members of a union while others are not, but they are free to do that. It also says that an employer can enter into an enterprise agreement with a registered association which has coverage for those employees at the work site, whether or not they be members of the organisation. It allows the employer and the employees or the employer and the union which has award coverage for those employees to do that. However there is difficulty with subclause (2), as constituted, in particular paragraph (b).

Let us take an employer with 100 employees, 80 of whom are not members of any union, but 20, the maintenance workers, are members of the Metal Workers Union. They may want their union to represent them with regard to the enterprise agreement, which is not an unreasonable proposition. The Metal Workers Union can cover only the maintenance workers. The other 80 employees—store persons, drivers and clerks—are not eligible for membership of the Metal Workers Union and they may not be members of any other union, but the 20 maintenance workers may want their union to represent their interests. The Bill clearly provides:

(b) the association is authorised, in writing, by a majority of the employees currently constituting the group to act on behalf of the group.

In other words, unless they can get 51 employees to put in writing that they want the Metal Workers Union to negotiate on their behalf, that union cannot negotiate, even for 20 of the 100 work force who are members of the union and want that union to represent them in the enterprise agreement. That is clearly unjust.

Similar examples abound in industry. Clerks, who represent only 10 per cent of the work force in many places, may all be members of the Australian Services Union, as it now is, but because the group consists of 100 persons and they cannot get 51 people—not that the 51 are eligible to join the Australian Services Union because they do not come within the occupational coverage of that organisation—that association cannot represent them in their enterprise agreement negotiations. Like the Metal Workers Union and others, who unfortunately are in a minority in that group, they are unable to represent their members in enterprise bargaining negotiations. The amendment merely allows that situation to occur. It does not stop non-union access to enterprise agreements; it is still there under the amendment; but it allows unions which have award coverage in a particular enterprise to represent the interests of those employees, if they so choose, without having to insist on their being a majority of employees authorising it in writing. That is one part of the argument.

The other part is another simple issue of democracy as well. A large number of employees may like to join a particular union—I have experienced this myself—but on a confidential basis and, indeed, insist that as a condition of joining it is confidential and not revealed to anybody else. The demand that employees have to put their names to a document saying, 'I want a union to represent me' can lead to all sorts of subtle pressure on those employees with respect to putting their hands up and saying, 'Yes, I want a union to represent me in enterprise negotiations.'

As I said earlier, the amendment provides for people who do not want to join unions and for employers who do not want unions on site to enter into an enterprise agreement, and it also allows for registered associations to become parties to the agreement and prevents the abuse set out in this Bill where a minority of workers, who are 100 per cent members of their union but not a majority of the work force because of their occupation, cannot call in and insist on their union being recognised by the employer. If the Minister is dinkum on this issue, he will support the amendment.

The Hon. G.A. INGERSON: The amendment seeks to enable a trade union to be party to an enterprise agreement simply because the union is bound by an award that applies to the employees despite the union not having any membership amongst the group of employees who are to be bound by the enterprise agreement. This is a fundamental issue which the Government opposes. The Government does not believe that a trade union should be entitled to enter into enterprise agreements where it does not have the membership and support of the employees concerned. The trade union's role in relation to enterprise agreements must be specifically contained to the union acting on behalf and with the support of its members.

One thing that never ceases to amaze me about the member for Ross Smith is that he does not seem to want to read into the clauses what is actually there. Clearly, according to the Government's position, an enterprise agreement can be negotiated by any party representing any number of people. That is the advice that we have been given in drawing up the Bill and that is how we see it. However, it cannot be party to an agreement unless more than 50 per cent are members of the association.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: It is nonsense to say that they cannot be involved. They can negotiate and be part of the setting up of the agreement, but they cannot be party to an agreement unless they have more than 51 per cent of the membership in that enterprise. That is as clear as it can be and, as far as we are concerned, that is the way it will be. If you have 20 members in 100 who are members of your association and you wish to negotiate as the union on their

behalf, you can do it. However, you cannot be party to the agreement if you have only 20 per cent of the membership.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: If you cannot get 20 per cent of the membership, it is an agreement—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: That is bad luck. It is an agreement which the employees of that enterprise enter into with the employer. It is not about awards where you can have one member in 20 shops and cover the whole 20 shops. This is about enterprise agreements at the individual enterprise level. Unless you have more than the majority of members in your union, you cannot be party to the agreement. You can be involved in the negotiation of the agreement but clearly, as far as the Government is concerned, not party to the agreement.

Mr CLARKE: Can the Minister point me to any parts of the Bill which provide any registered association with the right to represent its members in negotiations with employers and which provide that the employer must recognise the right of that registered association to negotiate on its members' behalf? Secondly, would the Minister answer my question where I give the example of 100 employees: for simplicity's sake, 50 storepersons, 30 drivers and 20 maintenance workers? The only members of any union are the maintenance workers, who are all members of the metal workers union. Where under subclause (2) does the metal workers union have the right to enter into an enterprise agreement on behalf of its members, when subclause (2)(b) provides that the association is authorised, in writing, by a majority of employees currently constituting the group to act on behalf of the group, but when the metal workers union cannot constitutionally cover more than 20 of the 100 employees? How is a union with 100 per cent membership who happen to be a minority of the work force able to exercise its rights to be a party to an enterprise agreement and where the employer must recognise them as a bargaining agent?

The Hon. G.A. INGERSON: The honourable member would know that no clause in the existing Act allows unions to negotiate on behalf of members. Our advice is that you do not have to specify that as a right for unions to negotiate. That is a given in the industrial system. It is not in the existing Act and there is no reason for it to be inserted specifically in this Bill, because it is a given. In relation to the example cited by the honourable member, the 20 maintenance workers who belong to the union involved have that right now under the existing Act and this Bill to ask that union to negotiate on behalf of their union members in the enterprise agreement. It clearly sets out in the clause that they do not have the right to be party to the agreement.

Mr CLARKE: Even though they have 100 per cent membership.

The Hon. G.A. INGERSON: They do not have 100 per cent; they have 20 per cent of the members of the enterprise. We are talking about enterprises now. It is a new world for those who have been so cloistered with their demarcations and special interests and all this sort of nonsense. At the enterprise level, the UTLC and ACTU want to go down this line of majority support for any deal; it is a matter involving their fundamental support. All we are saying is that if you are to be party to an agreement you are required to have the majority of members in your union. It is not in any way whatsoever preventing you representing your 20 employees (as in the example) in the agreement stage. You can have the XYZ union secretary sitting down there and arguing on behalf of those 20 employees, but when the agreement is signed it will be an agreement between the employees and the employer of that enterprise.

Unless it has in excess of 50 per cent of members in the enterprise, no union can be party to the agreement. That is clearly what enterprise agreements are all about. The definition of enterprise agreements is clear. I am aware of no enterprise agreement that defines anything other than the employee's and employer's right to be part of it, unless it involves more than the majority of employees.

The Committee divided on the clause:

AYES (25)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Hall, J. L.	Ingerson, G. A. (teller)
Kerin, R. G.	Leggett, S. R.
Meier, E. J.	Penfold, E. M.
Rossi, J. P.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

NOES (8)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D.	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Stevens, L.

Majority of 17 for the Ayes.

Clause thus passed.

Clause 73—'Form and content of enterprise agreement.'

Mr CLARKE: My proposed amendment provides:

Insert new clause as follows:

73. (1) An enterprise agreement—

(a) must be in writing; and

(b) must specify the employer and define the group of employees to be bound by the agreement; and

(c) must include procedures for preventing and settling industrial disputes; and

(d) must be for a term, not exceeding 3 years, stated in the agreement; and

(e) must contain provision for renegotiation of the agreement before the end of its term; and

(f) must be signed by or on behalf of the employer who is to be bound by the agreement and by each member of the group of employees who are to be bound by the agreement, or by an officer of the registered association on behalf of the group.

(2) Within 21 days after an enterprise agreement is signed by or on behalf of all persons who are to be bound by the agreement, the agreement must be submitted to the Commission for approval.

The Bill is gravely deficient in a whole range of areas, which the Opposition amendment would address. Essentially, I draw members' attention to subclause (2)(d), which provides that, if the group of employees to which the agreement relates would, but for the agreement, be subject to an award (this is in an enterprise agreement), the enterprise agreement must state whether it is agreed that provisions of the award are to regulate any aspects of their rights and obligations and, if so, incorporate those provisions of the award as part of the enterprise agreement.

The thrust of the enterprise agreements we have had under the existing legislation and the Federal legislation is that the enterprise agreement is built alongside or above the award. Those parts of the award not incorporated within the agreement are covered by the award that stands. Agreements are

read in conjunction with the award. Members opposite may be unfamiliar with industrial awards and agreements, but many of them run for several pages, having up to 45 or 50 clauses and, as the Minister said earlier, we are mainly dealing with many small employers who will be seeking access to enterprise agreements without recourse to professional human resource managers and the like.

Likewise, many employees overwhelmingly will be non-unionists, who have very little if any knowledge of what their award contains simply because they are not brought up to date, as they would be if they were a union member, regarding their rights and obligations under their respective awards. Our amendment would provide that the award stands and, where there is an inconsistency between the enterprise agreement and the award, the agreement would prevail but, rather than having to go laboriously through 50 clauses and saying, 'Yes, we want that in the agreement but not that', and so on, it is deemed that parties keep their award and it is only where there is inconsistency with respect to what is specifically written down in the enterprise agreement that the agreement prevails.

We say that on the matter of disclosure the terms of an agreement must be not more than three years. The Government's proposal, in paragraph (g), refers to 'must fix a term (the "presumptive term")': no maximum time limit is imposed. If an employee or an employer (one of the parties) says, 'My God, the agreement I made is a real crook one; I want to get out of it because it's unfair or unjust', under the Government's Bill it is difficult to get out of. Because there is no maximum limit under the Bill, one could have an agreement running for 50, 60 or 100 years. That would lock into that enterprise agreement for that whole period not only existing but subsequent employees who, upon joining that employer, would become parties to that agreement by virtue of the fact that they have become new employees who have had no involvement in the negotiation or renegotiation of the agreement in the first instance but who nevertheless may believe it is harsh and unjust.

Things evolve and people's views change on a whole range of issues but, if the agreement is set for a 50-year life span, that is it: the parties are stuck with it. As with the other clauses of an agreement, once people have an agreement, to vary or rescind an agreement during its life it is nigh on impossible if the Government's proposal gets through unamended. I also note with some concern the Government's proposal in subclause (2)(f), as follows:

> must address the question of disclosure of the terms of the agreement to third parties;

The matter will not be debated now but this is a point the Opposition holds very dear: that enterprise agreements, once certified, should be part of the public record and open for public scrutiny. I will be very interested to hear what the Minister has to say about paragraph (e) because, in a recent press release, the Minister was at great pains to say that this provision will be a great boon for women workers, who will now have access automatically to unpaid leave in addition to their paid sick leave provisions to look after and care for their dependent children. The paragraph provides:

> (e) must provide that sick leave is available, subject to limitations and conditions prescribed in the agreement, to an employee if the leave becomes necessary by the sickness of a child, spouse, parent or grandparent (unless the agreement specifically excludes the extension of sick leave to such circumstances);

The paragraph does not guarantee that leave as of right because, if the boss says, 'I'm not going to give it to you, and that is not going to form part of the agreement', that is it. Paragraph (e) does not confer an automatic right because it says '(unless the agreement specifically excludes the extension of sick leave to such circumstances)'.

