HOUSE OF ASSEMBLY

Wednesday 19 October 1994

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

HOUSING TRUST RENTS

A petition signed by 256 residents of South Australia requesting that the House urge the Government to reject any move to increase Housing Trust rentals to market levels, oppose any increase in rentals for pensioners and welfare recipients beyond CPI and maintain the role of the South Australian Housing Trust as a provider of quality public housing was presented by Ms Hurley.

Petition received.

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 4, 40, 47 and 48.

TAPESTRIES

The Hon. DEAN BROWN (Premier): Mr Speaker, I draw to your attention and that of the House the fact that there are two very significant tapestries now hanging in this House. Earlier today, outside the formal sitting of the Parliament, these tapestries were formally hung. I draw attention to the fact that they represent a significant step that took place in South Australia 100 years ago. South Australia was the first democracy in the world to give women both a vote for Parliament and the right to stand in Parliament itself. Therefore, as part of that, we have what are two very fitting tapestries. They represent the significant struggle that took place running up to 1894 for that to occur. They also represent the significant steps that have taken place where South Australia, on a whole range of issues, has been at the forefront of giving women a greater role, a greater say and greater participation in our community.

They also act as a timely reminder that there is still a long way to go. There is clearly an imbalance in this Parliament in terms of women's representation and that is something that must be addressed by our democracy. Equally, in a range of other areas, we have significant headway to make, particularly in areas of board directorships within companies. So I draw attention to the fact that we have out of the Centenary celebrations something which will be a reminder for many generations to come of the significant step taken in South Australia. I thank those in particular who participated in this: the Steering Committee of the Suffrage Committee; the Tapestry Subcommittee, chaired by Jennifer Cashmore; the designer, Kay Lawrence; the weaver and coordinator, Elaine Gardner; the assistant weaver, Lucia Pilcher; and the historical adviser Helen Jones; together with the 17 community weavers, who participated over so many months to produce these two magnificent tapestries. I commend them to the House.

TRADING HOURS

The Hon. G.A. INGERSON (Minister for Industrial Affairs): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.A. INGERSON: This morning the Full Court of the Supreme Court decided that the South Australian Liberal Government and the Minister for Industrial Affairs have acted within their legal power in making the recent changes to shopping hours in this State.

Mr Ashenden interjecting:

The SPEAKER: Order!

Mr Clarke: Two to one.

The Hon. G.A. INGERSON: I might point out that Mabo was four to three, so for most legal decisions in favour that is all that matters. On 9 August this year I announced to Parliament a range of reform measures which the State Government had decided in relation to retail shopping hours in South Australia.

As part of that announcement I indicated that the moderate extensions of shopping hours allowing limited Sunday trading in the Adelaide city centre and one extra day of late night shopping in the Adelaide metropolitan area from the first week of November would be implemented by applications for certificates of exemption under section 5 of the Shop Trading Hours Act 1977. On 2 September 1994, a trade union in the retail industry, the Shop Distributive and Allied Employees Association, issued proceedings in the South Australian Supreme Court against the State Government to invalidate the proposed section 5 certificates of exemption.

The case was argued before the Full Court of the Supreme Court on 4 October, with both the union and the Government being represented by senior legal counsel. Evidence before the court indicated that the previous Labor Government had used this certificate of exemption power on at least 883 occasions, with approximately 568 of those being permanent exemptions of shopping hours. This morning the Supreme Court decided that the certificates of exemption which have been issued by the Minister and those which are proposed to be issued are legally valid. The court has dismissed in its totality the shop assistant union's legal action against the State Government. In the court's leading judgment, delivered by Justice Olsson, the court said:

> The processes of orderly public administration inherently require a Minister, in considering exemption applications, to adopt and apply some clear, specific (and, hopefully, consistent) policy as to the basis upon which exemptions will be granted.

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition is out of order.

The Hon. G.A. INGERSON: It further states:

> In the instant case it seems to me that the Minister, in making such public pronouncements as have been attributed to him, has done no more than indicate what that policy will be. He need not, of course, have done so. There is no attempt to do other than indicate that shopkeepers must make individual application for exemption and that, in a limited geographic area, exemption will be granted on a clearly articulated and understood policy basis. That policy is said by the Minister to be aimed at what he described as rejuvenating the city's heart and giving the city centre the same weekend vibrancy and retailing attraction as certain other capital city centres.

In addition, the court has also ordered that the union pay the State Government's legal costs for the action. The court's decision means that the changes to shopping hours which I announced on 9 August will proceed as planned in the first week of November. Consumers, retailers and the retail

industry employees can now all prepare to exercise their choice as to whether they wish to trade, work or shop during these extended hours.

The futile, hypocritical and failed campaign of the shop assistants' union, supported by some members of the Labor Party Opposition, has now backfired badly on the union. Unfortunately, it is the members of the union who will again pay the price of their officials' decision to take legal action. The State Government has estimated that approximately $15 000 to $20 000 in legal fees, including the Government's legal fees, will have to be paid out of the pay packets of shop assistants who are members of their union.

I confirm that in accordance with the Supreme Court's decision, any non-exempt retailer who wishes to trade during the limited extended hours in the Adelaide city centre on Sundays or an extra late night in the Adelaide suburbs must first make an application for a certificate of exemption.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Housing, Urban Development and Local Government Relations (Hon. J.K.G. Oswald)—

South Australian Housing Trust Report, 1993-94.

TATIARA MEATWORKS

The Hon. D.S. BAKER (Minister for Mines and Energy): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.S. BAKER: I rise to brief the House on the Government's involvement in the decision by the Tatiara meat company's lending institutions to close its abattoirs at Bordertown. The Government's first contact with the company was last Friday morning when I was visited by several directors, its accountants and its legal advisers, who advised the Government of its critical financial situation. I was informed that one of the three banks financing the company had begun to return cheques, and that the future of the meatworks was at stake, as were the jobs of its 420 employees. As we now know, the meatworks subsequently closed that afternoon; receivers have now been appointed; and the town of Bordertown and, in fact, the entire South-East region is in a state of shock. The Government immediately appointed two specialist consultants, Mr Paul Houlihan of First IR, Sydney, and Mr Ken Waldron of Australasian Agribusiness, to advise on the extent of the problems facing the company. While it is, of course, very early days, preliminary details from both the financial adviser and the industrial consultant indicate the scope of the problem.

Tatiara Meatworks was crippled by overheads which eventually proved to be too great a burden. Its industrial relations arrangements were a further shackle and, in the end, rendered the company uncompetitive. Unfortunately, this company had agreed with archaic industrial relations practices which should have long ago disappeared from this country. So it was not surprising that the company eventually stumbled under the weight. The company had been allowing its employees to take a regular rostered day off, which I am advised could have cost about $60 000 per month in foregone production. The tally—supposedly a piecework system for employees in the slaughtering and boning area—had been extended to cover all employees regardless of the company's requirements. So, typically, someone as remote from the slaughtering process as a forklift driver was paid on the basis of a slaughterman's tally.

As well, staff were paid two hours overtime per day at time-and-a-half whether or not overtime was needed. This meant that, for every employee, two hours overtime per day was factored into their weekly wage, and this was then the basis for all other wage calculations: rostered days off, holiday pay and sick leave. Abattoirs staff on the slaughter floor had negotiated an 'objectionable stock penalty' on animals which had burrs on their wool, had extra long wool and were muddy or daggy. Lambs which had not been marked also attracted a further penalty. There are, unfortunately, many more of these industrial hobbles to which this company had agreed. As a result, the financial adviser's early advice is not surprising. He has advised that the company was been trading with wage costs well above the award and had, in fact, been operating with losses for the past four months. There are a number of reasons for this, including the impact of contract prices for livestock against declining selling prices brought on by the effect of the dry season.

The time for recriminations in this unfortunate situation is now well past. The principal Australian lending institution, the Commonwealth Bank, has indicated that it will listen to any proposition which makes good sound commercial sense. I hope to meet with the bank and the company's receivers in Melbourne early next week to look at ways in which the lending institutions can be given the confidence to enable Tatiara Meatworks to carry on and the works to reopen. While it is of course premature to raise the expectations of any parties, there is some hope that a rescue package may be possible.

This package would, however, need to contain the following components: additional equity to reduce debt and improve working capital; improved management and direction; better management of all cost items; and improved livestock trading. The Government is well aware of the devastating effect the closure of the Tatiara Meatworks has had on the town and its families. We are doing all that we can to restore the confidence of the lenders so that the company can make a fresh start with a new work culture and have faith in the future.

LEGISLATIVE REVIEW COMMITTEE

Mr CUMMINS (Norwood): I bring up the ninth report of the committee and move:

That the report be received.

Motion carried.

QUESTION TIME

EDS

Mr FOLEY (Hart): My question is directed to the Premier. Who will run the State's computerised water billing system, and can the Premier explain why the Minister for Infrastructure told the Estimates Committee that this is and will remain an EWS process when it has been reported that EDS will take over that function?

The Hon. DEAN BROWN: What the honourable member obviously does not understand is that the Government remains the owner of all information that is fed into the system. So, the Government is the operator, if you like, in terms of collecting that information. The storage, processing

and long-term handling of that information and the setting up of that data system is done by EDS. Right across 140 Government agencies, EDS will be the principal contractor for the overall design, handling, setting up and supply of the computing system to handle the EWS and all other Government agencies. What the honourable member said and what the Minister clearly indicated is that the EWS will be collecting the data, along with ETSA and every other Government agency. They will collect the data and then there will be a point at which it is formally put into the system, a system which is owned and operated by EDS, but the Government will still own the data put into that system. It is quite clear.

Again, I urge the honourable member to read the very detailed answer I gave to the Estimates Committee. I spent about 1½ to two hours during the Estimates Committee systematically going through the way the system will operate. Since the announcement concerning the outsourcing and particularly the selection of EDS, it has received acclaim throughout Australia as being a leader. It has also received acclaim throughout the world, because there has been more publicity on this contract in newspapers in the United States of America than there has been in the whole of Australia. In fact, *Business Week*, a United States magazine, ran an entire page on what happened in Adelaide. It is recognised that it is one of the larger outsourcing data-processing contracts in the world. It is the first time that it has embraced the whole of Government. It is a unique step.