In addition, the Bill is deficient because it talks about 'child, spouse, parent or grandparent'. In a whole range of circumstances workers look after and are carers of persons who are not necessarily immediate relatives and family members. Although I may have missed the definition in an earlier part of the Bill, it talks about a spouse but does the provision take into account *de facto* relationships? I cannot recall seeing a definition of spouse also including a *de facto* relationship. Reference is made to a parent or grandparent and, particularly among many migrant workers, the family extends not just to parents and grandparents but also to uncles and aunts who live at home with the workers themselves. They may be dependent upon the worker and, therefore, they would need some assistance from time to time.

Perhaps it is not the great boon that the Minister claimed. I will be interested to see the Government's position on the issue of extending paid leave over and above the paid sick leave provision that applies already as minimum standards. As to paragraph (e), the first point that needs to be noted is that, rather than sick leave being extended to workers to look after their sick dependants as a matter of right, it all depends upon the employer's agreeing to the extension of such a clause in their enterprise agreement, and regrettably my own experience has shown that overwhelmingly in the majority of cases there are not many employers willing to make such concessions.

The Hon. G.A. INGERSON: I will deal first with sick leave, and I can now understand why the honourable member used to lose so many cases before the commission. Obviously, he has difficulty reading. The clause deals with enterprise agreements. The word is 'agreement': both parties have to agree.

Mr Clarke: You claimed it was automatic. You said it was—

The Hon. G.A. INGERSON: It says that 'sick leave is available, subject to limitations. . . prescribed in the agreement, to an employee if the leave becomes necessary by the sickness of a child, spouse, parent or grandparent'. That is what workers get by right. I will go very slowly, because I know the honourable member has difficulty reading, but then it says '(unless the agreement'—perhaps I do not understand, but an agreement is between two parties—'specifically excludes the extension of sick leave to such circumstances)'. In other words, it is a fundamental right unless both parties to an agreement—there cannot be one party to an agreement; there have to be two parties—exclude it. In other words, the two parties have to sit down and decide that they will vary that right as it relates to sick leave. That is straightforward and I would have thought that even the honourable member could understand that. Unless it is excluded by agreement, the situation is as stated allowing sick leave to be varied in relation to a child, spouse, parent, and so on.

The member opposite mentioned a *de facto*. It is my understanding that the Equal Opportunity Act clearly includes a *de facto* in the definition of 'spouse' so, whilst it is not in this legislation, it is my view that the Equal Opportunity Act covers it. It is not our intention to eliminate that provision, as a number of people live in that type of situation today, so we

will ensure that that is covered. However, I understand that it is covered by other Acts. Paragraph (d) provides:

> If the group of employees to which the agreement relates would, but for the agreement, be subject to an award. . .

It is our view that, in that instance, so that no misunderstandings occur as to the agreement, there ought to be a clause or a series of clauses within the agreement which clearly set out what conditions have been agreed in the award. I have seen a couple of agreements recently which have provisions such as 'this agreement covers these special conditions; all other conditions not covered and specified here are those of the award.'

I would have thought that that is the sort of thing that could be very simply agreed to at the negotiation stage. So, it is not a complicated exercise. However, that must be specifically spelt out because, as the member opposite should know, if it is not spelt out there is sure to be industrial disputation over that issue at some stage. It does not require a great deal of effort to include that very simple sentence, and that is the reason why the Government has taken this line. We have no concerns at all about having that clause in our amendment.

Mr CLARKE: Paragraph (e) is not automatic with respect to sick leave because it provides:

> . . . (unless the agreement specifically excludes). . .

I know what the Minister is getting at, but the reality of the situation is that in negotiations employers may well say to their employees, 'You might want it but, if you want a 5 per cent pay rise or whatever it might be, sick leave comes out with respect to the care of dependent children, parents, grandparents or whatever,' and that will be a simple fact of life. If he wished to delete those words between the brackets, I would wholeheartedly support him. It still does not go far enough, but nonetheless it is in addition to sick leave and it is an improvement and I would not gainsay that.

In terms of the point about an award having to include specific clauses, the fact of the matter is, as the Minister said (and it is generally admitted), that generally smaller employers will use this method, and most of them are untutored in industrial terminology, as are most employees. They will not have enough knowledge to sit down and say, 'We will include clauses 1 to 10, then clause 11 will read something else to suit our particular enterprise, and then clauses 15 to 20 of the award will be included.' It will not happen in that way. To avoid industrial disputation it would be far better and far easier to say to all parties, 'Look, here is your award minimum; this is what your award is. Where you want to vary the award by all means do so provided it is in accordance with the Act. Specifically nominate where you want to vary from the award and then all other conditions of the award will prevail except where there is an inconsistency with the enterprise agreement.' That is far more in keeping with small enterprises and the lack of formal industrial relations expertise that will be available to employers and employees in those circumstances.

The Minister did not answer the point with respect to the presumptive term, that it could literally apply for 1 000 years or 100 years or something of that nature. That is a very important point because the make up of the work force changes quite significantly over a two or five year period and, as the Minister would know from his own Bill, there are very strict rules in relation to how agreements can be varied or rescinded during the life of an agreement. I would have thought that it would be in the interests of employers and employees for there to be a fixed maximum term. I have suggested in my amendment three years; if the Minister wanted to say five years, he could twist my arm with respect to that matter.

Clause 73 (h) of the Government's Bill provides:

> [the agreement] must be signed as required by regulation by or on behalf of the employer and on behalf of the group of employees to be bound by the agreement.

My amendment to clause 73 provides that each member of the group of employees are to be bound by the agreement, and they must sign it, or an officer of the registered association can sign it. I see real difficulties in the Government's Bill because, first, particularly in a non-union shop, employees may have unofficially elected amongst themselves spokespersons to represent them, but they are not a body corporate which can be held responsible and which can be registered under the Act; they are not persons who, in case they do not carry out their functions diligently or with due regard and in the interests of the employees concerned, can be voted out of office similar to office bearers of a registered association. People can attend a meeting of a registered association and seek the expulsion or suspension from office of officers of the association who do not carry out their duties properly.

It would seem to me that, particularly in non-union enterprises, if you are going to ensure that employees agree with the terms and conditions of their enterprise agreement, each and every one of them should sign it. It is not a huge and onerous task. As I said earlier, we are all agreed that by and large it will be mainly small employers who will use it, with probably well under 10 employees. Therefore it will not be a big task for the employer to ensure that each and every individual employee signs the form to say that they agree with respect to the enterprise agreement. Where there are perhaps more than 100 employees, the employer would usually have a management structure already in place to ensure the necessary paperwork is carried out and that those employees affected by the agreement and support it do indeed sign the agreement rather than it being some committee which is not formalised under this Bill in any event. Such a committee could consist of merely two or three people who say, 'Yes, I was elected by so and so down the street to represent their interests, and I sign formally on their behalf.' Those persons would not be a body corporate and would be answerable effectively to nobody.

The Hon. G.A. INGERSON: As I said earlier, I am amazed at how we have this continual carping as to why things cannot be done by individuals in signing agreements. An individual can go out on a Sunday afternoon, stand up at an auction, purchase a house for $250 000 or $300 000, put a signature on a contract, pay a 10 per cent deposit and it is accepted, yet the member for Ross Smith says that an individual cannot sit down and put their signature on an agreement that might pay them between $300 and $1 000 a week. Something is pretty wrong if individuals cannot do that.

Members interjecting:

The Hon. G.A. INGERSON: They can do that for and on behalf of other individuals because they do that every day of their life. If they have an agreement they can do it. I have been involved in a partnership for 25 years. There are four of us in the partnership and any two of us can, at any time, sign an agreement in relation to that business. On my behalf, two other partners sign agreements worth thousands of dollars on

a daily basis, and that is because there is a formal agreement between the four of us.

I would have thought that 20 employees could sit down and decide that two or three of them could sign the agreement on their behalf. I would have thought that was fairly fundamental. People are not stupid. People can get by without the union movement, and thousands and thousands of employees in this State on a daily basis get by without the union movement's having to hold their little hand and sign all these issues. They are investing and purchasing hundreds of thousands of dollars, if not millions, without someone saying, 'I am the registered association; I am your union mate; and I am the only one who can do this for you, because I know you are too damned stupid to do it yourself.'

The world has changed. The ACTU actually believes that the world has changed. It believes that individuals and collective groups in an enterprise can sign on behalf of each other. That is what enterprise bargaining is all about. All we are saying is that people in a non union workshop should have the right to sign any agreement, and we believe that there is no problem with that. They do not have to be a body corporate. They do not require a corporation to give them that protection. They can sit down and say, 'I want to get paid this much for my hourly work. I am prepared to have these conditions for my sick leave, these conditions for my annual leave,' and so on. They are the simple things they can do.

What the Labor Party and the unions have successfully done over the years is say to people, 'You are too dumb to do these sorts of things. You can make all these huge financial decisions, but you cannot negotiate your salary and work conditions, because we know you cannot.' The only reason they have argued that way is that a few union officials wanted to guarantee their jobs into the future. That is the real issue behind this. We just do not accept it. The unions can be involved. If you get 50 per cent of the membership out there, they can sign on your behalf. Just get off your backside with your mates out there and get more than 50 per cent. If they cannot get more than 50 per cent, they do not become party to the agreement, and it is as simple as that.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: If you cannot cover them, it is about time the union movement got out there and learned how it could.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Well, why don't you move some amendments that might achieve some of these things if you are finding it too hard to do it? With respect to the other issue of the timeframe of agreements, if a group of people sit down and say they want to have an agreement for 12 months, two years or five years, that is their decision. They ought to be able to make that decision.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Individuals have rights when they do lots of things in our society. I know a young man who happened to go out on Sunday and purchase a house for which he committed himself for 25 years. He is a young man of 21 years of age, and he is quite capable of committing himself to that sort of payment. Is the honourable member going to tell me that that young man, who happens to be an engineer, could not sit down and negotiate a one, two or three year agreement in terms of his salary conditions? It is arrant nonsense, and the member opposite knows it is nonsense. As I said earlier, he is just playing an ideological claptrap game.

Just accept that the world changed on 11 December in this State, and the South Australian community decided to move forward into enterprise agreements as well as having the award as a safety net. They wanted change. All these issues went before the public in June 1993, not on 11 December. It was out there for six months prior to that, and they endorsed these sorts of changes. The Government opposes the amendment.

Mr CLARKE: The Minister obviously has not read my amendment, because paragraph (f) provides that each employee who is to be bound by the agreement signs, or it is signed by an officer of the registered association on behalf of the group. It does not say that it must be signed by a registered association. If it is a non-union shop, all we ask is that every employee sign the agreement.

The Minister does not say—and it is not in his Bill—what will happen if the employees deputed to sign an agreement on behalf of the other employees are wrong in that they do not truly represent the interests of those other employees. They are not a body corporate, unlike the Minister's situation involving four partners and any two can sign. If two partners signed and diddled the other two partners as a result of their actions, the other two partners would be able to take action against the two signatories. What penalties are provided in the Industrial and Employee Relations Bill to ensure that those who sign the agreements do so with the full support and backing of the employees concerned, and what they do sign truly represents the interests of what the collective group decides? That is all I am asking.

We are not trying to stop non-unionists from being able to sign an enterprise agreement. We are simply saying that, to avoid any argument in the future as to who agreed to what, each individual commits their own name to it, the same as the engineer who bought a house and signed a document tying himself up for 25 years. We are simply saying that individuals, when negotiating their employment contract, should sign the enterprise agreement so that there is no argument that they were all in agreement with it and it was not just the interpretation of two or three people, whoever they might be, purporting to represent those people.

Finally, in respect of the presumptive term, the Minister just will not face up to the fact that, as we all know, even in times of high unemployment, the makeup of many workplaces over five years has considerably changed. As to the turnover rate in five years, depending on the type of industry, there could be 100 per cent change in terms of the work force, or well in excess of the majority. The new employees will have no say in the making of any agreement in the first instance. If the agreement is for, say, 10, 15 or 20 years, because of the Government's own Bill with respect to how you vary or rescind agreements, is almost impossible without the consent of the employer during the life of that agreement. It is basically unfair and unjust.

The Committee divided on the clause:

AYES (29)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Hall, J. L.	Ingerson, G. A.(teller)
Kerin, R. G.	Leggett, S. R.
Matthew, W. A.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.

AYES (cont.)

Scalzi, G.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

NOES (9)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D.(teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Rann, M. D.
Stevens, L.	

Majority of 20 for the Ayes.

Clause thus passed.

Progress reported; Committee to sit again.

ECONOMIC AND FINANCE COMMITTEE

The Hon. S.J. BAKER (Deputy Premier): I move:

That Mr Bass be appointed to the Economic and Finance Committee in place of Mr Tiernan, deceased.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.A. INGERSON (Minister for Industrial Affairs): I move:

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

Motion carried.

INDUSTRIAL AND EMPLOYEE RELATIONS BILL

Adjourned debate in Committee (resumed on motion).

Clause 74 passed.

Clause 75—'Extension of term of enterprise agreement.'

Mr CLARKE: My proposed amendment provides:

Insert new clause as follows:

Approval of enterprise agreement

75. (1) The commission may approve an enterprise agreement if it is satisfied that—

(a) remuneration and conditions of employment of the employees covered by the agreement are regulated by an award or awards that are binding on the employer bound by the agreement; and

(b) the agreement does not disadvantage the employees covered by the agreement in relation to conditions of employment; and

(c) the agreement includes procedures for settling industrial disputes about matters arising under the agreement between the employer and employees covered by the agreement; and

(d) the agreement provides for consultation between the employer and employees bound by the agreement about changes to the organisation and performance of work or the parties have agreed that it is not appropriate for the agreement to contain provide for such consultation; and

(e) adequate consultation has taken place with the employees who are to be bound by the agreement; and

(f) the following requirements have been complied with by the employer—

(i) not less than 28 days before the agreement was signed by or on behalf of the employees to be bound by the agreement, the employer must inform the registered associations that are parties to the awards covering the affected employees of the full contents of the proposed agreement; and

(ii) the employer must allow representatives of the registered associations to meet with the affected employees during working hours and provide reasonable facilities for the representatives to explain how the agreement would affect their rights and obligations; and

(g) the agreement has been approved by a majority of at least two-thirds of the total number of the employees affected by the agreement.

(2) An enterprise agreement disadvantages employees in relation to their conditions of employment only if—

(a) the agreement would result in a reduction of entitlements or protections; and

(b) the commission, having regard to their terms and conditions of employment as a whole, considers the reduction contrary to the public interest.

(3) The commission must refuse to approve an enterprise agreement if—

(a) the agreement contains provisions which are inappropriate to an award or enterprise agreement; or

(b) an employee has been subjected to overt or covert pressure by the employer or a representative of the employer in negotiations leading to the execution of the agreement; or

(c) a provision of the agreement discriminates against an employee because or, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; or

(d) the agreement applies only to a part of a single business that is neither a geographically distinct part of the business nor a distinct operational or organisational unit within the business and the commission considers that—

(i) the agreement defines that part in a way that results in the agreement not covering employees whom it would be reasonable for the agreement to cover having regard to—

· the nature of the work performed by the employees whom the agreement does cover; and

· the organisational and operational relationships between that part and the rest of the business; and

(ii) it is unfair for the agreement not to cover those employees; or

(4) In deciding whether to approve an enterprise agreement, the commission must identify employees who are covered by the agreement but whose interests may not have been sufficiently taken into account in the course of the negotiations and must do whatever if necessary to ensure that those employees understand the effect of the agreement and that their interests are properly taken into account.

(5) If the commission approves an enterprise agreement, a copy of the agreement must be kept available for public inspection at the office of the registrar.

The Opposition's enterprise agreement ensures a number of things which the Government Bill does not. The amendment provides for enterprise agreements to be made between an employer and non-union employees, or between unionists and their employer. It provides and allows for a whole range of flexibilities that the Government says it is seeking for industry generally. Our amendment provides a safety net; it provides a no-disadvantage test, the same as currently applies in the Federal arena, unlike the Government's Bill which allows for a no substantial disadvantage test to apply and which is a disgraceful concept, particularly when, before the

election, the Liberal Party said, 'We will pass laws which will ensure that no employee is disadvantaged as a result of enterprise bargaining.'

Our amendment provides that there must be adequate consultation between the employees who are to be bound by the agreement and that they understand it. It must provide that 28 days notice is given prior to the agreement being signed by the employees informing registered associations that cover the award of awards that would otherwise cover those employees as to their full contents and allows those registered associations, if they so choose, to make use of company time and facilities to talk to those employees and to advise them as to the impact of that enterprise agreement on them.

It also provides for a two-thirds majority of those employees to vote in favour of entering into the agreement, not a simple majority as the Government proposes. It is not an unreasonable proposition, particularly where they are in a non-union area, are not familiar with their rights or obligations, and do not have access to cheap, inexpensive advice as to their rights. Let us remember in regard to the employee ombudsman that, if only 2 per cent of the 300 000 workers covered under State awards wanted to make an appointment to see the employee ombudsman, that is 6 000 people in a year.

When you are talking about enterprise agreements covering the whole gamut of their employment, they are not looking to have an appointment for 15 minutes or, as with a legal aid councillor, the first 15 minutes is free or maybe the first half hour is free and you pay thereafter. They are wanting to talk to somebody with knowledge in this area for at least half a day. Multiplied by at least 6 000, if only 2 per cent of the work force go to the employee ombudsman, it clearly shows what a farce it is.

In New South Wales it requires a vote of 65 per cent of employees to vote in favour of opting out of the award structure and into an enterprise agreement. I should have thought that was not an unreasonable figure because it would help to obviate the real problems, of which I have given examples, of the 100 person work site comprising 51 day workers and 49 shift workers. Basically, the 51 day workers, because of their own interests, can sign away the rights of the 49 shift workers simply by having a majority in their own right.

Even more compounded, given the Minister's advice which confirms my own, if in that same 100 person establishment 20 are maintenance workers who are members of the Metal Workers Union and they want their union to be party to the agreement, they cannot under this legislation become a party to the enterprise agreement. Therefore, those maintenance workers would have their rights trampled on simply because a majority of the 100 employees, for whatever reason, believe it is in their interests and to hell with the interests of the minority. A two-thirds vote would mean overwhelming support by the work force for that enterprise agreement and it would not simply rely upon a majority.

The Minister may say, 'Under the Federal reforms put through by the Federal Labor Government recently, a simple majority is good enough.' However, there are enormous differences between the Federal legislation and this Bill, because it states that a no disadvantage test must be provided. It defines what disadvantage means and it also says that the commission must be satisfied that it meets the public interest test. It provides for registered organisations which have an interest in the award to appear automatically in the commission to represent the interests of employees, their own members, or as a friend of the court to give advice on the impact the enterprise agreement would have on employees generally. None of those protections is in the Bill. Therefore, we believe that at least a two-thirds vote of the employees affected would be appropriate. Subclause (2) of the proposed new clause provides:

> An enterprise agreement disadvantages employees in relation to their conditions of employment only if—

I have already referred to those aspects. It provides that the commission must refuse to approve an enterprise agreement if the agreement contains provisions which are inappropriate. In other words, you cannot put into an enterprise agreement what you cannot get into an award in the first instance. It protects an employee being subjected to overt or covert pressure by an employer or a representative of the employer in negotiations. It also provides that, if an agreement discriminates against an employee for a variety of reasons, the enterprise agreement, even if it meets all other tests, must fail. It further provides that where the agreement applies only to a part of a single business that is neither a geographically distinct part of the business nor a distinct operational or organisational unit within the business, the commission must consider that:

> (i) The agreement defines that part in a way that results in the agreement not covering employees whom it would be reasonable for the agreement to cover having regard to—
> - the nature of the work performed by the employees whom the agreement does cover; and
> - the organisational and operational relationships between that part and the rest of the business; and
>
> (ii) it is unfair for the agreement not to cover those employees.

Those are all very important concepts, because there are times when employers are quite happy to pay enterprise agreements to part of the work force, even in the same class of workers, but they do not wish to extend the benefits to other workers for some reason or another.

In our amendments, the same as federally, we are seeking to ensure that the commission must consider those points and, if it believes in all the circumstances that it is unfair for the agreement not to cover those employees for the various reasons that can be advanced before the commission, the commissioner can have the right to refuse to certify the agreement. Proposed new subclause (4) provides:

> In deciding whether to approve an enterprise agreement, the commission must identify employees who are covered by the agreement but whose interests may not have been sufficiently taken into account in the course of the negotiations. . .

This takes into account persons from a non-English speaking background or very young people working in the fast food industry or something of that nature who do not have the maturity or the work force experience to equip themselves adequately for negotiations with their own employer. It makes sure that the commission must take those factors into account in deciding whether or not the agreement should be certified.

The Bill, with respect to clause 75, does not provide for any of those safeguards. It simply says that the commission must approve—it has no discretion—unless the effects of the agreement substantially disadvantage the employees. We have had this debate before: the words 'substantially disadvantage' mean a quantum leap. Does a loss of $50 a week out of a $500 a week pay packet substantially disadvantage employees? If you, Sir, were one of those employees, you would probably say that it does substantially disadvantage those people, but it may not in the eyes of the enterprise

commissioner. Unlike the Federal Act, there is no attempt to give any parliamentary guidance to the enterprise commissioner about the meaning of 'substantially disadvantage'. In the Bill there is no right of appeal. The commissioner will say, 'So what! If it is an agreement, it is an agreement, so why should you be able to appeal?' Given that the Bill provides for a majority vote only of the employees affected, it does not give adequate remedies to those who may be severely disadvantaged and who are in a minority in the work force.

The only other criterion that the commission has to consider is whether or not there has been coercion and whether it has the support of the majority of the employees who are to be bound by the agreement. They are not very good tests. Coercion is one test that can be used, but very few employers would use coercion in an overt manner which could be proved and result in securing a conviction. However, all sorts of subtle pressures could be brought to bear on employees, particularly those in vulnerable positions and fearing the loss of employment. There is nothing coercive about an employer bringing employees into the office one at a time and asking them to sign their form.