I will go further than that. What has really attracted attention to this contract is the unique way—and it is unique—in which we said 50 per cent of the points awarded in terms of selecting the successful tenderer would be based on the new economic activity to be brought to South Australia. We will benefit from the $500 million of additional economic activity brought to South Australia through the way this contract has been negotiated. It is so significant, because within the immediate structure of EDS and the associated companies it will create 1 300 jobs. The spin-off benefits are starting to become huge. For example, yesterday the international Vice President of Silicon Graphics flew in to spend some time with me to discuss what that company intends to do in South Australia. Members need to appreciate that Silicon Graphics is the world leader in terms of hardware and creating software. In fact it creates films such as *Jurassic Park* and the *Flintstones* out of appropriate software that sits on the hardware.

More importantly, Silicon Graphics is the leading company in the world in terms of interactive television and the manufacture of black boxes. The company that is leader in its field—the fastest growing hardware company in the world in percentage terms—will establish its operations, including its Australian headquarters, in Adelaide, and we will benefit from some of the exciting opportunities that have developed out of this. On top of that, I have received letters from companies such as Digital, GEC, Amdahl, the large mainframe computing company, and others.

In fact, I have the Chief Executive Officer of, I think, the second biggest software company in the world flying in very shortly to meet with me. That is the sort of attention this deal has attracted. I highlight the very significant event that occurred just two weeks ago when the Chairman of EDS (Mr Les Alberthal) together with two other board directors of EDS, Geoff Heller and Paul Chipparone, flew in to spend a day here in Adelaide to talk about some of the very exciting initiatives that will develop. In particular, we discussed over breakfast—and EDS has now agreed in principle—that Adelaide will become the training ground for EDS staff for the whole of the Asian area. To give members some idea of the scope of that, here is a company that in 1968, when Mr Les Alberthal joined it as a young graduate, employed 160 people but today employs 73 000 people around the world.

That company estimates that one-third of its world market will be in the Asian area—an area that is virtually untapped so far. If the other two parts of the world (the European-African axis and the North and South American axis) represent the other two-thirds of this company's work, and already it employs something like 73 000 people, imagine the potential in terms of how many people it could employ right through that Asian area. Here will be the Asian headquarters not only for the whole EDS operation but also its affiliates such as Silicon Graphics. This will become the training centre whereby the company wants to recruit young graduates, to put those graduates through company training and to use them through the Asian area.

One of the biggest challenges we have immediately is the fact that we need to devise with the three universities here a complete upgrade of the computer training courses, both hardware and software, that we have here in South Australia. We already have some excellent courses at the University of South Australia and the intention is to upgrade them in terms of both the technical input and the numbers that have been processed. My concern is that we will be embarrassed by the shortage of trained young South Australians to fill the positions in this area, because it is estimated that by the year 2000 more than 4 000 people will be employed in the vicinity of Technology Park in the information technology concept that we have developed.

As I said at the launch when I made the announcement, it will be as if we have attracted to South Australia a new car manufacturer with all the spin-off benefits that would occur for the components industry. It is a huge development for this State in the long term and over the next 10 to 20 years will radically alter the whole direction of the South Australian economy. It opens up significant opportunities for spin-offs into associated industries, in particular, the benefit of Silicon Graphics here for the car industry. One of the largest consumers of Silicon Graphics hardware is car manufacturers, and those car manufacturers now design their components on Silicon Graphics machines and can actually see the equipment there; they can spin it around the components and look at different styles and designs; and that automatically links into design centres around the world.

So, there will be benefits in the car industry, the car component industry and other manufacturing and in the wine industry as we spin the benefits of EDS and this computer industry into other existing industries.

CENTENARY OF FEDERATION

Ms GREIG (Reynell): My question is directed to the Premier. What advice has the South Australian Government received from the Federal Government about Canberra's contribution to the celebration of the centenary of Federation?

The Hon. DEAN BROWN: Can I say from the outset how disappointed I am with the Federal Labor Government regarding the direction that it is now taking for the centenary of our Federation. The year 2001 is the 100 year celebration of Australia as a nation, and what does the Federal Government do? After almost 12 months of having the Kirner committee (chaired by the former Premier of Victoria) go

throughout Australia and collect ideas from over 800 people—and some of those ideas have been superb in terms of national projects of long-lasting benefit for Australia—it decided to scrub the recommendations and, instead, allocated a mere $35 million to the celebration, and largely for a talk-fest around the issue of Australia's becoming a republic.

That is the most disappointing decision the Government could have taken—to think that in terms of the centenary of Australia's celebrating our coming together as one nation all the Federal Government can do is put $35 million into a talk-fest instead of into long-term projects of national significance. Of real disappointment is the fact that the proposal put forward by the Government of South Australia, which I personally presented to Joan Kirner and the rest of the committee, was for the very significant national project of cleaning up the Murray-Darling river system, a project that would bring together the States of New South Wales, Queensland, Victoria and South Australia and the Federal Government so that we do not have blue-green algal blooms.

Equally of national significance was the construction of the Alice Springs to Darwin rail link. Sure, they are big ticket items in terms of dollars, but they are even bigger issues in terms of the development of Australia. We should have been able to have some pride in the fact that, as a nation, we had projects which had a long-term vision and which would build the Australian economy, create jobs and refocus us into Asia. It is disappointing that Mr Keating and the Federal Ministers have taken such a short-term, temporary political stance in putting $35 million into that.

Members interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition.

TORRENS TITLE LAND SYSTEM

Mr FOLEY (Hart): My question is directed to the Premier.

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: Can the Premier explain why the State Manager for EDS has announced that his company will operate the State's torrens title system when the Estimates Committee was told, 'There has been no decision in that regard'?

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I will make this shorter than the previous answer.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: I point out that EDS will do all the mainframe processing, networking and local processing for 140 Government agencies, and our torrens title land titling structure is on that system. I have had discussions with EDS and other companies about how we further develop and start to digitise the torrens land title system. Our torrens title system is by far the best in the world—and that is recognised. It is the cheapest, the most secure and the quickest to process. But, the important step now is—

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: —how we build it on a digital system based on satellites and how we put the whole system on an electronic database. I come back to the fact that EDS, as the preferred and selected tenderer, will be the company that will operate the computers and will manage and own the system, but the information as such remains the property of the State Government.

Mr Foley interjecting:

The SPEAKER: Order!

COMMERCIAL PRINCIPLES

Mr CAUDELL (Mitchell): Can the Treasurer explain what progress the Government is making in the development and application of commercial principles for Government business? The Commission of Audit made various recommendations to the Government to improve the performance of Government businesses, including the establishment of a commercial financial network.

The Hon. S.J. BAKER: Obviously it is a key part of the Government's strategy to ensure that we get maximum efficiency and maximum return from our agencies. In terms of those commercial operations of Government, it is absolutely imperative that they are run on strictly commercial grounds but with recognition of community service obligations. Action is under way in this area, and the key thrust of the program will be to provide a commercial financial framework for Government businesses to enable them to adopt a commercial approach whilst at the same time ensuring delivery of the Government's non-commercial policy objectives. It is important to understand that.

It has a number of component parts, and I will not spend too much time on this matter in Question Time, due to the enthusiasm of the Premier in answering the previous two questions—an enthusiasm shared by members on this side if not by members opposite. However, given the time we have available for Question Time, I will simply indicate the component parts of the program. There will be annual performance agreements relating to the commercial activities of every operating department and authority. There will be performance monitoring by Treasury and Finance.

There will be a separation of the commercial and non-commercial objectives, such that the returns realised will be adjusted if the community service obligation is to be a component part thereof, or the Audit Commission recommendation will be taken up in terms of recognising the community service obligation separately. Each of these matters will be dealt with on a case by case basis. Each of the commercial operations will be given target rates of return. There will be phasing in, because few agencies conform to what we believe is desirable practice at the moment, and they will be brought up to speed over time.

A number of vital issues are associated with this program: capital structures, return on capital, the way capital is managed and the whole of life assessment of capital, rather than simply ordering another asset. Other issues such as the tax equivalent policy (the TERS scheme) are being put in place to conform with Federal Government guidelines. In terms of implementation, Treasury and Finance is currently developing detailed policy papers, which will be negotiated and finalised with each of the Ministers concerned. There will be a review of the Public Corporations Act, because deficiencies in that legislation have to be fixed in order to provide the proper commercial framework for commercial operations of Government business. It is a new era in South Australia. We are getting fair dinkum about the way we run our businesses and we will be the best at what we do.

AMDAHL AUSTRALIA

Mr FOLEY (Hart): My question is directed to the Premier.

Members interjecting:

The SPEAKER: Order! The member for Hart.

Members interjecting:

The SPEAKER: Order! The Minister for Tourism is out of order. The member for Hart.

Mr FOLEY: Settled down have we?

The SPEAKER: The Deputy Premier and Minister for Tourism are not to make signs across the House. The member for Hart.

Mr FOLEY: Thank you for your protection, Sir. Will the Premier say why Amdahl Australia was contracted by the Housing Trust to run its accounts section instead of outsourcing this work to EDS, and why was this decision made prior to the completion of the due diligence process?

The Hon. DEAN BROWN: Mr Speaker—

Members interjecting:

The SPEAKER: Order! The Premier has the call.

The Hon. DEAN BROWN: What is upsetting the Deputy Premier is that the member for Hart has apparently one big brick between the ears.

The SPEAKER: Order! The Premier will resume his seat. There has been considerable comment throughout the community about the conduct of members and I suggest to the Premier that those comments are not—

Members interjecting:

The SPEAKER: Order! I will name a couple of members on my right if they continue to defy the Chair. The comment made is unnecessary, and I suggest that the Premier refrain from making such comments.

The Hon. DEAN BROWN: I am sorry, Mr Speaker. I did not wish to reflect on the honourable member.

Mr Foley interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: The honourable member needs to appreciate that, under the former Government, after 3½ years of getting absolutely nowhere in terms of data processing, bringing the private sector into the Government sector and fiddling around with information utility Nos 1 and 2 and Southern Systems, well over $3.5 million was wasted and we did not attract one single company to South Australia. In fact, South Australia lost its status as potentially being one of the significant software industry States in Australia. We had already built up that status around the defence industry in companies like CSA and British Aerospace, and at one stage we were one of the States with a high proportion of software industries, but we lost all of that in a crucial three or four year period under the former Government.

An honourable member interjecting:

The Hon. DEAN BROWN: I apologise to the honourable member for using that description. I was simply expressing a frustration at the fact that we seem to have gone through this time after time and still the honourable member will not listen to what he is told. I point out to the honourable member that within the first week of being in Government we started the process of establishing the information technology task force with Professor Craig Mudge as Chairman. I sat down with a range of industry people before Christmas, within a fortnight of the election, and we set out a path. During the period of due diligence involving the various companies, the Government has let a number of contracts including one to McDonnell Douglas Information Systems, Amdahl and a number of companies for software for financial packages, including a Treasury package.