On top of that, subclause (2) provides that these much vaunted minimum standards which will be provided by the Government do not exist at all. The minimum standards may as well not exist at all because, according to subclause (2), an enterprise agreement can be made that goes below even those minimum standards in a set of circumstances, whatever that means—if 'all relevant industrial, economic and commercial circumstances affecting the enterprise, is substantially in the interests of the employees who are to be bound by it'.

It can be referred to the Full Commission only by the enterprise commissioner 'if the member of the commission before whom the question of approval comes in the first instance is in serious doubt about whether the agreement should be approved'. There is no provision as there is under section 101 of the existing Act for the parties to ask for the matter to be referred to the President of the commission to determine whether it should be referred to a full bench of the commission. The decision as to whether the matter should be referred to the full bench of the commission is solely in the hands of the enterprise commissioner. That is not good enough because, if the enterprise commissioner decides against referral and does not believe it is so important that it should go to a full commission hearing, there is no appeal. There are no appeal provisions in the Bill which allow any party to appeal a decision of an enterprise commissioner. That is a basic denial of natural justice.

The amendment provides all the basic tests that employers want. It allows for non-union access to enterprise agreements. If they are dinkum that they do not want to take advantage of employees, our amendment provides for that through a 'no substantial disadvantage' test; it provides a range of tests for the commission to be able to withhold approval in certain circumstances, unlike the current Bill. It also provides for proper consultation mechanisms between employees and employers, as well as registered associations if they choose to become involved in the matter. At the end of the day, after all that consultation, the non-unionists still have the same right as union members, if they wish to exercise it, to vote for the enterprise agreement, but they must vote for it by a substantial margin (and I do not apologise for that) of at least a two-thirds majority. Given that in New South Wales a 65 per cent limit must be reached before you can go into an enterprise agreement, I would have thought that that proposition is not unreasonable. For those reasons I commend the amendment to the House.

The Hon. G.A. INGERSON: Let us start with this nonsense of the involvement of the union. New clause 75(1)(f) sets up a situation whereby, 28 days before the agreement is signed, union officials can insist that an office be set up for them so that they can come into the enterprise and have all the conditions of the agreement set out in front of them—in a non-unionist shop. The union official can demand an office, together with all the conditions of the agreement, and the honourable member talks about freedoms. This is all about compulsory unionism; it is demanding that the union movement should again be above the law.

This new clause provides that the employer must allow representatives of registered associations to meet with affected employees during working hours and provide reasonable facilities for representatives to explain how the agreement would affect their rights and obligations. In other words, even if they have no members in there, every single enterprise must allow the unions to come in during working hours and tell it what its obligations are. What an incredible set-up, and the honourable member pretends to be talking about enterprise agreements? He is not talking about enterprise agreements; he is talking about Gestapo union rule. This is about the union movement dominating the enterprise agreement area; it is not about non-unionists and their companies having the right to determine them.

The honourable member says it is a fundamental right of the unions to be able to go into a workplace where they have no members. They do not have a fundamental right under this Government to go in there and do that. There is no fundamental right for the union movement to go into any employer's business and demand that they be provided with facilities and to be able to explain their rights and obligations. That does not exist under South Australian law, but this Opposition wants to put it in there. Then the honourable member goes on to talk about the need for a two-thirds majority. The next thing he will be saying is that at the next election the public of South Australia needs a two-thirds majority. That is arrant nonsense. Everything is done in this community by absolute majority, not a two-thirds majority, and the honourable member knows that is the case.

Let us look at another part of this amendment. I understand that today we have about 40 per cent youth unemployment in our State, and I understand also that the union movement is reasonably concerned about that. Dealing with a provision in the agreement preventing any discrimination against an employee on grounds including race, colour, sex, etc., it then goes on to talk about age. So, this amendment provides that no agreement can be entered into between employees and an employer in which a youth wage is negotiated. That is what it says: the enterprise agreement cannot be registered unless you have a specific clause preventing age discrimination. If the honourable member reads the age discrimination legislation he will see that we cannot have youth wages, yet he is trying to make insert a provision in this Bill to prevent it from occurring. That is how hopeless this drafting is.

What the honourable member is trying to do is restrict these enterprise agreements only to parties who make awards. Some 60 per cent of the businesses in this State employ people who do not belong to unions, and the honourable member is saying that those same parties who have not got off their backside to go out and get union membership should be covered under enterprise agreements. That is arrant

nonsense, and that is why this Bill provides for the union movement to be involved in the negotiation stage but not be party to the agreement unless they have more than 50 per cent of the members in that in enterprise. The definition of 'substantial', which was established under the Trade Practices Act, is a legal definition supplied by way of a judgment and provides that '"substantial" would certainly seem to require loss or damage that is more than trivial or minimal; real or substance as distinct from ephemeral or nominal'. In other words, if the agreement is substantially varied, it will not be registered.

I will read that provision into the record again in totality, because the honourable member has the ability to leave out words wherever they are not convenient. I understand his wanting to do that, but every now and again he gets caught out. If an enterprise agreement comes before the commissioner in which there is a substantial disadvantage to the employees (and I want to emphasise that it must substantially disadvantage the employees, not the employer) it cannot be registered. I would have thought that that is a pretty reasonable position. It further provides that the minimum standards can be varied only if the commissioner believes that it fits in with the totality of the package. If he does not believe—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Let me get to it: don't get impatient. It is an area on which I am quite happy to spend some time, because I know you do not understand, so we will go very carefully and slowly through it. If the commissioner is not satisfied with the agreement it can be taken to the full commission, which then decides whether or not it should be supported.

Mr Clarke: Where does it say that?

The Hon. G.A. INGERSON: At the bottom of the page: it must be referred to the full commission if the member of the commission before whom the request for approval comes in the first instance is in serious doubt about whether the agreement should be approved. So, if the minimum standards are varied to such an extent by agreement and it comes before the commissioner and he or she is dissatisfied with it, it can be taken before the full commission. I refer to this question of appeal.

As to the question of an appeal, my understanding of an agreement is that two people sit down and decide to agree on a document. Once two parties have agreed, why would they want an appeal? It does not make sense. If they have an agreement, why would they want to appeal? It is pretty fundamental that, where a majority of workers in an enterprise make an agreement, they have an agreement and that is it. What is the need for an appeal when there has been agreement? It is an agreement between two parties. Each side agrees. It is simple—a marriage—and there is no need for an appeal.

The Government believes it has gone to great lengths to make sure that two things can occur in this enterprise agreement area. First, agreements can be registered before the commissioner as quickly as possible. Secondly, the enterprise agreement commissioner can ensure that the employees who have signed the agreement cannot be substantially disadvantaged. That is absolutely critical in any fundamental change of industrial relations in this State. We went to the election on this position and said that the safety net was the award system. This provision follows that through almost to the letter. It is clearly saying that conditions like the SPC can be registered in this area, because it would have to be shown that there was clearly no substantial disadvantage to employees.

As the honourable member knows, under the award system and the State wage case, the union movement and the previous Government, including some of the honourable member's former colleagues, agreed that award conditions could be lowered if the commission believed that the affected business needed the award conditions to be lowered. This clause does exactly that. It is fascinating that the previous Labor Government and the unions could agree to that provision in the award area but that a Liberal Government should not be allowed to do that in the area of enterprise agreements. That is logic at its worst. That just shows where the honourable member is coming from. In a State wage case he is happy to allow his mates, above the signature of John Lesses, to have the award system reduced and recognise that it can be reduced by law yet, when the matter is raised here (don't shake your head), he argues against it.

Indeed, in time we may even be able to show that he has been a signatory to one of those State wage accords between 1986 and now. I suspect that the honourable member's union and he himself as a previous Secretary of that union actually agreed that award conditions could be reduced, yet the honourable member blatantly claims here that, if the full commission believes that an enterprise and its employees would not be substantially disadvantaged, they could not do it. The honourable member agreed for seven consecutive years before the State wage case that that could be done. He cannot have his cake and eat it too. He might be able to argue outside to his mates and his friends that the Liberal Party is going off at a tangent, but he went before the Industrial Commission, which he believes is hallowed ground, and argued that in certain conditions the award could be reduced.

The member for Ross Smith should tell us the truth and be straight with the Parliament and not get ideologically off the track. The honourable member should accept that he was willing to let it happen in the award set-up but, for ideological reasons, he does not want it to happen in the enterprise agreement area. That does not make sense. We believe that we have recognised that some employers out there will be deliberately undercutting the system if there are not some controls. We have included this provision so that if they want to have a registered enterprise agreement there will be controls in the system. As to the whole area of wages, the need to vary wages and the training wage, the Federal Minister for Education, Employment and Training (Mr Crean) is reported as saying that 'a training wage aimed at increasing the number of jobs available to the long term unemployed would be an option in next month's white paper'. This is the important comment:

> The ACTU, in a reversal of its traditionally strong opposition to reductions in basic award conditions, has agreed to support the proposal in return for more Government funded training places. I put to them what needs to be considered is a training wage, that is, below the award but recognises that training is occurring.

If an employer sits down with his employees and agrees that there ought to be a training wage for young people as part of the enterprise agreement, it could be achieved through our amendments because it would not substantially disadvantage those employees. We believe that that sort of thing should be able to occur, yet the honourable member is saying that that must not or cannot occur, that it will be too wide and there will be too many difficulties under our Bill.

The honourable member has got tied up with his old union affiliates and has forgotten that the world changed on 11 December. His amendment basically says that the unions have to come back into the workplace and be part of the

enterprise agreement, otherwise they will not get an agreement. The Government opposes that and will not accept the amendment.

Mr CLARKE: The Minister has displayed a lamentable lack of knowledge on industrial relations with his latest contribution. The State wage case in 1986 and since then the national wage fixing principles, which were adapted to suit the circumstances here in South Australia, provided that a State wage case decision granting the wage increase could be knocked back by the commission if individual employers applied to the commission on the ground of economic incapacity to pay. Therefore, they would not be obliged to pay the national wage increase. That is nothing remarkable. It was a condition set down by the national wage bench and subsequently adopted by the State wage case.

To get it through that case, obviously unions had to agree, because we either accepted the national wage case decision or, if unions did not, they would not get the pay rise. As I recall the 1986 amendment, the State wage case was to be treated a little differently from the Federal arena because individual employers had to make separate application to the commission citing economic incapacity to pay, not to reduce award wages but not to have to pay the national wage increase awarded at the time, based on alleged incapacity to pay.

That is much different from what the Bill does, which is to allow the existing award—forgetting any national wage increases and remembering that enterprise agreements, unless they specifically provide for State wage case increases to flow on, provide that there will be no more for those people, who will simply have to do with whatever they can get on the ground from their employer. It is an enormous difference.

I am not aware that any employer in relation to the awards I dealt with, which covered literally tens of thousands of individual employers, ever applied for the economic incapacity argument. If they did apply for an economic incapacity argument, the unions were free, as were any parties, to cross-examine the employers and to seek discovery of all their financial records. That provision for cross-examination and of putting employers to the test about economic incapacity is not contained in this Bill. An employer can say, 'I only want to show my books to the enterprise commissioner but not to my employees and not to their representatives'. You read your own Bill, Minister—it is there. An employer applying for incapacity to pay under the Minister's own Bill has to show their books only to the commissioner and does not have to subject themselves to cross-examination or scrutiny by the parties representing the employees. That is how fair the Government is when it comes down to this issue.

Certainly the ACTU has talked about the training wage and indeed the union movement generally has been at the forefront of training, assisting the long-term unemployed through schemes such as the Australian Traineeship System and providing for the Jobskills Trainee System where agreements were struck which varied awards considerably and which provided the sort of flexibility the Minister has talked about. In fact, what the ACTU has stated about the training wage, and what it has already achieved through Jobskills trainees and the Australian Traineeship System and the like, is that the current system is extraordinarily flexible and does provide for all these sorts of initiatives without trampling on the rights of workers with respect to a no-disadvantage test on their wages. So, the Minister has shown that the current Act works: it allows for flexibility; it allows for initiative to be shown in union shops and non-union shops; and, above all, it provides the award as a true safety net below which nobody can go. It is a true no-disadvantage test.

The point about the amendment that has been put forward by the Opposition saying that you have to be covered by an award first goes back to first principles. You cannot seek to attest, whether it be a no-disadvantage or no-substantial disadvantage, unless an award can be used as a basic fulcrum point on which to work out whether or not an employee is being disadvantaged. Some 20 per cent of workers are not covered by any award in this State. In fact, the Minister has done nothing in his Bill to protect them, and in my amendments further on, Mr Chairman, you will note that we are seeking to do things to assist those who are not covered by any award, to ensure that proper standards are set for those people with respect to minimum rates of pay and conditions. So the Minister has related quite a few furphies, particularly in relation to that State wage case of 1986. He had to go a long way to dredge that one up, and it does not even suit his argument. It does not suit his argument whatsoever. I commend the amendment.

The Hon. G.A. INGERSON: I wish to make only two points. First, all the awards will continue under this Bill, and they will obviously continue to be the safety net. Secondly, I wish to reject the nonsense that has been put forward in the amendment by the Opposition. Subpararaph (ii) of the amendment provides:

> The employer must allow representatives of the registered associations to meet with affected employees during working hours and provide reasonable facilities for the representatives to explain how the agreement would affect their rights and obligations.

That is the union treading on every single small enterprise in this State and demanding that they have the right to be part of enterprise agreements. I really cannot believe that members opposite are standing up and trumpeting the right of the unions to go into every single enterprise in this State before an enterprise agreement can be signed. It just shows how far they are out of touch with the community, and it identifies why they ended up with only 10 members elected to this House at the last State election—because they are so far out of touch with what the average workers want in this State. We oppose the amendment.

The Committee divided on the clause:

AYES (29)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Hall, J. L.	Ingerson, G. A. (teller)
Kerin, R. G.	Leggett, S. R.
Matthew, W. A.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

NOES (9)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Rann, M. D.
Stevens, L.	

Majority of 20 for the Ayes.

Clause thus passed.

Clause 76—'Effect of enterprise agreement.'

Mr CLARKE: I move:

Page 31, lines 6 & 7—Leave out subclause (3) and insert—

(3) An enterprise agreement operates to exclude the application of an award only to the extent of inconsistency with the award.

Members interjecting:

The CHAIRMAN: Order! I ask members to cease conversation. There are members conversing away from their places.

Mr CLARKE: I argued this amendment earlier this evening. I will not restate all those points but simply say, particularly in non-union areas, where people are relatively untutored in industrial law, it is far safer to say that you are covered by an award and your enterprise agreement operates to exclude the award to the extent of any inconsistency, rather than allowing those persons go through the award, pick out what parts they want, vary it and all the rest of it. It is far easier, far more efficient and less likely to cause problems in the long run if there is an award with an enterprise agreement running along side it and, where there is inconsistency such as with respect to wage rates or something of that nature, the enterprise agreement prevails.

Amendment negatived; clause passed.

Clause 77 passed.

Clause 78—'Duration of enterprise agreement.'

Mr CLARKE: My proposed amendment provides:

Delete existing clause and insert new clause as follows:

Extension of term of enterprise agreement.

78. (1) An enterprise agreement may be extended from time to time for a term not exceeding 3 years by agreement of the persons bound by the agreement.

(2) However, an extension does not have effect unless approved, on the application of a person bound by the agreement, by the Commission.

(3) On an application for approval of the extension of an enterprise agreement the commission must approve the extension unless satisfied that the extension would not be in the best interests of the employees bound by the agreement.

This is another important provision as far as enterprise agreements are concerned. Clause 78 basically allows the agreement to stay in force forever, until it is rescinded, or until such time as the presumptive term of the enterprise agreement is reached. However, subclause (2) provides:

At least 28 days before the end of the presumptive term of an enterprise agreement, the commission must invite the parties to a conference to explore the possibility of renegotiating the agreement.

This amendment is part of a package, particularly with respect to clause 79 which provides for a far more comprehensive and fairer system by which agreements can be either extended, terminated or varied during the life of the agreement. I commend the amendment to the Committee.

Clause passed.

Clause 79—'Power of commission to vary or rescind an enterprise agreement.'

Mr CLARKE: My proposed amendment provides:

Delete existing clause and insert new clause as follows:

Variation and termination of enterprise agreement

79. (1) The commission may, on its own initiative or on the application of a person bound by an approved enterprise agreement, review the operation of the agreement.

(2) If on a review under subsection (1) the commission finds that the agreement is unfair to employees covered by the agreement, or is contrary to the public interest, the commission may vary or terminate the agreement.

(3) The commission may vary an approved enterprise agreement to—

(a) remove an ambiguity, uncertainty or other deficiency; or

(b) give effect to a variation agreed between the persons bound by the agreement.

This is particularly important in terms of the variation and termination of enterprise agreements. Members opposite ought to take some notice of clause 79. Subclauses (1) and (2) are fairly well understood. Contrast the Bill with the Opposition's amendment, which provides that the commission may, on its own initiative, or on the application of a person bound by an approved enterprise agreement, review the operation of the agreement. That is very important during the term because often agreements are made, particularly between lay persons, and, as I have discovered during industrial relations, you can have two parties, even experienced parties, talking about what they believe should be included in the agreement, and you get some form of misunderstanding of what the words mean within the agreement.

It ought to be open to any party to go to the commission and say, 'Hang on a moment, that is not what I thought we got ourselves into', and for it to be reviewed. Obviously, they would pay a penalty in one sense because, if an agreement were revoked, any benefits they got under the agreement would go with it, but that is a consequence they would have to determine for themselves at the time they lodged an application to review the agreement. Under subclause (2) of the amendment you have to take into account the fact that these agreements do not have a fixed life to them in the sense that they could go as long as 50 years, 100 years or whatever. There is nothing in the Bill that limits the time of the agreement.

With the turnover of employees, what might have been acceptable to one group of employees may not be acceptable—and, in fact, it may be unfair—to any new employees who are recruited. They ought to be able to present their case in the commission. The commission, on past practice, with respect to current industrial agreements and the like, is extremely loath to interfere in the terms of any industrial agreement because it is an industrial agreement and as such is normally left undisturbed for the life of the agreement. However, under the existing Act, agreements have a finite life before parties are free to seek to reopen them. Either party can be released under a section 108 application or agreement just by giving 28 days notice of termination of the agreement or by going through the end of the agreement under section 113 of the current Act.

The other point is that, as a result of the votes already taken in support of the Government's position, a simple majority of employees is all that is required to have the agreement certified, no matter how unfair it might be to the minority—and 49 per cent may be dead set opposed to the agreement. Because the Government has chosen to ensure that they have virtually no rights of appeal with respect to that matter, the Opposition's amendment to clause 79 does extend some assistance to those people in being able to seek the review of the operation of the agreement over time to help demonstrate why they believe it is unfair and to have a member of the commission review it impartially, and if they determine it is unfair to employees, to either terminate the agreement or vary it.

This clause is particularly important, given the difficulties that the Government has included in the Bill for agreements to be terminated by parties once they have been entered into. I know that the Minister will say what he has said in the

course of discussions on enterprise agreements that where you have two parties, one on one, agreeing, it is an agreement. What he fails to recognise is that it is an agreement entered into by 50 per cent plus one of the employees. It is not an agreement that binds all the employees, that everyone has put up their hand in favour of it. I would have some sympathy with the Minister if 100 per cent of the employees, or more than two thirds, put up their hands in favour of the enterprise agreement and then after a few months wanted to get out of it. I would have some sympathy with the Minister's point of view in those circumstances.

However, where a simple majority can override the interests of a significant minority of employees, it is imperative that opportunities and avenues be available to employees if they believe that the agreement has been unfair in it is operation towards them and to have it reviewed. The commission could apply its tests and, if necessary, and only in cases where it would be unfair to employees, vary or terminate the agreement. For those reasons, I commend the amendment.

The Hon. G.A. INGERSON: Again, this is an attempt by the Opposition further to interfere with the content of the process of enterprise agreements. Giving the commission the power to review enterprise agreements is a further example of its inability to respect the parties' ability to manage their own affairs once choosing the enterprise agreement option. After the enterprise agreement was approved, with numerous hurdles, the Opposition would still want to provide the enterprise agreement commissioner with a power to review. After the agreement was approved and it was found to be both fair and appropriate, how could the Opposition then suggest that the enterprise agreement should be struck down as unfair? It is an absolute absurdity.

The longer we go on in this process tonight, the more I realise that this is nothing more than a sham; it is about the union movement, through its lieutenant, coming into this place and hoping to maintain its last bastion of power in this whole area. I find it quite amazing that the honourable member opposite cannot accept that the enterprise agreement commissioner has exceptional power to prevent the employees of this State, who choose to enter into an enterprise agreement, from being treated unfairly. Our Bill clearly enables fairness to continue.

Clause passed.

Clauses 80 to 83 passed.

Clause 84—'Power to regulate industrial matters by award.'

Mr CLARKE: I move:

Page 33, line 8—Leave out paragraph (a).

Clause 84(2)(a) provides:

the commission cannot regulate the composition of an employer's work force;

I find that pretty extraordinary, because over the years the percentage of juniors to adults, such as in the retail trade, and apprentices to tradespersons has been accepted, for example, by industrial tribunals and fought out between employers and unions. It also seems to fly in the face of what employers have talked about in terms of wanting to reduce the number of unions at a particular enterprise or in a particular industry. That harks back to the power of the commission with respect to demarcation.

The Government's proposal is that the Industrial Commission can no longer deal with a whole raft of issues which it currently deals with and which are covered by award matters, issues such as the number of casuals or part-timers in a work force. A number of awards of the commission specify the number of part-timers or casuals that can be employed and the maximum or minimum number of hours that a casual or a part-timer can be required to work. As members opposite may know, when you go further into the Bill awards are reviewed every 12 months under the Government's proposal and in the transitional provisions it is provided that those parts of awards which do not conform with the Act, 12 months after it comes into force, fall by the wayside.

Regarding all those conditions which have been regulated either by consent or by arbitration in the commission over the years, in terms of the composition of the work force, this Government is now saying, 'Out the window with that.' It applies to part-timers, casuals, juniors to adults, tradespersons to apprentices and the like. That is absolutely scandalous, because they have been put into awards to do work; they have had to be substantiated by the parties making application to the commission; and they have been subject to tests through cross-examination, work site inspections, and debates before the relevant commissioner as to the merits of the stance that was taken. On the part of the Government, it is purely ideologically driven without any substance to it whatsoever.