A number of these contracts have been let. Each time, they have been referred back to the industry task force and to the Office of Information Technology. We have signed off; in other words, we have made sure that they were in line with our overall strategy. The member for Hart needs to appreciate, and this is where I ask him to listen carefully, that we are dealing with nine different segments of Government. Three of those have been put out to EDS as part of this proposal: the mainframe, networking and the local processing.

There are other areas including software packages, one being for word processing and another for account systems and moneys receivable. The Government is trying to replace the 29 different systems currently operating within Government in some of these areas with one system for account receivables. This will ensure that there is a common package throughout the whole of Government in terms of word processing so that one computer of Government can talk to another computer and turn out the same end product. But that is not the case and has not been the case here.

We have let contracts to Amdahl, EDS, Information Systems and others, and all of them have been compatible with the whole direction we are taking. The Government is continuing to let software contracts to other companies as well. Some hardware has been purchased, particularly for the Health Commission and the hospitals, and that hardware has to be compatible with existing software and hardware packages. Although these other contracts have been let, this is the point I have made throughout: in going down this path we are not locking out other companies.

In fact, it has been the hardware companies of the world that have now greeted the direction in which South Australia has gone and said that they want to continue to participate in this State. This includes IBM, which was the unsuccessful bidder in terms of the main outsourcing contract. I believe that this Government is creating a pioneering step in terms of how Government should effectively deal with its data processing. It is interesting to see that it is now receiving international attention and recognition.

WATER QUALITY

Mr EVANS (Davenport): My question is directed to the Minister for Infrastructure. Following recent media coverage of alleged concerns about quality of the Adelaide Hills water supply, will the Minister provide details of the short and long term water filtration program? When was this announced, and was there a sudden turnaround in EWS policy yesterday? As a politician living in the Adelaide Hills I am very conscious of the community's attitude to water quality. Naturally, I have followed this issue with interest, as has the member for Heysen. The Hills community understood that water filtration programs had already been announced prior to the media attention this week, and I seek clarification on the matter.

The Hon. J.W. OLSEN: I appreciate the question from the honourable member, because having been away for four days discussing infrastructure matters I was somewhat surprised at the prominence given in the past three days to this issue by the *Advertiser*. I was surprised in a number of respects to which I will refer in a moment. When this Government came to power it inherited from the former administration a forward capital works program for the filtering of Adelaide Hills water at about the year 2002 or 2004.

The Hon. Dean Brown interjecting:

The Hon. J.W. OLSEN: Exactly. There was no water supply to meet economic development in South Australia and there were no strategic plans put in place to meet the build-up for South Australia wine exports. The EWS Department was advised that that program was unsatisfactory and that, from the viewpoint of the Adelaide Hills, Barossa Valley and Murray River towns, the program had to be accelerated. In the life of this Government we wanted to put in place filtration of water supplies for those people.

Currently, about 10 per cent of South Australia's population receives unfiltered water. The Government made a commitment to provide filtered water to all townships with a population greater than 1000 by the end of 1997. That will mean that 90 per cent of places currently not receiving filtered water will have filtered supplies. That was a Government decision. In April this year I wrote to the Hills Action Committee and advised it of the course that the Government was pursuing.

In the budget process we put out a number of press statements on this matter which were subsequently reported, and I will quote some of them. The *Loxton News* on 10 August stated:

> Filtered water report due. At last filtered water for Murray River towns.

In the *Advertiser* of 20 August, under the banner headline 'South Australian water works may go private', the second paragraph of that article refers to the fact that water filtration plants in the Adelaide Hills and Murray River areas, including Swan Reach, and the waste water treatment plant at Aldinga are to be the first affected. In addition, the *Mount Barker Courier* on 24 August contained a report headed '$1 million allocated for the investigation of Hills water filtration'.

An article in the *Angaston Leader* on 31 August is headed 'Water quality gets $2.3 million boost'. On 31 August a report in the *Barossa and Light Herald* was headed 'Clean water by 1997'; in the *Angaston Leader* on 7 September, 'Unfiltered water affects tourism. To be changed by this administration'; in the *Balaklava Producer* on 7 September, 'Funding for filtration plant'; in the *Loxton News* of 14 September, 'Filtered water plans revealed.' There were editorials in the *Loxton News* on 14 September and in the *Murray Pioneer* of 30 September. Indeed, many sections of the South Australian community well understood the Government's new policy.

In addition, the Adelaide Hills Action Group wrote to me on 27 September seeking input to the plans for filtration of the Adelaide Hills water supply. In April I had already told the action group the location of the plants in Hahndorf and Nairne: they already had been identified by the EWS Department. I indicated to the Hills Action Group that we would be pleased to have a representative of its association working with the EWS through this period, and that was communicated to it on 27 September this year. The group went on to say:

> We wish to thank the Government for the $1 million allocation of funding for this filtration plant in 1994-95.

Clearly—

The Hon. Frank Blevins: What's the point of all this?

The Hon. J.W. OLSEN: The point is that there has been no turnaround in Government policy in the past 24 hours. The simple fact is that many newspapers throughout South Australia understood that 1997 was a plan to which we were working. We brought forward the former Government's plan by a minimum of five years to filter Adelaide Hills and Barossa Valley water and to deal with its impact on tourism. Clearly, my point is—

The Hon. Frank Blevins interjecting:

The SPEAKER: Order! The member for Giles.

The Hon. J.W. OLSEN: —that I welcome today's headline in the *Advertiser*; it is accurate and I welcome the editorial. I was only disappointed that it was not published three weeks ago when the Government put out its press statement associated with the budget process.

EDS

Mr FOLEY (Hart): Following the Premier's previous answer, is the TAFE computing system excluded from the due diligence process being undertaken to determine which mainframes will be operated by EDS given that the Estimates Committee was told by the Minister for Employment, Training and Further Education that his department was not 'rushing into outsourcing and not committing itself to something unless there was a demonstrable benefit to TAFE'?

The Hon. DEAN BROWN: A total of 140 agencies ultimately will be covered by the outsourcing contract. There are 12 very large agencies where very detailed due diligence has already been carried out. A larger number—in fact, 32—have now been fully scoped as well.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: TAFE is not in the first 32 agencies. Therefore—

Members interjecting:

The SPEAKER: Order! I suggest to members that, if they do not want an early minute, they had better cease interjecting. The Chair has been particularly tolerant, and I remind members that the Chair has to give no warning before naming someone.

The Hon. DEAN BROWN: TAFE is in the 140 agencies; it is not in the initial 32 agencies, but it will be part of the outsourcing contract. However, it is done in a phased process and members must understand that.

The Hon. Frank Blevins: I thought it was everything.

The Hon. DEAN BROWN: It is everything; it is 140 agencies—

Mr Ashenden interjecting:

The SPEAKER: Order! I call the member for Wright to order for the second time today.

The Hon. DEAN BROWN: The honourable member needs to appreciate that it starts with all of the mainframe areas and gradually works out. However, it works out fairly quickly to all the other agencies and will include TAFE. In terms of the cost savings, that has already been negotiated, and the most conservative cost estimate is that we will save South Australian taxpayers about $140 million over the next nine years. In fact, if one extrapolates the curve for the cost of data processing of Government over the past two or three years, particularly under the former Government, and compares it to what we have achieved in this contract, one finds that the savings are somewhere in the vicinity of $300 million. There are huge benefits to South Australian taxpayers and there are enormous savings. But also, very significantly, there is very important economic development that takes place hand in hand with the outsourcing contract.

ABORIGINAL EDUCATION

Mr SCALZI (Hartley): Can the Minister for Aboriginal Affairs inform the House of any initiatives to improve the access of Aboriginal children to education?

The Hon. M.H. ARMITAGE: As this is the first time that I have been asked a question since the tapestries were hung earlier today, I would like to pay tribute to the women's suffrage celebrations. I prefer the tapestry opposite. Therefore, I think I will stay on this side of the House for the rest of my parliamentary career so that I can look at it. Of course, tapestry was selected primarily as a women's interest, but many famous men, including the present Queen's father, were very involved in that activity.

Access to education for young children is vital for Australia. In particular, if the Aboriginal community is to overcome its difficulties and backwardness in education areas, we will have to concentrate specifically on what we can do to address that issue. One of the real problems is that access to education for Aboriginal children is not simply about access to teachers, education facilities and so on. We need to ensure that the curriculum is appropriate, that community support for the education process occurs and that the teaching reflects the fact that many Aboriginal children are learning English as a second language. That requires particular skills on behalf of the teachers.

What I find really encouraging and interesting as I go around the Aboriginal communities is the number of Aboriginal teachers who are keen to participate in the formal education of young members of the Aboriginal communities. One of the things that particularly impresses me as both Minister for Health and Minister for Aboriginal Affairs is that basic health needs are often very important. Aboriginal educationalists certainly recognise that, if the children cannot hear what the teacher says, there is absolutely no point in having the education in the first instance.

One of the major diseases suffered by young Aboriginal people in Australia and in South Australia is otitis media, which is a middle ear infection that basically ends up as a 'glue ear'. It is very simply treated with one minor operation to insert a tube which fixes the illness. Of course, that then means that we need to concentrate on preventing reinfection and so on. In that instance, I commend Dr Ashley Thomas for the very innovative program which he has organised through the Royal Flying Doctor Service in Port Augusta and which involves frequent ear toilets for the young children whom he sees.

As a result of a meeting held in 1993, a national conference was convened by the National Federation of Aboriginal Education Consultative Groups in Alice Springs at the end of August. This conference was the first to focus on the education issues associated with otitis media. South Australia was represented by people from the South Australian Aboriginal Education and Training Advisory Committee and the Department of Education and Children's Services. The conference addressed a wide range of issues, including classroom management, teaching strategies, early intervention, awareness and identification and resources and practical programs in a variety of different locations. So, the Government is certainly aware of the dilemmas of what are often simple matters to overcome in improving access for young Aboriginal children to education that will obviously help them in their future assimilation into Australia.