The Hon. G.A. INGERSON: The Government is of the view that it is not the role of the commission to intrude upon matters relating to the composition of an employer's work force, such as issues relating to the relative numbers of occupational groupings or relative form of employment classifications. If restrictions of this type are to be put in place, they should be imposed through enterprise agreements, not through the arbitral process in awards which govern, on an industry-wide basis, many employees.

The reason why we believe that the commission should not be continuing to regulate this area is that in the 1990s you need to make sure that business has maximum flexibility. Surely the honourable member opposite is not saying that we should stay with the conditions that say that you must have three adult employees before you can put on a junior employee. Surely he is not saying that we should continue with that sort of arrant nonsense. Surely he is not saying that the casual versus full-time or casual versus part-time employment should remain in awards. That is arrant nonsense. That is why South Australia, and Australia in particular, is moving backwards relative to the rest of the world.

Surely employers ought to be able to organise the way they employ people within their enterprise, whether they are covered by awards or by enterprise agreements. Surely you are not still continuing to stay with those archaic conditions which have built up over 90 years but which are not applicable to the 1990s. I would have thought that the public in droves were saying that they want more casual employment, more part-time employment, and that they do not want to be put in the position where an employer can say, 'I am sorry, I cannot employ you today because I have three full-time employees and I must have four.' That is the archaic stuff of the 1920s. That is what this clause put in by the Government means: we just do not accept that that sort of structure should continue in the 1990s.

Mr CLARKE: Again the Minister's abysmal ignorance on industrial relations is heightened by his response. Already, over the past decade—I do not know where he has been but he has obviously never practised industrial relations—under the existing State and Federal Acts a whole raft of changes have been made to awards with respect to the number of

casuals, the number of part-timers and the number of juniors. A whole range of things have been done under award restructuring and enterprise bargaining agreements in a whole range of industries, for example, in the financial services at a Federal level and, indeed, in the industries that I used to cover, the retail industry to name but one as well as a whole range of clerical industries covered by the Clerk's SA Award, where significant advances were made with respect to expanding the use of casual and part-time labour. The existing system caters for it: it has been shown to be done.

It provides that the commission and the various parties that go before it will from time to time want to argue, 'In this circumstance we believe that these protections should be in place.' It does not say that the commission will automatically grant it because you ask for it; you must make out a case. Any employer who believes the awards are out of date in terms of the composition of the work force is free, either individually or through the employer organisation, to make application to those awards and seek variation removing those restrictions. The current legislation allows the commission the discretion to use its authority if it believes in all the circumstances that it merits it.

Amendment negatived.

Mr CLARKE: I move:

Page 33, lines 11 to 13—Leave out paragraph (c).

Subclause (2)(c) is a dandy. The Government is saying:

> the Commission cannot provide for annual leave, sick leave or parental leave in an award except on terms that are not more favourable to employees than the scheduled standards.

I am amazed. Under an award employers and unions can agree to bring in standards. For example, shift workers who are excluded—

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: The minimum standard provided for shift workers for annual leave is four weeks. We can have employers and unions in an award saying that these people warrant five weeks annual leave, because they work regularly on Sundays and on public holidays, as a standard of the commission. The Government, in its cloth-headed way of trying to generate efficiency, is saying that no matter whether all parties and the commission agree, they cannot award anything but the slum standards for which the Government is legislating. I find it absolutely astounding.

The amendment would allow for improved standards, either by consent or arbitration, to be put into an award. When it comes to going before the commission and seeking improved standards, a number of tests have to be applied: first, that it is in accordance with the State wage fixing principles; secondly, that it suits the public interest; and, thirdly, that on the merits of the argument involving individual employers and employees in equity, good conscience and the substantial merits of the case you can make out such a case with sufficient force to move the commission to grant the application.

This legislation is saying, 'No matter whether you meet all those tests, particularly equity, good conscience and the substantial merits of the case, we forbid you to do it.' What a nark you are! This freedom of the individual and the freedom to set these sorts of standards is a load of bilge. You just want to bring everyone down to the lowest common denominator. You know as well as I do that there are literally tens of thousands of employers who will not go for enterprise agreements but who will regulate their work force through the established common law awards, and you are saying to those employees and employers, 'At no time, ever, irrespective of the merits, can you get anything other than the slum rates that we are prepared to apply.'

The Hon. G.A. INGERSON: First, all existing awards remain. If an award has five weeks as the standard for leave, that will continue. Secondly, in relation to the variation of minimum standards, there is a provision under test cases which allows you to go before the full commission.

Mr Clarke: There is a contradiction there. You say here that you cannot do that.

The Hon. G.A. INGERSON: If the member for Ross Smith looks at clauses 68 and 69, he will find that there are test case opportunities for minimum standards to be varied. At any stage they can be varied. All that the clause says is that, in relation to new awards or variations to existing awards, you cannot go past the minimum standards. I think that is straightforward and reasonable.

Mr CLARKE: I accept the point made by the Minister with respect to seeking to improve minimum standards under clauses 68 and 69. In subclause (2)(c) you are saying that, unless those minimum standards are raised, if employers and employees bound by an award want to improve conditions over and above the minimum standards, the commission cannot do it. That is what you are saying, is it not?

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: The answer from the Minister is only by agreement. I should be interested to have my attention drawn to the transitional provisions, because my understanding is that the awards had to be reviewed within 12 months and then had to conform with the objects and general tenor of the legislation, which would influence the outcome. I am not aware that the existing awards carry on *ad infinitum* without being subject to some review and, therefore, being brought under the purview of the existing legislation as you would hope this to be.

Lastly, why would the Government seek to prevent the commission from granting benefits that are better than the minimum standards? You let it through enterprise agreements but, as we are all agreed that only a small proportion of employers will probably use enterprise agreements, you are preventing existing employees from being able to improve their lot with respect to sick leave, annual leave, parental leave and things of that nature simply by Government edict not based on any logic or fact and you are preventing the commission from doing its job, which is to settle industrial disputes. Where is the logic? We are hoping to attract new industries—industries that we have not even heard of at this stage with a new type of work force. New awards will be made, not necessarily enterprise agreements, and you will be preventing those parties from making awards which will provide better standards.

The Hon. G.A. INGERSON: As I said in my second reading explanation, the Government is interested in setting up enterprise agreements as the predominant area for industrial relations in this State. The Government is setting out to have the award system as the minimum standard—no more, no less, than that. We have been very up front in saying that we do not wish to encourage employers or employees in future to go into the award system. We believe, in line with the ACTU, the Federal Labor Party and the Federal Liberal Party, and I understand with everybody in the real world, that going into enterprise agreements is the opportunity that we should be encouraging.

All increases above the minimum standards can take place through enterprise agreements. There is nothing holding

anyone back from going into an enterprise agreement and agreeing to have 10 weeks holiday if they wish. We are saying that, because the awards ought to reflect minimum standards, whatever is scheduled at that time—and in this instance it is four weeks annual leave—ought to be the minimum standard.

We believe that our provisions will encourage the movement into enterprise agreements, and that is the sole purpose of wanting this. We were saying that the award would be the safety net and the basic and minimum standard. In essence, special test case clauses enable those basic conditions to be varied.

The Committee divided on the amendment:

AYES (8)

Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Foley, K. O.
Hurley, A. K.	Quirke, J. A.
Rann, M. D.	Stevens, L.

NOES (28)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Brown, D. C.	Caudell, C. J.
Condous, S. G.	Evans, I. F.
Greig, J. M.	Hall, J. L.
Ingerson, G. A. (teller)	Kerin, R. G.
Leggett, S. R.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

Majority of 20 for the Noes.

Amendment thus negatived.

Mr CLARKE: I move:

Page 33, after line 13—Insert new subclause as follows:

(2A) The commission may provide in an award for annual leave, sick leave or parental leave on terms that are more favourable to employees than the scheduled standards.

The Committee divided on the amendment:

AYES (9)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Rann, M. D.
Stevens, L.	

NOES (27)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Hall, J. L.	Ingerson, G. A. (teller)
Kerin, R. G.	Leggett, S. R.
Matthew, W. A.	Meier, E. J.
Oswald, J. K. G.	Penfold, E. M.
Rosenberg, L. F.	Rossi, J. P.
Scalzi, G.	Such, R. B.
Venning, I. H.	Wade, D. E.
Wotton, D. C.	

Majority of 18 for the Noes.

Amendment thus negatived.

Mr ATKINSON: Mr Chairman, I rise on a point of order. As to the division before last, the division bells rang for 20 seconds short of two minutes and for that last division they rang for one minute and 27 seconds.

The Hon. G.A. Ingerson interjecting:

Mr ATKINSON: I timed it.

The Hon. G.A. Ingerson interjecting:

Mr ATKINSON: I also timed it with our Whip, who will testify to my timing.

The Hon. G.A. Ingerson: What are you suggesting we do about it?

Mr ATKINSON: Who is in charge here?

The CHAIRMAN: The Chair has no way of confirming the timing.

Mr ATKINSON: It resulted in my missing a division and my vote not being recorded. Can the Chairman assure me that the division bells will ring for two minutes?

The CHAIRMAN: I can assure the honourable member that, for the division he missed, the Chairman was late in setting the sand timer and I doubt that the honourable member would have had less time than he claims.

Mr ATKINSON: On the contrary—

The CHAIRMAN: On the last division the Chair again failed to put the timer on and we felt that the time was well in excess. I apologise if the honourable member was inconvenienced, but I have no way of confirming or denying what specific time he received.

Mr BRINDAL: Mr Chairman, I rise on a point of order. Standing orders allow the member for Spence to take points of order and not debate with the Chairman.

Clause passed.

Clause 85 passed.

Clause 86—'Retrospectivity.'

Mr CLARKE: My proposed amendment provides:

Page 33, line 27—Insert the following new clause:

86.(1) An award of the commission has, if it so provides, retrospective operation.

(2) However, an award cannot operate retrospectively from a day antecedent to the day on which he application was lodged with the commission unless—

(a) there is a nexus between the award and—

(i) another award of the commission; or

(ii) an award or agreement under the Commonwealth Act, and, in view of the nexus, it is desirable that there should be common dates of operation; or

(b) the award give effect, in whole or part and with or without modification, to principles, guidelines or conditions relating to remuneration enunciated or laid down in, or attached to, a relevant decision or declaration of the Commonwealth Commission; or

(c) the day from which the award is to operate is fixed with the consent of all parties to the proceedings.

I oppose the existing clause. This is an important issue on retrospectivity and the provision shows massive bias towards employers. My amendment already exists in the Act. It provides that one can have retrospectivity but one cannot go back further than the date when the application for the wage increase or an increase in the allowance (or whatever it may be) has been lodged in the commission, except in cases where there has been a nexus between the award of the same commission or, more often than not, an award of the Federal commission and the State commission.

It is an interesting exercise, because we have many employees covered under Federal metal industry awards and they have a mirror State award. One can have the absurd situation that the Federal metals area gets a wage increase that comes through sanctioned by the Federal commission, maybe

even by consent as has often been the case of late; the union then files an application in the State commission to flow that wage increase onto workers under their mirror award but it cannot file the application until the result is known in the Federal arena, and the same date of operation cannot be obtained, because the Bill provides:

> An award of the commission cannot operate retrospectively unless all parties appearing before the commission agree.

That is wonderful. Some of the principal employer bodies may agree, but under a common rule award any rump employer in the metal industries who does not want to pay retrospectively can go before the commission. Under the Act that person is a party, they can appear in the commission and they do, and I have seen the situation where an employer, a rebel not in conformity with the employer organisation, says, 'I oppose retrospectivity, Mr Commissioner.'

Under the Government's Bill retrospectivity is denied because some two bit employer in the metal industry perhaps says, 'I don't care what the MTIA says; I don't care what EEASA or the Chamber of Commerce and Industry says; I don't want to pay retrospectively.' That is it, that is the end of the day. It cannot operate retrospectively unless all parties appearing before the commission agree. I do not even believe that the commissioner would have the freedom to say, 'Okay, we will excise your company out of the award and say that retrospectivity does not apply to you but it will apply to everyone else.' That company is bound by the award and it says clearly in the Government's Bill that an award of the commission cannot operate retrospectively unless all parties appearing before the commission agree.

Only one person has to get up and say, 'No, I don't want it' and that is the end of it: the award in total falls down. I have dealt with employers, such as those in the Retail Traders Association, where one could never get agreement from anyone in the association to increase the meal money by a cent. It was always an arbitrated case, and it always turned into a national wage case. The employers and certainly the retail traders operated on that basis. Every day a dollar was saved in terms of any award being handed down, it was a dollar in the pocket for the employer.

It is an open invitation to every employer to say, 'No matter how bad my behaviour is, no matter how I deliberately delay and throw the anchor chains out to delay and frustrate the commission from hearing this claim, to its final determination, I know that I am not going to be punished for it. I know I am not going to be penalised for it and, more particularly, the workers are not rewarded by getting a day of retrospectivity, because that is prevented under this legislation.' The legislation is unfair. As the Minister should know, the commission has already established clearly set guidelines and principles for the awarding of retrospectivity. The commission awards retrospective days of operation only if one of the parties seeking retrospectivity can prove that through no fault of its own an employer has acted unreasonably in delaying having the case settled or through circumstances beyond the control of either party, for example, a commissioner dying on the job necessitating the appointment of someone else to hear the case, or restarting the whole case, or a commissioner falling ill or something of that nature, which unreasonably delays the conclusion of the case.

Then the commission will entertain an application for retrospectivity. As to the award of retrospectivity, all this does is reward retailers such as the Retail Traders Association and its member companies who have never been cooperative in granting a wage increase, an award or an allowance and who were deliberately stringing out cases as long as it was humanly possible in order to avoid paying a cent extra than they needed to. It is an open invitation for that to occur, whereas the current provision which I seek to have reinserted into the Bill through my amendment allows the commission to award retrospectivity in certain circumstances.

As I said earlier, the commission has established its own body of principles on this matter and I can assure the Committee that, whenever we sought retrospectivity, the only times we ever won it were rare and isolated examples and then the quantum of retrospectivity was usually pretty miserly as well.

The Hon. G.A. INGERSON: It is pretty rough of the honourable member to have a specific go at the Retail Traders Association. That is unfair when one of the present commissioners is a person who worked for the association, and the honourable member upholds the existing commissioners.

#51 I hope that any time that that gentleman might have had with that association was not included in the reference to how difficult it was to deal with. I am also advised that one of the major reasons why the union of which the member for Ross Smith was secretary lost membership in the retail arena was that members found that the other union was far more supportive. I believe the member for Spence might have been involved with the other union, which was doing such an excellent job in that retail trade arena—

Mr Atkinson interjecting:

The Hon. G.A. INGERSON: That's right. They went to the SDA because the secretary of the Clerks Union was not doing his job properly and because the member for Spence, who was involved as a junior secretary for the SDA, was doing a much better job than the member for Ross Smith. That is the truth of the matter. However, he stands up in this Committee and talks about the Retail Traders Association not doing a good job. He could not do a good job himself in the retail industry, and that is the reason why the Clerks Union lost membership.

The reason why retrospectivity is addressed in this way in the Bill is that the Government does not accept retrospectivity. Members of the Government purely and simply believe that, unless all the parties agree, retrospectivity should not apply. When negotiations take place on awards, one of the first things the commissioner will ask the parties concerned is, 'Do you accept retrospectivity in this case or not?' If the answer from one side is 'No', that is it; it is pretty simple and straight forward.

Mr CLARKE: I cite the example of an employer or employer organisation that deliberately strings out proceedings, makes themselves unavailable to attend commission hearings or conferences with the unions or other representatives, and is found by the commission to have deliberately delayed and frustrated attempts by the commission and by other parties to have matters resolved through the commission. If all of that was proved and ruled upon by the commissioner, does the Minister say that that employer should be rewarded by the fact that no order of retrospectivity could be made?

The Hon. G.A. INGERSON: The commission controls the situation.

Mr Clarke: How?

The Hon. G.A. INGERSON: Very simply. There is no retrospectivity in terms of this clause. The commission at all times controls its actions and those of everyone before it. The

commission can deal with any rampant employer or, dare I say, any rampant employee organisation.

The Committee divided on the clause:

AYES (28)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Bass, R. P.
Becker, H.	Brindal, M. K.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Gunn, G. M.	Hall, J. L.
Ingerson, G. A. (teller)	Kerin, R. G.
Leggett, S. R.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

NOES (9)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Rann, M. D.
Stevens, L.	

Majority of 19 for the Ayes.

Clause thus passed.

Clauses 87 to 92 passed.

Clause 93—'Annual review of awards.'

Mr CLARKE: My proposed amendment provides:

Page 34, line 24—Leave out 'Annual' from the heading.

Mr CLARKE: In order to expedite matters I am quite happy to debate the next amendment, which is consequential on the other amendment getting up.

The CHAIRMAN: I will accept debate on both amendments.

Mr CLARKE: My further proposed amendment provides:

Page 34, Line 26—Leave out the clause and substitute new clause as follows:

Review of awards

93. (1) The commission may, on application by the registrar, rescind an award on the ground that is obsolete.

(2) The registrar must, at least 21 days before an application is to be heard by the commission under this section, give notice of the time and place of the hearing and the names of the awards to which the application relates—

(a) in the *Gazette*; and

(b) in a newspaper circulating generally throughout the State.

(3) An interested person may appear and be heard by the commission on an application under this section.

(4) The commission must ensure that each award is examined at least once every five years for the purpose of determining whether an application should be made under this section.

One of the reasons the Opposition opposes the Bill is that it is a very onerous task for the commission to review every award every year. I have not done an exact count of the number of awards that exist in the commission, but I think there is probably something of the order of 300 covering a whole range of different industries.

You are asking the commission every 12 months to look at the awards and then, more particularly, and quite insidiously, in subclause (3) you are saying the commission may vary an award to ensure that it is consistent with the objects of this legislation; that it affects only to the minimum extent necessary the way work is carried out; that it leaves the practical application of its provisions to be worked out in the workplace; it is consistent with industrial, technological, commercial and economic developments; and it complies with other requirements prescribed by regulation. If on review it appears that the award is obsolete, the commission should rescind, and then the commission would have to give reasonable opportunity for parties to make submissions on it.

The Opposition's amendment provides for a review of awards as already exists under the Act. It provides that it is not done every year but has to be examined at least once every five years. It is a nonsense to include in the Bill that the commission, amongst settling all the unfair dismissals and settling the day-to-day disputes that occur in normal industrial relations, should hear and determine by arbitration a whole range of award matters that come before it for its attention, and also sanction enterprise agreements and ensure that certain things have been done in accordance with the enterprise agreement provisions of the legislation, as well as somehow having to review nearly 400 awards of the State commission and make sure that they are not obsolete and conform with the objects of the legislation and everything else which is done.

Unless the Minister will say here and now that he intends to appoint another half a dozen commissioners on the public purse to ensure that they can do all that work, plus every year go through all these awards and ensure that they are maintained and accord with the Government's objectives and so forth, it is a nonsense for the Government to put this Bill forward in this way. The former provisions of the legislation allowed for an orderly review of awards of the commission, in a five yearly cycle, which is a more realistic cycle dealing with the number of awards that appear before the commission. At any time, in any event, any party to any award can seek to have it rescinded if they believe it is obsolete, that it is no longer of practical effect—everyone else is covered by an enterprise agreement and therefore awards are not necessary. We have done that on a number of occasions.

We used to have a State Customs clerks award, but that was superseded by a Federal Customs agents award. All those things happen on a timely basis in any event by registered associations, whether they be employer or employee, and the review every five years as currently provided in the existing Act allows for a timely culling, if you like, of awards that become obsolete over time and may have been missed by the parties that are bound by those awards. For those reasons, I urge support of the Committee for my amendments.

The Hon. G.A. INGERSON: We believe that the provision for an annual review of awards is essential to ensure that the variations are consistent with the objects of the Act and that awards truly provide minimum standards. This will be a mechanism by which the awards and enterprise agreements will be credibly distinguished by the commission. The Opposition's amendment would simply provide for this review to relate only to those awards that are obsolete. We believe that this is far too narrow. It would not require the parties to address the many detailed inflexible and unnecessary provisions in awards that need to be subject to reconsideration and amendment by the parties to the commission.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: That's it. We have every confidence in the existing commissioners to carry out the objects. Otherwise, perhaps the existing commissioners should not be there.

Clause passed.

Clause 94—'Adoption of principles affecting determination of remuneration and working conditions.'

Mr CLARKE: I move:

Leave out subclause (2).

This subclause relates to the full commission's being able to make a full declaration adopting in whole or in part various decisions of the Commonwealth commission. It is an absurdity, when we are supposed to be working towards greater uniformity between Federal and State industrial relations laws, that we have a situation where, because of the narrow parochial employer biased legislation put forward by this Government in the form of this Bill, that the Government wants to put us out of sync with decisions of the national wage full bench of the Commonwealth commission.

It is quite consistent with the Government's legislation to date that, if a Commonwealth full bench handed down a national wage decision, it would occur after it had been well and truly canvassed in the national arena with implications for employment or unemployment, inflation, recession and whatever. All those points are already argued in the Federal jurisdiction. They are already canvassed in minute detail by all parties to the process—employer, trade unions and governments.

All State Governments intervene in those Federal commission hearings and have their two bob's worth as to whether or not they support a particular national wage standard being handed down by the Commonwealth full commission. Usually that automatically means whatever results out of the Commonwealth commission can be adopted by the State commission and they can, as the legislation currently provides, allow for modification of those Commonwealth principles to take into account State circumstances and, more particularly, the common rule application of our awards, rather than the named employer respondent type approach of awards in the Federal jurisdiction.

The objects of the State legislation, as detailed in the Government's Bill, are totally inconsistent with the objects of the Commonwealth Act. Therefore, notwithstanding a Commonwealth commission full bench saying that a five per cent or $5 a week or $10 a week wage increase for low paid workers is justified, because it conflicts with the objects which have been imposed by the State Government with respect to this legislation, there is inconsistency between those two objectives. Therefore, State workers could well be denied a flow-on of that national wage increase.

You could have an absurd situation as occurs in a number of enterprises in this State where you have employees working for the same employer, half of whom work under Federal awards and the other half work under State awards. You could have the absurd situation where, after the debate has already taken place about the nation's economy, inflation and the unemployment situation, the whole box and dice where every employer group and State Government has had its two bob's worth arguing that point before the Federal commission, one enterprise with, for argument's sake, 100 employees, 50 of whom are covered by Federal awards, receive their $5 or $10 a week safety net pay rise and their minimum rates award, but the other 50 employees covered under State awards do not receive the benefit of that increase.