IBM

The Hon. M.D. RANN (Leader of the Opposition): Given that the freedom of information deadline on a request about IBM ends next week will the Premier ensure that all—and I repeat 'all'—documents relating to his so-called pre-election deal with IBM are released under FOI by next Friday? Following the Premier's replies today on outsourcing information technology, will he detail to this House how the $100 million, or now $140 million, worth of savings will be made under the new phased EDS deal? Will he detail the timetable, given a series of contradictory answers on this issue—

The SPEAKER: Order! The honourable member is commenting.

The Hon. M.D. RANN: —by his Ministers during the Estimates Committees?

The Hon. DEAN BROWN: First, let us be quite clear about freedom of information legislation. Freedom of information legislation relates to Government information. When I had that press conference we were in Opposition. I have made available a copy of the press release.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: So, I do not understand why the honourable member has even put forward that request, because quite clearly it is not a Government document. In fact, it is a Liberal Party document.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: In terms of other information I have been very open and frank. I provided detailed information to the Estimates Committee. I went through, step by step, the entire selection or tendering process whereby we talked to a large number of companies and refined the selection process down to two companies. I went through the due diligence process that we applied in terms of company capability and stated that we asked for the best and final offers, and I described the way we processed those. I gave details of who did the assessment and everything else. The Government has absolutely nothing whatsoever to hide. It has been open throughout the whole process. As I said, I spent an enormous amount of time during the Estimates Committee giving the Opposition all the information it wanted.

Six weeks after the announcement—or something like that—the Leader of the Opposition is trying to smear the process when, in fact, the Opposition has had repeated opportunities before this but has come up with nothing whatsoever of any substance. I point out once again to the Leader of the Opposition and the member for Hart: IBM has written to me stating that it applauds the initiative the Government has taken. I stress: IBM has indicated to me in writing that it wants to make sure that it continues in South Australia and that it applauds the initiative the Government has taken.

HOUSING TRUST FINANCIAL POSITION

Mr WADE (Elder): Will the Minister for Housing, Urban Development and Local Government Relations say whether the annual report of the Housing Trust, which he tabled this afternoon, indicates any turnaround in the most serious financial position of the trust which has been inherited by this Government?

Mr ATKINSON: I rise on a point of order, Mr Speaker. I understand that, under Standing Orders, if information can be obtained from readily available documents, those documents should not be the subject of a parliamentary question.

Members interjecting:

The SPEAKER: Order! I cannot uphold the point of order. The member for Elder's question, as I recall, seeks from the Minister information that is contained in the report as well as Government policy. Therefore, I am prepared to allow the question.

Members interjecting:

The SPEAKER: Order! I point out to members that before asking a question they should make themselves familiar with the Standing Orders.

The Hon. J.K.G. OSWALD: I am happy to respond to the honourable member's question. Indeed, all the honourable member opposite is worried about is the fact that there has been some good news in the Housing Trust over the past 10 months. There has been a complete turnaround and a new management structure put in place. In fact, the trust is now starting to move back into the black with no thanks to the former Government which sat in power for 11 years and set the trend to put the Housing Trust well and truly into debt to the tune of about $1.3 billion. I am pleased to be able to report that the trust has taken a responsible attitude towards the long-term financial position in which it has found itself and is working hard and efficiently to bring about change.

I will refer to a couple of issues that are contained in the annual report because they lead on to the rest of my reply. The honourable member probably would not even take the time to read the report. It might be a good idea if he listened so that he could find out the success that has taken place on North Terrace. According to the report, the trust has made a repayment of debt—this is crucial—of $88.086 million, of which $64.4 million represents voluntary debt retirement of South Australian Government Financing Authority loans. As a result of the debt repayment, the reduction in interest expenses is $10.199 million, a significant amount which will go a long way toward helping the trust to run its finances internally. During the past year, the trust has reduced the total number of staff by 18 per cent, which represents significant progress towards achieving optimum work force levels in line with the Government's overall work force reduction strategy. The Development Division has reduced staff by 46 per cent from 254 to 138. It managed 16 projects valued in excess of $230 million, and 85 per cent of development activity turnover was paid directly to the private sector. These reductions—

Mr Atkinson interjecting:

The Hon. J.K.G. OSWALD: The honourable member who keeps interjecting will never take the time to read the report. I am sure that he could find some interest in the issues that I will now point out to him and other information that will follow in reply to this question. In 1993-94, the trust housed 8 138 households, 11 per cent on priority allocations; it sold over 1 000 houses to sitting tenants; it provided rent rebates to the value of $117.3 million (77.5 per cent of tenants); it built 783 new dwellings; it paid $52.7 million to private contractors for maintenance of rental dwellings; it provided financial assistance to 25 309 private rental households; and it modified 1 852 dwellings for people with disabilities at a cost of $960 000.

As a result of the review of the housing and urban development portfolio, the trust is now divided into two separate entities: one responsible for property management and the other for the provision of housing services. This rearrangement of the trust was put in place on 1 October as promised some months ago. Staff have been reallocated to senior positions, and the trust is now running as a very efficient organisation. The figures I quoted to the House this afternoon indicate that, on the whole, the trust is on its way back into the black. It is under sound management, and it is moving faster and further forward than it ever did in the past 11 years. The future of the trust and its security as far as its tenants is concerned are well assured.

NUCLEAR WASTE

The Hon. M.D. RANN (Leader of the Opposition): Will the Minister for the Environment and Natural Resources say what arrangements have been made to ensure the safe transport of nuclear waste from Lucas Heights to Woomera and the safe storage of nuclear waste near Woomera; and, in particular, will he say when transport of the waste will begin; will the convoy be escorted; what route will be followed; will the public be told—

The SPEAKER: Order! The Leader is asking a series of questions. I point out to him that, as far as the Chair understands, this matter is basically in the hands of the Commonwealth Minister. I therefore suggest to the Leader of the Opposition that he complete his question as soon as possible.

The Hon. M.D. RANN: Yes, Sir. Has the State Government now been consulted, and has it agreed with arrangements to cover the transportation of 10 000 drums of radioactive waste from Lucas Heights?

The Hon. D.C. WOTTON: The first thing I would like to say is that, as I have pointed out to this House before, prior to my coming to office the Department of Environment and Natural Resources had no input at all into this matter. The previous Government determined that the Environment Department should have no input whatsoever into this important area. It is only as a result of this Government's coming to office that I have made arrangements for that to change, and the department is now involved. Discussions have taken place about this matter, particularly in regard to the transport of radioactive waste. I understand there have been discussions between the three departments which have overall responsibility for this matter. As the Leader of the Opposition has asked a detailed question regarding dates and other arrangements that have been made, I would be pleased to provide those details in a response that I will bring to the House later.

RURAL ADJUSTMENT SCHEME

Mrs PENFOLD (Flinders): Will the Minister for Primary Industries explain details of the decision to review loans under the rural adjustment scheme?

The Hon. D.S. BAKER: I thank the honourable member for her question and her ongoing interest in this matter. It is correct that, under the review of the rural finance division of the Department of Primary Industries and its total management and relationship with the clients, and as has been said in this House before, some $160 million has been lent to farmers around South Australia, and we have had a review of interest rates on loans. There are 700 loans under the scheme, and I will quote from a couple of letters and a press release. The main problem is that, when someone took out a loan with the rural adjustment service of the Department of Primary Industries, it was to be reviewed at the end of three years.

With regard to what happened in the first review in 1992 with many of these loans—and some of them date back to 1975 and onwards—the press release states:

> Mr [Lynn] Arnold [the then Minister] said all existing loans established under the Rural Industries Assistance 1971 and 1977 Schemes and existing RAS loans would be reduced—

this is in 1992—

> for a 12 month period as from today. The interest rate reductions will ensure that no farmer with a concessional loan will be paying more than 11 per cent.

In most cases, the loans were reduced from 10 to 8 per cent and from 8 to 6 per cent, and that was to be reviewed after 12 months. The letter to all the clients clearly stated that. But, unfortunately, under the previous Administration no further review took place. As interest rates started to rise, something had to be done and, when we found out about it, we had a close look at it. In the past two years, it has cost the Primary Industries Department some $2 million per annum because those interest rates were not reviewed, as was stated in the letter in 1992 and, of course, it has been let slide. So, there has been a review. Interest rates on those loans are going up 2 per cent. But any farmer who can establish hardship will be looked at sympathetically with an interest rate subsidy or some other assistance. However, because of the mismanagement of the previous Administration, this matter has been allowed to get out of hand when those loans should have been reviewed annually.

NUCLEAR WASTE

Mrs GERAGHTY (Torrens): My question is directed to the Premier. Further to the report in the *Advertiser* of August this year that the State Government was prepared to accept low level radioactive waste from Lucas Heights to be temporarily stored at Woomera, can the Premier inform the House whether the Federal Government has indicated whether it will provide any compensation to the State Government and, if not, what is the State Government's position now regarding Woomera being the dumping site? Can he give a guarantee that it will be temporary, what measures will be taken to prevent leakage into the environment, the air and the water, both *en route* and at the dumping site, and when will it be delivered?

The SPEAKER: Order! The Chair has been most tolerant to members. Obviously, the honourable member has had a prepared speech given to her, which she has read, and she has asked a number of questions.

Mrs Geraghty interjecting:

The SPEAKER: Order! I suggest that the honourable member not argue with the Chair. She has asked a series of questions and has been commenting. I therefore call the honourable Premier.

The Hon. DEAN BROWN: I will go through the process. Although there were initial discussions between the Federal Government and the former Labor Government, and then after the election with the present Liberal Government, when the Federal Government took its final decision, the present State Government was not invited to use any veto power. We were not asked whether we would agree to that proposal: we were told that it would occur. It is occurring on Commonwealth land; therefore, we have no control over it whatsoever. Constitutionally, the Federal Government has the power to put on Commonwealth land radioactive waste or any other material. All we can do is to express our concern and ask a series of questions of the Federal Government. The one area over which we have some control is the actual transport of those goods across State territory. I point out that there have been considerable negotiations back and forth between Mr Fairweather of my department and also the Health Commission, which has been involved in this.

Let me be quite clear that at least the original intention of the Federal Government and the basis on which negotiations took place was that we were dealing only with low level radioactive material. It was material that came out of medical treatment, such as X-rays, radiotherapy and things like that. It largely related to waste products stored at Lucas Heights, where the volume had grown to the point where it had to be stored somewhere else. So the Federal Government indicated that it would now store on a temporary basis this so-called low level radioactive material at the Woomera grounds, which are Commonwealth lands.

I stress to the House there has been one disturbing report from the Federal Minister in the Federal Parliament where he used the phrase 'no longer low level radioactive waste but medium level waste'. To my knowledge, there has been no formal communication of that to the South Australian Government, but I will check on recent affairs. Low level radioactive waste has about the same radioactivity as the old luminous watches that we used to have. We will probably find that this Parliament has a level of radioactivity similar to that, because it has been well knowN that ageing granite emits radioactivity. I understand that it has about the same sort of background level as ageing granite.

Members interjecting:

The SPEAKER: Order! The member for Unley is out of order, as is the member for Wright.

The Hon. DEAN BROWN: In terms of some of the conditions that apply, there is a whole series of questions there. I will get an answer for the honourable member on those issues. The South Australian Government has not had a chance formerly to put a case to the Government to stop any storage. I understand that the long-term storage is likely to take place in Queensland not in South Australia. I will get a detailed answer to all the honourable member's questions.

The SPEAKER: Order! It would appear that I called to order the member for Unley when he was not the offending member.

Members interjecting:

The SPEAKER: Order! The Chair was paying particular notice. There is a continual stream of comments and interjections coming from that direction. Unfortunately, it is often difficult to ascertain the offending member, but the Chair was paying attention.

HOUSING TRUST CREDIT POLICY

Ms HURLEY (Napier): My question is directed to the Minister for Housing, Urban Development and Local Government Relations. Will the Government now proclaim legislation passed last year which gives the trust and its tenants access to the Residential Tenancies Tribunal? The new credit policy states that tenants who do not comply with a notice to quit from the Housing Trust will be served with a notice to appear in court. Tenants who believe they have a legitimate case against accounts levied by the trust for excess water or repair bills will now face the expense of disputing the matter in the Supreme Court. Many tenants would be unable to afford such action and would not have the experience to represent themselves successfully.

The Hon. J.K.G. OSWALD: That matter comes under the jurisdiction of the Attorney-General, and I will consult with my colleague and provide the honourable member with a report.

AGED PERSONS

Mr ROSSI (Lee): My question is directed to the Minister for the Ageing. Can the Minister inform the House of further details of a 10 year plan he foreshadowed last week at the launch of the Seniors' Information Service to establish services for the ageing in South Australia?

The Hon. D.C. WOTTON: Earlier today the Premier launched Seniors' Week, a very effective program over the next 10 days, and it is appropriate that I give some information to the House regarding the proposed 10 year plan to establish services for the ageing. South Australia has the fastest growing older population in Australia. Currently, 13 per cent of our population is over 65, and it is expected that this proportion will increase to about 25 per cent by the year 2004. The most rapid growth is in the group of people who are 75 years and over, and it is anticipated that this group will grow by 40 per cent by 2004, and that the proportion of those over 80 will grow by about 70 per cent. State infrastructure and services for these older ageing South Australians will be needed, and it is important that the planning for this start now.

In the next 12 months the Government will be developing a 10 year plan for South Australia to make sure that the structures, services and resources are in place to enable these older South Australians to live safely, securely and fruitfully in the location of their choice. The Government will be making every effort to maximise the availability of services for these older South Australians, and to identify and match Commonwealth funds when they are made available to expand and develop services. As the House would know, the Commonwealth Government is responsible for the provision of nursing home and hostel accommodation. There have been shortages in this area during the year and I will certainly be monitoring this trend and making sure that the provision of care keeps up with demand.

Not only is there a need to plan for the future but also a need to identify the opportunities for this State arising from the rapid growth in the number of older citizens. We have already looked at developing and exporting expertise from this State in the provision and delivery of services for older people. The seniors' card program has clearly identified this group as a growing and distinct group of consumers for whom specific products can be targeted, and of course we are talking about tourism, entertainment, food and hospitality industries and so on.

A number of current initiatives demonstrate the Government's commitment to older South Australians. These include: the Elder Protection Program, which I recently launched; initiatives in crime prevention, home security and road safety for older people, being developed with the Attorney-General's Department and the Department for Road Transport; the Seniors' Information Service, which is now operating under the auspices of the Council for the Ageing; and the Health of Older Persons policy, which the Government recently launched and which is for public consultation until December of this year, an initiative in which both the Minister for Health and I as Minister for the Ageing have had a lot of involvement.

The Premier also recently launched the expanded Seniors' Card Directory; and there is a number of other initiatives. Fear of crime is a major issue in the community. Statistics show that older people are the least victimised. However, older people fear for their safety. The Government already provides resources through local councils as part of the Home Assist program, a HACC funded service, to undertake security work on people's homes. Health, housing, aged care accommodation, community care, public transport, and consumer protection policies and services all need to take account of demographic trends in South Australia.

The Government recognises the importance of ensuring that care and support services in the community are planned and developed progressively to keep pace with the population growth, especially of older people in South Australia. That is why the Government and I have a very keen interest in being able to provide a 10 year plan to ensure that services for the ageing in this State can be provided for all older South Australians.

FISHERIES OFFICES

Mrs GERAGHTY (Torrens): Will the Minister for Primary Industries advise the House of the results of the review of his decision to close fisheries offices at Loxton and Victor Harbor? I understand that a decision was made earlier this year to close Primary Industries South Australian fisheries offices at Loxton and Victor Harbor. However, there was a great deal of public protest at this decision and the Minister undertook to review it. A number of concerned constituents have contacted the office of the shadow Minister in another place, requesting information in relation to the findings of the review, and I am sure they would welcome a report from the Minister on the current state of play.

The Hon. D.S. BAKER: There has been some loss of fishing compliance officers through the TSP process, and it is factual that the Loxton and Victor Harbor offices will be closed at the end of 1994. What has been put in place is a flying squad of six officers to make sure that we keep our foot on fish compliance and fishing regulations around South Australia. All that will be reviewed during the process that is going on at present, but I must say to the member for Torrens that it is not helped by having 1 800 fish processors in South Australia and only 1 100 professional fishermen—and the regulations to increase their fees were disallowed by her colleague in the Upper House last week, to have fewer fish processors so we could monitor it more easily.

HOUSING TRUST CREDIT POLICY

Ms HURLEY (Napier): Did the Minister for Housing, Urban Development and Local Government Relations consult with the Attorney-General before deciding to summons Housing Trust tenants to appear before the Supreme Court for failing to quit over the non-payment of accounts for maintenance and excess water, and did the Attorney agree that this was the most appropriate court to deal with these matters?

The Hon. J.K.G. OSWALD: Yesterday I went to some lengths to explain to the House and to the honourable member the background to this whole issue, which the honourable member keeps running out for the benefit of the current by-election. The procedures that have been put in place by the Housing Trust board are to recover debt from tenants who have debts accrued against their accounts—$13 million worth of debt. But the trust invites tenants who owe money to the

trust to go into the regional office where they will be able to enter into an arrangement to pay off that money, albeit by a couple of dollars per week over several years, if necessary. It is only when they are in default of that arrangement that they will be invited to come in again, to explain what went wrong and to enter into a new arrangement, and only if they default on two occasions and do not seek to try to enter into a further arrangement that the trust will consider taking measures to recover the money.

That measure is a matter for the trust management to decide, and it alone will decide whether it proceeds to prosecute. It is very much at the end of the process that it even reaches that stage, and every effort will be made by the trust administration to ensure that those tenants have every opportunity to pay off their debt. It is only in extreme cases where people either leave the tenancy or leave with a huge debt in hand that recovery action will be taken.

PRISONER ESCORTS

Mr LEGGETT (Hanson): Will the Minister for Emergency Services advise the House of the number of operational hours lost by the police on a weekly basis transporting prisoners, and will he explain what action is being taken to address this issue?

The Hon. W.A. MATTHEW: This is an important question and I appreciate the honourable member's ongoing interest in policing matters, particularly in the available hours that police officers have to patrol his electorate and to look after his constituents. Following an agreement in 1959, 35 years ago, between the then Commissioner of Police and the then Director of the Gaols and Prisons Department, now known as the Department for Correctional Services, police have undertaken responsibility for moving prisoners between prisons and court. Influencing that decision 35 years ago was the knowledge that the Police Department at that time was in a better position with resources to handle such matters.

The transfer of all prisoners between the Magistrates Court, prisons and return is still handled by police today, in line with that 1959 agreement. A lot has changed since 1959, but it would seem that it was deemed necessary by the previous Government to leave that agreement in place. For some years the police have been expressing concern about the continuing and escalating cost of transporting prisoners and the impact that that has had on operational policing. The full impact of that was not known because data was not kept by the former Government. I requested that an analysis be undertaken and, as a result, between January and March this year police kept data on the movement of prisoners. They found that during those three months 2 359 prisoner transports occurred over a distance of 116 111 kilometres involving a duration of 2 822 hours and 25 minutes. Those transport configurations usually involve more than one police officer.

The estimate, based on those figures, is that some 10 000 prisoners would be transported in a year by police over distances totalling 500 000 kilometres at 220 hours per week, plus waiting time for more than one officer at a time. The Officer-in-Charge of the Christies Beach subdivision recently indicated to me that it is not uncommon for more than two police officers to be lost per day to that subdivision simply transporting prisoners between institutions such as Yatala and Northfield and the Christies Beach courts. You can imagine the effect that has when officers are pulled out of patrol duties—and have been since 1959—to undertake that role.

Correctional Services officers are also involved in prisoner transport but the number of hours involved has not been known because, again, the previous Government did not keep data on it. That data is presently being collected, and I will be in a position to bring back to the House the results of that analysis in the near future. In view of the number of hours involved and the number of police kept off the beat, there is now an opportunity for the Opposition to responsibly assist the Government in putting operational police back on the beat so that they are not transporting prisoners, and that opportunity is presented through the Correctional Services (Private Management Agreements) Amendment Bill in another place.

GRIEVANCE DEBATE

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

Mr BROKENSHIRE (Mawson): Today the Minister for the Ageing spoke about the opening of 1994 Seniors Week, and I would like to expand on that. I am delighted today to have had the privilege of having members of the Southern Senior Citizens Club as my guests in the House to mark the beginning of Seniors Week. I know that they have enjoyed their time in here: in fact, they are still here. I congratulate them on their excellent work and achievements in both social and community development within the district.

I have often referred in this House to the need in the south for more services and facilities for senior citizens; in particular, health, transport and law and order. In my electorate there are many senior citizens' groups, including the Southern Senior Citizens Club, the McVac Club, another club in McLaren Vale, the Australian Retired Persons Association, the aged and invalid pensioners group, the IOOF Retirement Village, Elkannah Retirement Village, Hillsview Retirement Village, Colton Court Retirement Village and Reynella Retirement Village. I have a fairly good opportunity to meet and talk with a broad cross-section of senior citizens in my electorate. I am learning more every day not only about the needs they have for our area but also about the wishes they have for our State and the direction in which they believe this State should proceed.