All you will guarantee out of that situation is massive industrial disputation. It is a recipe, and the shallowness and stupidity of it absolutely astounds me. However, given the over 200 clauses of this Bill that I have read so far, nothing should surprise me. I am constantly appalled at the absolute stupidity that the Government puts forward with respect to these types of measures.

The Hon. G.A. INGERSON: Might I then refer to the absolute stupidity of the previous Government, because the previous Government agreed to the changes to the existing Act. There have been several occasions when the commission has not agreed with the Federal commission. I remember one case when the State commission gave a significant increase over and above the previous Federal condition. What an incredible situation! It is all right when it happens under a Labor Government but it is no good when it happens under a Liberal Government. What absolute absurdity!

One of the major messages that we want to put across to this Opposition, but more importantly to the community of South Australia, is that this Government will not roll over and take everything that the Commonwealth does as granted. We believe that this State has every right within the Commonwealth to decide how its industrial relations system ought to run. I think there have been five referendums that have guaranteed us that right and, if you want to have another one, you will have a sixth guarantee. The sooner we have one, the better, because I think you will find that every time you have a referendum on this issue the States will win.

I find it staggering that the honourable member opposite should say that we ought to sell out on any and every opportunity to the Commonwealth. Surely situations will occur when the State system ought to be able to set its own rules. We do not see that there is any difficulty with the State commissioners agreeing with the Federal decision, if that be the case, but I tell you what, I see every right for the State to also say it disagrees with the Commonwealth if it does not suit the State's objects and the conditions that apply in our State as far as employment is concerned.

Amendment negatived; clause passed.

Clauses 95 and 96 passed.

New clause 96A—'Inspection of records, etc., by officials of registered associations.'

Mr CLARKE: I move:

Page 38, after line 26—Insert new clause as follows:

The commission may, by award, authorise an official of a registered association of employees, on terms and conditions the commission thinks fit (and after giving the employer the notice prescribed by the award), to enter the premises of an employer subject to the award or other premises where the employer's employees may be working and—

(a) inspect time books and records of remuneration of the employer at the premises; and

(b) inspect the work carried out by the employees and note the conditions under which the work is carried out; and

(c) interview employees (being employees who are members, or are eligible to become members, of the association) about the membership and business of the association.

The Government's Bill does not provide for officials of registered associations to inspect terms and conditions applicable to employees who are not members of that registered association. It has been a longstanding legislative right for registered associations to visit an employer's premises, to inspect time and wages records, to make copies of those time and wages records, to inspect the work carried out by those employees, and to interview employees, whether they are members or not, as long as they are eligible for membership of that registered association, about the membership and the business of that registered association.

The Government's proposals with respect to access by officials of registered associations to undertake time and wages records, which I think is covered further in the Bill,

limits the rights simply to where there are members of the association and inspections of only the records of that particular member. That is very draconian legislation, because unions perform an inspectorial role similar to that of Department of Labour inspectors in terms of ensuring that award minimum obligations are met.

The Hon. G.A. Ingerson: Which Act is that?

Mr CLARKE: That is already in the existing Act. The Industrial Relations Act in South Australia already provides for that and as it should provide, because unions are able to assist the Department of Labour inspectors to ensure that award obligations are met. Indeed, it has been necessary—and I have had to do this—to visit work sites to inspect the work of those employees to ascertain whether or not they are performing work which falls within the category of the awards for which we have responsibility.

There were examples where employers genuinely did not know whether people were clerks or whether they should be covered by the vehicle repair services retail award or some other award and, further, where they deliberately were seeking to avoid paying their clerical employees under the clerks award and instead paying them under a lower paid classification under the vehicle repair services award. There was often a requirement for union officials to attend on site, to talk to the employees, to inspect the work, to see the type of work that they did and to work out whether or not they were actually carrying out work which fell within the ambit of a particular award.

You cannot do it by a process of osmosis: you actually have to attend on site, look at the work, ask the questions and then go to the employer and ask, 'Can I look at your time and wages records, please, to make sure you are paying them in accordance with the award rate of pay and also to calculate any back pay that may be owed?' They are basic rights: that is basic information that registered associations should have to benefit not only members of unions but also non-members, because it keeps everybody honest and ensures that minimum standards are maintained.

We have also had situations where workers would have to identify themselves. We are talking about a common rule area where in many instances—in my own union's case, in the clerical industry—you would have one or two confidential members working in an area where there might be 20 or 30 non-members. They did not want the employer to know that they were members of the union. They wanted to keep that to themselves as a bit of insurance cover to ensure that, if they ever got into strife, they could go to the union. What the Minister is saying is that the union would have to identify those members simply to ensure that the wage rates were correct.

I have another example of a company which caused my union many problems. A well known taxi company in this city has opened up recently and complaints have been made over the past 12 months by other employers in the industry to the commissioner that it was paying below award wages. We had no members there. We attended to inspect the time and wages records of that employer to see whether the company was conforming with the award. We found that that employer was not conforming with the award because the company was not paying the penalty rates applicable for work on public holidays, including Christmas Day.

Miraculously, when we checked the time and wages records, they seemed to be filled out in one sort of handwriting. A reasonable person looking at them would assume that they were completed not by the employee concerned but by some other person, because they were all in the same handwriting and provided for rates of pay that, particularly with respect to shift work and public holidays, were below the award. We were able to do that because we had access under the provisions—

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: As the Minister says, 'We guarantee that you are not going to have that right.' Of course, because he wants to protect the shysters in the system who want to pay below award wages.

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: Oh, yes, you do.

The Hon. G.A. Ingerson interjecting:

Mr CLARKE: They are a fat lot of good.

The Hon. G.A. Ingerson: We will have more inspectors.

Mr CLARKE: With respect, the chances are that there will never be enough Department of Labour inspectors to inspect all the work sites that exist. Often the unions have a better knowledge and understanding of their own awards, because they deal with them day to day, whereas inspectors have to carry a very broad portfolio of industries and awards that they have to look after.

The Minister is saying that this particular taxi company could not have been brought to book by our organisation because we did not have any members there and we would not have had the right to inspect the time and wages records. It is a particularly anti-union establishment. Had any of its employees been members of our union and had we identified that person, he would have been given the sack or injured in his employment in some other way or form. That situation should not be allowed to happen. Unions, such as mine, should have the right that they have enjoyed for many years to do that.

The Hon. G.A. Ingerson: Why do you really want it?

Mr CLARKE: To enforce the award. On a number of occasions my organisation has had to go to court for under payment of wages claims and it has had to go on site to check the time and wages records. Do you know what miraculously happens, Mr Chairman? As soon as we go on site and pick up an employer for under payment of wages claims and we benefit one of our members, all of a sudden the other 20 non-unionists say to us, 'Do you think I've got a claim for under payment of wages? Can I join quickly please if you will undertake an under payment of wages claim for me?' They are only too swift to join in such circumstances.

I realise that the Liberal Party will not vote in support of this new clause because it is in the pockets of the bosses and it is in its interests to allow the shysters to prevail in industry. Otherwise, there is no point in taking away the rights that registered associations have enjoyed for decades. I am unaware of any occasion on which my own organisation or other registered associations under the State commission have been taken to the commission and had their right of entry taken away because they have abused it.

Also, the awards have tailored rights of entry to suit the industry. As the Minister's adviser would know, when we negotiated the right of entry provisions with respect to the clerks award in the retail industry, detailed negotiations took place and there was consent. Of course, what I keep reading in the Bill is how every progressive step that was ever taken by a union in the retail industry over the years is to be rolled back. For any case it has ever lost in the commission—whether for unfair dismissal, a wage claim, an agreement claim, or a claim for retrospectivity—you can see the hand of the old Retail Traders Association in every clause of the

Bill to right all the perceived wrongs that it feels it was subjected to over the years before the commission.

The member for Florey, who was secretary of a registered association, ought to be very conscious of this. His own Government is seeking to take away from his successors the rights of entry with respect to looking after the interests of persons who paid and kept him in the readies and helped him to maintain his standard of living. Now he is going to vote with the rest of them to take those rights away from his successors.

The Hon. G.A. INGERSON: That was really heart tearing stuff, wasn't it? It really got to the heart, didn't it? I wonder why the clerks union amalgamated. Was it because of falling membership? It couldn't possibly have been that, could it!

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Falling membership had a lot to do with it, too. Let us see what this clause is all about. The member for Ross Smith took all the high moral ground on the right to inspect time books and records of remuneration, but we have inspectors in the Department of Labour who can adequately do that.

Mr Clarke: You cannot guarantee that.

The Hon. G.A. INGERSON: They are already doing it now. If there are not enough inspectors, we will make sure, under my instruction, that there are enough to do the job. That will then make it very easy for the union movement, because it can get involved in collecting membership and servicing members. The new clause, paragraph (c), makes very interesting reading, as follows:

> interview employees (being employees who are members, or are eligible to become members, of the association) about the membership and business of the association.

It is about the ability of the union movement to recruit: it is nothing to do with the high moral ground of wanting to inspect time books. This is King Canute stuff; it is nothing to do with that. It is the honourable member's mates that he is trying to look after. Why not come clean and say, 'The reason we want this is to get into non-union shops and increase our membership'? Just come clean and say that instead of saying, 'We are the saviours of the workers.' What a lot of rubbish! It is all about trying to increase the membership. Just come clean. The reality is that you cannot get membership, so you now want to put it into law. That is the only way that you will continue to maintain membership.

What about those companies that do not want you to recruit membership and do not have any union members? Why should the union movement have a right to go in and inspect books on the ground that it wants to increase union membership? There should be no right to do that. You ought to get out there like other organisations and recruit membership in a fair and reasonable way. Give people services and reasons to belong to a union. Do not use this facade of wanting to go in on specious grounds when you have no members. It is nonsense to say that you cannot go in there when you get members because, under clause 133, we give you that right if you have members there. If you do not have any members, you do not have any rights. Employers and employees should be protected against this sort of facade. Come clean, be honest and frank, and say, 'We want to go in and recruit union members and, as an aside, we might have a look at the books.' That is what this new clause is all about. The Government is totally opposed to the sham that has been put forward.

I cannot believe that, clause after clause, the Opposition is still trying to take this State back into the 1970s. In clause after clause the trade union movement is getting special dispensation before the law. Why should the union movement get it when we have an inspectorate that is capable of doing this job? That is why we have inspectors in the Department of Labour.

The Committee divided on the new clause:

AYES (9)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Foley, K. O.	Hurley, A. K.
Quirke, J. A.	Rann, M. D.
Stevens, L.	

NOES (26)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, S. J.
Bass, R. P.	Becker, H.
Caudell, C. J.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Gunn, G. M.	Hall, J. L.
Ingerson, G. A. (teller)	Kerin, R. G.
Leggett, S. R.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Scalzi, G.
Such, R. B.	Venning, I. H.
Wade, D. E.	Wotton, D. C.

Majority of 17 for the Noes.

New clause thus negatived.

Progress reported; Committee to sit again.

PASSENGER TRANSPORT BILL

Received from the Legislative Council and read a first time.

JURIES (JURORS IN REMOTE AREAS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

ADJOURNMENT

At 11.58 p.m. the House adjourned until Wednesday 20 April at 2 p.m.