I am delighted to confirm, once again, that we have been able to give the McLaren Vale Hospital a guaranteed future. That hospital now has autonomy and the opportunity not only to grow but to specialise in aged care within the district. Recently I wrote a letter to the Federal Government supporting the hospital board and its Chief Executive Officer, John Ireland, in that endeavour. I trust that Federal members, both Liberal and Labor, will in a bipartisan way work towards supporting McLaren Vale in providing additional aged care facilities on the hospital site. Very soon the first of the units will be built, and it will be a great day for everybody in the south when we see the culmination of that complex for our senior citizens.

Transport is something I have often spoken about in this House. I know that the Minister, Di Laidlaw, and the transport portfolio team are working hard, with the new Bill through, to make sure we improve transport in the south. However, we still have a long way to go. Recently I put a

submission to the Minister which I hope will culminate in better transport services particularly for the deeper part of my electorate, namely, McLaren Vale, McLaren Flat, Blewitt Springs and Willunga, in the Premier's electorate. I thank the member for Kaurna for her efforts in this regard, bearing in mind that these areas tie in with her electorate.

One of the things I have learnt is that, as a community and particularly as a Government, we should be listening to and utilising the experience of our senior citizens in relation to what they have to offer our community. It is not a matter of putting senior citizens on the scrap heap but a matter of supporting them and appreciating what they have learnt over many years, making sure that we listen to them and capitalise on the values they have established and the experiences they have gained which have been proven in the past to be so important for the development of this State.

I personally greatly value the input and support I have received from the senior citizens in my electorate. When I have had a problem or have wanted to ascertain whether something has been tried before, it has been of great benefit to go to the senior citizens and say, 'This is an idea we're floating. What do you think about it? Has it been put up before?' They will tell you, for example, 'Yes, we tried that in 1965 or 1945. Sometimes it worked; sometimes it did not.' They have a great wealth of experience and we must make sure we continue to capitalise on it.

We should acknowledge senior citizens not only during Seniors Week but throughout the year. Over the years they have worked diligently for our State and, more than we do today in some respects, have encouraged discipline, responsibility and people's rights and consideration for one another and the community. That is something I know that this Government is very keen to see return to South Australia. I wish all senior citizens well.

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

Mrs GERAGHTY (Torrens): The issue I want to raise today concerns a matter about which questions have been asked and which should concern all members irrespective of their political affiliation. South Australia is set to have radioactive waste dumped at Woomera. This is a grave error, one for which we will be held responsible and accountable and which, although it may not have an immediate impact, will nevertheless impact on future generations. I am not alone when I say that I am totally opposed to this decision allowing such material to come into South Australia, as a result of which we may all suffer in the future. It is a very foolish decision. In any primary or junior school the students will say that they do not want to have anything to do with nuclear material. The decisions we make should put the safety and needs of people first: that should be the first priority. It is a very foolish decision.

Let us look at the facts. It is important to note that the best option for the radioactive material from Lucas Heights is to leave it where it is. I understand that it was stored at St Mary's in a fireproof and bombproof bunker—it probably would have been better if it stayed there. This begs the question, 'Why shift this material into a slit trench in the South Australian outback in an area that is already environmentally sensitive?' There are a number of very competently written articles on this storage method. I ask members to make themselves aware of what those reports have to say.

Mr Brindal: How is the area environmentally sensitive?

Mrs GERAGHTY: I will enlighten you on that. From a purely safety conscious perspective there are serious concerns about the low-level radioactive material in question—indeed, so serious that there is considerable doubt about the degree of safety associated with this material. The degree of safety of radioactive material is reassessed based on available data and risk factor and is determined by that, and in the past it has risen twofold every time. Considering that the damage caused at Hiroshima took years to be assessed, and we have no conclusive evidence of the Chernobyl disaster, it only allows one conclusion: to put it bluntly, we do not know the effects of this material.

Mr Brindal interjecting:

Mrs GERAGHTY: Then let your Government stand up and say something. Do not stand there—

The SPEAKER: Order!

Mrs GERAGHTY: While I am not suggesting that Lucas Heights radioactive waste is on the scale of atomic explosions or reactor meltdown, there is a valid point to be made here: that is, that we as decision makers need to be acutely aware of the long-term implications of the decisions we make or of any decisions we make to accept material. No other issue can have such a long-term safety impact as radioactive material. This is a problem that will not manifest itself for years, so the decisions we make now will have the greatest impact in the coming years. When the Government acts in this manner there has to be forward planning with precise safety measures in place for the public and with environmental safeguards fixed.

There is no need to remind members of the horrendous human tragedy associated with asbestos mining. About 30 years ago people were talking about the dangers of asbestos mining and no-one listened. People should be listening now. I simply reiterate my point that we are responsible for the future safety of the public in this State and we must take care in our planning when radioactive material is involved. We have a clear obligation to educate our workers and the public in general of the dangers involved when dealing with volatile waste. If we accept that Woomera is to be South Australia's low-level radioactive dump, I ask members to consider what will be stored there next—and there is more to come. I am of the opinion that long term mistakes are being made here and I ask—

The Hon. D.C. Wotton: Speak to the Prime Minister: he's on your side.

Mrs GERAGHTY: I am happy to do that.

Mr Foley: Interject in your seat.

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

Members interjecting:

Mr Foley: Interject in your seat.

The SPEAKER: Order! I suggest to the member for Hart that those comments are not appropriate. I have spoken to the Premier today about comments concerning the member for Hart. I do not want to talk to the member for Hart again.

Mr FOLEY: On a point of order, Mr Speaker, I would like to know what comments I made that were unparliamentary.

The SPEAKER: I do not intend to dignify the comments by repeating them, but the Chair has taken the easy way out for the member for Hart. The Chair does not want to be involved on a regular basis in telling members to desist from making unnecessary comments. The member for Florey.

Mr FOLEY: On a point of order, Sir, I ask again what comments I made that were unparliamentary.

The SPEAKER: Order! The Chair did not say they were unparliamentary, but said that it was of the view that they were unnecessary and not in the best interests of the House. If the honourable member does not wish to withdraw them and wants to have a confrontation with the Chair, he will be accommodated. He has taken a particularly aggressive stance towards the Chair in the past couple of days. The Chair has been most tolerant and even-handed, but my patience is coming to an end. I point out to the member for Hart that on a previous occasion I took his name off the question list for failing to accept the rulings of the Chair, and the next day his conduct was exemplary. I suggest to all members that, if they want to continue to disobey the Standing Orders, the Chair will enforce them vigorously. The member for Florey.

Mr BASS (Florey): A great deal has been said about the Government's plans for Modbury Hospital, which is in my electorate and serves many residents in the north-eastern suburbs. The Government's plans have been announced and the north-eastern residents know exactly what is being considered by the Government. I believe it is the task of the Opposition to raise any concerns it has about what the Government is doing, and I also believe it is appropriate that the Nurses Federation raise concerns which it believes affect the Modbury Hospital. Something occurred yesterday that made me very angry. To put it into perspective, last Tuesday, 11 October, I asked the Minister for Health a question about Modbury Hospital and the Minister replied:

> As I have detailed in enormous depth to the House, we are indeed capitalising on initiatives taken by the previous Government. Consequently the only particular statement that appears to have been ignored by a number of people in relation to Modbury Hospital, but about which we are quite definite, is that in no way does the Government intend to sell the hospital.

I repeat 'in no way does the Government intend to sell the hospital'. After that statement was made I circulated the answer to the question, with a letter from me, right through the Modbury Hospital so that the people in the Modbury Hospital—the nurses—knew exactly what was going on. Yesterday my wife went to Tea Tree Plaza to do some shopping and was accosted by two females who allegedly came from the Nurses Federation. They were telling people that Modbury Hospital was to be sold and encouraged them to sign a petition. My wife, being as astute as she is, told these people that what they were saying was not correct and that in fact Modbury Hospital would not be sold. The two people purporting to be members of the Nurses Federation had an argument with my wife and then my wife left, but she watched what was going on. These two people accosted elderly people entering Tea Tree Plaza, told them the same blatant lie and then encouraged them to sign the petition. I suggest to the Nurses Federation and its President and spokesman—

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

Mr BASS: On a point of order, Mr Speaker, when I commenced speaking I looked at the clock and it registered three minutes. I believe the Clerk turned on the clock just before your discussion with the member for Hart. Under the circumstances, I think it would be appropriate that I have at least two minutes more.

The SPEAKER: I will give the honourable member the indulgence of another minute.

Mr BASS: I accept the Speaker's ruling. The fact is that these people purporting to be from the Nurses Federation are telling lies to scare elderly people in my electorate into signing a petition, and that is an absolute disgrace. I suggest that possibly the member for Elizabeth, who has been asking a lot of questions, obviously on behalf of the Nurses Federation, should go back and tell them that, if they want to raise matters, they raise matters of truth and not tell lies to people in my electorate. It would be most appropriate if Gail Gago, the organisation's Secretary or spokesperson, took a back seat now that she has been preselected for a seat, as I did when I was preselected, as Kym Mayes did (he came from a union) and as I understand did also the member for Ross Smith. I suggest that Ms Gago should take a back seat, too.

Mr BRINDAL (Unley): I refer to a matter which has greatly preoccupied the Parliaments of this nation. A lot of rhetoric but not much action on this matter appears to have come especially from Canberra. I refer to the matter of reconciliation between the predominant culture of our country and that of the indigenous people's of this State. Members will recall that some time ago I spoke about the possibility of demolishing the old Whale House at the museum to provide a vista between the very early and very remarkable colonial buildings (including the ordinance store that exists behind the old Whale House). Those colonial building are flanked on either side by two remarkable examples of Victorian architecture in the form of the main building of the museum on the eastern side and the institute associated with the library on the western side. That would provide a long concourse linking modern Adelaide *vis-a-vis* North Terrace with the early colonial architecture of those barracks.

In that context I received a letter from the Minister for the Arts who—and I am most impressed—read the contribution I made in *Hansard*. She informed me by way of letter, and I accept it on her best advice, that the Whale House is a very early part of the museum and cannot be moved by virtue of its historic staircase and stained glass. That intrigued me so much that I visited the Whale House. I could not find the stained glass anywhere. If there is stained glass it is covered up somewhere, and therefore it is of little value. If they have this precious piece of stained glass somewhere within that building, surely it should be on display. In relation to the staircase, I think the old Harbors Department Building in Victoria Square is an excellent example of what can be done. SGIC wanted to build its headquarters on the old Harbors Department building site. It was decided that the old Harbors Department building was worth preserving and by some remarkable feat of engineering it was placed on rollers, wheeled down the street and positioned elsewhere.

If we have an opportunity to considerably enhance the cultural desirability of North Terrace by demolishing the Whale House and reassembling it elsewhere in this city, then, with the centenary coming up, we should seize the opportunity to do so. It really starts rather than finishes a theme. I am informed that our museum contains very rare and valuable collections but, like our Art Gallery, there is simply not enough space to display even a fraction of all its pieces properly. Where the bulk of the material is stored, the storage facilities are not always as they should be for their long-term preservation. South Australia is notable because of its collections of artefacts and relics of the indigenous people's of this country. I refer to the Strehlow collection which would be well known to all members of this House. There also is an equally remarkable collection which has been collected over the years by some remarkable anthropologists who have operated from the South Australian museum.

The time has come to re-look at our cultural precinct. I believe that the Victorian building, which constitutes the main part of the current museum, should be turned into a museum of indigenous anthropology. It should be solely dedicated to the indigenous peoples of this country so that the collections can be properly housed and so that the indigenous people of this country in our main cultural precinct have a fitting recognition of their primacy of place as the original settlers on this continent. I believe by doing this we would link the elements of colonial European civilisation. We could give due recognition to the indigenous populations and could create a major tourist attraction of world class. People come here to see the culture of our indigenous people. People come to observe that which is different. South Australia has a leading edge in its knowledge in this area. That edge should be exploited.

Mr FOLEY (Hart): I will talk about the Government's contract with EDS and the line of questioning pursued by the Opposition today. As the Opposition said, it cautiously welcomes the Government's decision and commitment to EDS. The important words there are 'cautiously welcomes.' The reality is that what we are talking about is the single largest contract ever entered into by a State Government in Australia. By the Premier's own admission, it is one of the largest such outsourcing contracts for computer work anywhere in the world. Such a deal and contract requires and demands the appropriate level of scrutiny by an Opposition. I will not be intimidated and nor will I bow to criticism or the Premier's snide remarks about the line of questioning pursued by the Opposition. If the Premier chooses to use derogatory language like 'The member for Hart has a brick between his two ears'—or whatever the comment was—I am man enough to cop it. If that is what I have to cop from the Premier to fulfil my role as the Opposition member responsible for this area, that is what I will do.

The Premier is put on notice that, throughout the life of this contract, the Opposition will be vigilant and will scrutinise the appropriate areas. The Opposition will not be deliberately negative and nor will it, in any way, shape or form, impede the Government in its dealings with EDS—other than where it is appropriate for the Opposition to scrutinise that area of work. The reality is, as the Estimates Committee showed, that very few of the Ministers have an understanding, comprehension or any real grasp of what it is the Government has entered into. The Premier stands in this Chamber and, with the coaching of the Deputy Premier, explains what the EDS contract is all about. That is one thing, but clearly he has not informed his entire front bench. There are Ministers within Government who have not come to grips with the complexity and enormity of this deal. The Estimates Committee showed the Opposition that a number of Ministers, regardless of what the Premier said in this House today, neither understand nor for that matter accept what the Premier and the Deputy Premier have put in place with this EDS contract.

The reality is that, whilst the Government's intentions for a whole of Government arrangement are admirable, getting Government agencies to work as one is an extremely difficult task. The likelihood of success on getting the Government to act as one would be less than 50 per cent. I will applaud the Government if it is able to make this happen and if savings can be delivered. The Opposition will not be intimidated by the personal abuse and ridicule from the Deputy Premier, the Premier and other members opposite when we go about our rightful job of scrutinising all areas of Government activity. This is an area of Government where its commitment to expenditure is nearly $1 billion.

The Opposition will not sit back and allow that to happen, because the Opposition will scrutinise every area of Government expenditure to ensure that the Government judiciously expends Government money. The Opposition will not bow to the personal attacks of the Premier. As I have said before in this place, the trait of the Premier when he slings off and personally abuses the individual and not the issue is displayed all too often. I am big enough and tough enough to cop that abuse from the Premier. I put the Premier on notice: this Opposition will constructively continue to pursue this issue.

Mr CAUDELL (Mitchell): I wish to discuss certain comments made over the past seven days by the member for Napier. After hearing those comments one can only wonder about the competence of the honourable member to handle the positions of shadow Minister for Housing, Urban Development and Local Government Relations and shadow Minister for Recreation, Sport and Racing; and one must also wonder about her intellectual sophism. It is obvious that the honourable member has been promoted to her own level of incompetence. I refer, first, to the issue of the Marion City Council and the request by the honourable member for a ban on future stables. Obviously the honourable member has been handed information that she has taken for granted as being 100 per cent correct and has tried to act on it accordingly. The honourable member should be aware that the Environment and Development Court recently approved the development of stables in the area of Marion and that certain Marion City Council members were attempting to block that development.

The Marion City Council had asked a queen's counsel to give advice on the possibility of an appeal, and that queen's counsel advised the council that an appeal would not be successful in the Supreme Court. Two members of the Marion City Council then decided that they wished to go further. Unhappy with the council's decision, they obviously approached the member for Napier, who went blindly into the battle.

Then we come to the claims of virus outbreaks in the Marion area. The virus outbreaks will not occur in horse stables anywhere else in Adelaide, but they will occur in Marion! The member for Napier's comments caused needless concern amongst residents in that area. The claims made by the honourable member were totally unsubstantiated and were totally out of order. It is fortunate that the member for Napier did not bring into this House a photograph of a dead rat, as did one of the local councillors while trying to claim that it had come from a land-based situation when, in fact, if they had looked at the photograph they would have seen that it was a water rat from the nearby Sturt Creek. The supplementary development plan—

Mrs GERAGHTY: I rise on a point of order, Mr Acting Speaker. This is an outrageous attack on a member of this House.

The ACTING SPEAKER (Mr Bass): I do not accept the point of order.

Mr CAUDELL: In relation to the supplementary development plan for the Morphettville stables, if the shadow spokesperson for racing had had the interests of this State at heart, she would have realised that, if the plan that was proposed by a number of councillors but not by the planners of the city of Marion came to fruition, it would force all future stables on to the allotment of the Morphettville stables.

I turn now to statements by the member for Napier about the Housing Trust in which she mentioned threats of evictions and gaol terms. If the honourable member were up to speed with regard to her shadow portfolio, she would be aware that it is normal practice associated with the previous Government as well as this Government to take fine defaulters to court. If she were also up to speed in relation to the local claims court, she would realise that you do not automatically go to gaol as a result of a debt: you receive a 10-day gaol order only if you fail to appear in court as requested, which is the same for everyone in the local claims system.

Earlier this year the Leader of the Opposition suggested that MPs should have on-the-job training for 10 days. I believe that if the member for Napier did 10 years of training she still could not find the front door, let alone the shop floor. It is obvious that the member for Napier engages in intellectual sophism and she does not pay—

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

MINING (ROYALTIES) AMENDMENT BILL

Returned from the Legislative Council without amendment.

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES (CONSISTENCY WITH COMMONWEALTH) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to amend the Stamp Duties Act 1923. Read a first time.

The Hon. S.J. 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.

This Bill contains three separate measures.

The Act currently provides an exemption from stamp duty on the transfer of property following the breakdown of a marriage.

The administration of this exemption, contained in Section 71ca of the *Stamp Duties Act*, is time consuming and the source of significant aggravation for taxpayers when they are going through a particularly stressful time in their lives.

The Government aims to reduce wherever possible the administrative burdens associated with tax administration. It is therefore proposed with this amendment to remove the prerequisite that parties be divorced prior to obtaining stamp duty exemption on instruments related to property settlements pursuant to Family Court Orders provided the Commissioner is satisfied that there has been an irretrievable breakdown of marriage.

The Bill will significantly reduce the current administrative requirements of both the State Taxation Office and the taxpayer, whilst still protecting the revenue base.

The second measure deals with the stamp duty treatment of certain superannuation funds.

The Government has received submissions seeking concessional stamp duty treatment in certain circumstances where assets representing a member's entitlement in a superannuation fund are transferred to another superannuation fund on the transfer of membership.

Under the current provisions of the Act such transfers would generally be charged with *ad valorem* duty.

Transfers of entitlements between superannuation funds often occur as a result of changes of employment by employees or as a result of the enactment of the *Commonwealth Superannuation Industry (Supervision) Act 1993* which encourages the amalgamation of smaller funds into larger more cost effective funds.

The imposition of *ad valorem* duty of the transfer of member entitlements between superannuation funds is detrimental to the benefits of members and therefore a disincentive for large superannuation funds to be established and located in South Australia.

If a fund converts a member's entitlement at the time of transfer of membership into cash and transfers the cash equivalent to the second fund that transmission of money does not attract duty under the Act.

The liquidation of assets into cash, however, may depress the price of an asset which clearly would not be in the best interests of the member.

It is therefore proposed that the Act be amended to provide a concessional rate of duty up to a maximum duty of $200 when assets representing the entitlements of a member of a superannuation fund are transferred to another superannuation fund on the transfer of that member.

This approach is considered reasonable and equitable to both the Government and taxpayers and will remove an impediment for large super funds conducting business in South Australia.

The third measure ensures that the nexus provisions for certain off-market share transactions will be consistent throughout Australia. Nexus provisions are the means of determining in which jurisdiction duty is payable.

The *Stamp Duties Act* has recently been amended to provide the legislative framework to facilitate the Clearing House Electronic Subregister System (CHESS) of the Australian Stock Exchange and clearly sets out for taxpayers the various nexus provisions under which duty is payable.

For marketable securities transactions it is only in the areas of CHESS and sharebroker dealings that the Act has set out nexus provisions.

Consistent with a position to be adopted in all States and Territories it is proposed to set out the nexus provisions in legislative terms for certain off-market transactions. These have been discussed and agreed by all jurisdictions and the Australian Stock Exchange.

The adoption of these nexus provisions by all jurisdictions will ensure double duty implications do not occur.

The above measures have been the subject of consultation with relevant industry groups and the Government has appreciated their respective inputs.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 42C—Default assessments

This clause corrects an error in section 42C of the principal Act by removing a reference to registration of a motor vehicle under 'this Act' and replacing it with a reference to registration of a motor vehicle under the *Motor Vehicles Act 1959*.

Clause 3: Repeal of s. 59B

This clause repeals section 59B of the principal Act which has become inappropriate due to the change in nexus for liability to stamp duty effected by the *Stamp Duties (Securities Clearing House) Amendment Act 1994*.

That part of section 59B which deals with exemptions for marketable securities registered in proclaimed countries is, however, preserved in new section 90V.

Clause 4: Amendment of s. 71CA—Exemption from duty in respect of certain maintenance agreements, etc.

This clause substitutes new subsections (2) and (3) in section 71CA of the principal Act. Subsection (2) currently provides an exemption from stamp duty on certain instruments conveying property between persons who are or have been married, provided that, at the time that the instrument is presented for stamping, the marriage has been annulled or dissolved. New subsection (2) provides an additional ground for obtaining the exemption where the Commissioner is satisfied that the marriage of the persons involved has broken down irretrievably.

Subsection (3) currently provides for a refund of duty following annulment or dissolution where duty was paid on an instrument which would have been exempt under subsection (2) if, at the time

of presenting the instrument for stamping, the marriage had been annulled or dissolved. New subsection (3) provides for a refund of duty which was paid because the marriage was not annulled or dissolved and the Commissioner was not satisfied that the marriage had broken down irretrievably, where subsequently the marriage has been annulled or dissolved or the Commissioner has become satisfied that the marriage has broken down irretrievably.

Clause 5: Insertion of s. 71DA

This clause provides for a new section relating to certain conveyances between superannuation funds. The current provisions of the Act impose stamp duty at *ad valorem* rates when assets are transferred between superannuation funds. This provision will allow a concessional rate of duty to apply if the transfer is in connection with a person ceasing to be a member of one fund and becoming a member of another fund. The relevant funds must be complying funds under the *Income Tax Assessment Act 1936* of the Commonwealth. The rate of duty will be the usual *ad valorem* rate on conveyances, or $200, whichever is the lesser. The new provision will apply to instruments first lodged with the Commissioner for stamping on or after the commencement of this section.

Clause 6: Amendment of s. 90I—Transfer documents treated as instruments of conveyance

This clause amends section 90I of the principal Act to ensure that transfer documents will be treated as instruments of conveyance even if the body approved as the securities clearing house loses its registration under Division 4.

Clause 7: Insertion of Division 5

This clause inserts a new Division in Part 3A of the principal Act. New Division 5 deals with conveyances of relevant marketable securities which are effected other than through a broker (under Division 2) or through SCH (under Division 3).

New section 90U applies the nexus provisions to these off-market transactions, so that they will be liable to duty if the security involved is—

- a marketable security of a relevant company;
- a unit of a unit trust scheme with its principal register in this State; or
- a unit of a unit trust scheme with no Australian register but with a manager who is principally resident in the State or a trustee that is a relevant company or a natural person principally resident in the State.

New section 90V preserves the exemption for marketable securities registered in proclaimed countries which is currently part of section 59B.

Clause 8: Amendment of s. 106A—Transfers of marketable securities not to be registered unless duly stamped

This clause does not effect any substantive changes but updates the language used in section 106A of the principal Act to more accurately reflect the way in which transactions are recorded by companies these days.

Clause 9: Statute revision amendments

This clause allows for the schedule which makes various statute revision amendments of a non-substantive nature to the Act.

Mr QUIRKE secured the adjournment of the debate.

LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

The Hon. S.J. BAKER (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Land Acquisition Act 1969. Read a first time.

The Hon. S.J. 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.

This Bill is designed to ensure that the Crown and other Authorities may compulsorily acquire native title land on a similar basis to the manner in which other land or interests in land may be acquired. The amendments ensure that native title land may be validly acquired in compliance with the *Racial Discrimination Act 1975*, the *Mabo* decision and the Commonwealth's *Native Title Act 1993* (NTA) and that native title may be validly extinguished by acts done in giving effect to the purpose of the acquisition.

The Bill provides for compensation to be payable for the acquisition of native title land on the same basis as for other land. It allows holders of native title and others alike to request non-monetary compensation such as land, the provision of goods and services, or the execution of works for the reinstatement or improvement of the claimant's remaining land.

The Land and Valuation Court (a division of the Supreme Court) will continue to exercise jurisdiction in determining disputed claims for compensation arising under the Act. It is acknowledged that where the amount in dispute is not great, it is inappropriate and uneconomic to have a court at Supreme Court level deciding such matters. The exclusive jurisdiction of the Land and Valuation Court in such matters will be reviewed in due course.

Where questions as to the existence or nature of native title interests arise in the course of acquisition proceedings, those questions may be referred to the Environment, Resources and Development Court (ERD Court) for decision (see the *Native Title (South Australia) Bill*).

The ERD Court has a limited further role under the Bill. In view of its general role in determining native title questions as they arise through native title claims or as a result of actions proposed under, for example, the *Mining Act 1971*, it is proposed to give it some involvement in relation to questions relevant to native title holders under the *Land Acquisition Act*.

Under this Bill it will be responsible for:

- mediating, on request, between native title parties and Authorities about negotiations for compensation;
- mediating and resolving questions relating to the entry and temporary occupation of native title land.

Most features of the existing compulsory acquisition scheme have been retained, but are incorporated into a negotiation process.

If an acquiring Authority and a claimant are unable to agree on the amount of compensation payable or on the question of whether the claimant has a compensable interest, either party may refer the matter to the Land and Valuation Court.

If land that may be affected by native title has been acquired and 2 months after publication of the notice of acquisition, no-one has come forward to claim compensation, the Authority may apply for a declaration that the land was not, at the time of the acquisition, subject to native title. If it was subject to native title, the Court may direct that compensation be held in trust for 6 years and paid to anyone who establishes that they are a native title holder within that time. If no claim for compensation is established within that period, the money is repaid to the Authority.

The Bill includes provisions setting out additional procedures where the Crown is authorised on acquiring native title land to confer a right or interest in or over the land on a third party. The NTA provides that such an acquisition cannot go ahead except following negotiation about the acquisition with the native title holders and, if agreement cannot be reached, following determination by the Court. Provisions of this nature were previously included as an amendment to section 260 of the *Crown Lands Act 1929*. However, it has been determined that there are a number of other Acts authorising acquisitions technically caught by the Commonwealth provisions. Hence more general provisions are considered appropriate.

The composition of the Re-Housing Committee established under Part 4A of the Act is altered to include a person with expertise in Aboriginal housing nominated by the Minister for Aboriginal Affairs.

In the event that an Authority proposes to temporarily occupy and use native title land for the purposes of taking minerals from it, the Bill requires the Authority to negotiate with any native title holders in an attempt to reach agreement on conditions for entry and use. If agreement cannot be reached, the matter may be referred to the ERD Court for mediation and/or a decision. This provision is necessary to comply with the NTA, as a right to negotiate must be given to native title parties in respect of the creation of any "right to mine".

Other amendments are made to ensure that the Act is non-discriminatory. The opportunity has also been taken to improve the language of the Act.

The Bill makes necessary and sensible amendments to the *Land Acquisition Act* in light of the recognition of native title as an interest in land.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of long title

The long title is amended to ensure that it accurately reflects the substance of the Act and is in modern language. The Act as amended will cover acquisition of waters and acquisition authorised by an Act for any purpose, not just a public purpose.

The current long title is "An Act to provide for the acquisition of land for works and undertakings of a public nature, and for purposes incidental to, and consequential upon, such acquisition; to repeal the Compulsory Acquisition of Land Act, 1925-1966; and for other purposes."

The new long title is "An Act about the acquisition of land".

Clause 4: Substitution of ss. 3, 4 & 5—Object of this Act

Section 3 is a repealing section, section 4 sets out the arrangement of the Act (now covered in the Summary of Provisions) and section 5 contains obsolete transitional provisions.

The new section states the object of the Act, namely, to provide for the acquisition of land on just terms.

Clause 5: Amendment of s. 6—Interpretation

Cross references to definitions of native title, native title holder, native title land and registered representative of native title holders in the *Native Title (South Australia) Bill* are inserted.

The definition of interest in land is amended to include native title in land.

The definition of Registrar is amended to provide that in relation to native title the Registrar of the ERD Court has the functions assigned to the Registrar-General under the Act in relation to non-native land.

The definitions of authorised undertaking and undertaking are deleted. Sections 7, 10, 25, 26G, 28, 30 and 35 and the definitions of Authority and special Act are recast to avoid the need for reference to those expressions.

Clause 6: Amendment of s. 7—Application

Section 7 is amended as a consequence of removing the concept of an authorised undertaking. It is also amended to ensure that every special Act authorises the acquisition of native title and any other interest in land able to be acquired under this Act.

Clause 7: Amendment of s. 10—Proposal to acquire land

Section 10 requires notice of intention to acquire land to be served on each person who has an interest in the land.

In the case of native title land, the amendment requires the notice of intention to be given, if particular title is to be acquired, to the registered representative of the native title holders or if all native title is to be acquired, to all persons who hold or may hold native title in the land. The latter notice is governed by the *Native Title (South Australia) Bill*.

Clause 8: Substitution of s. 11—Explanation of acquisition scheme may be required

Section 11 is recast in modern style and a provision inserted to ensure that a registered native title holder or claimant is included as a person having an interest in native title land and therefore able to seek an explanation of the reasons for the proposed acquisition and details of the scheme underlying the acquisition. The materials that may be released are limited to materials relating to the statutory scheme of acquisition.

Clause 9: Substitution of s. 12—Right to object

Section 12 is recast in modern style and a provision inserted to ensure that a registered native title holder or claimant is included as a person having an interest in native title land. A further ground for objection is added, namely, that the proposal would destroy, damage or interfere with an Aboriginal site within the meaning of the *Aboriginal Heritage Act 1988*.

Clause 10: Amendment of s. 15—Acquisition by agreement, etc.

Where an acquiring authority determines not to proceed with an acquisition section 15 requires the Authority to give notice to all parties who received the original notice of intention to acquire. Section 15 is recast in modern style recognising the different requirements for service on native title parties.

The grounds for compensation where a proposed acquisition does not go ahead are altered. Currently compensation relates to any disturbance or injurious affection to the land. Under the amendment, in recognition of the nature of native title, compensation relates to disturbance to the use or enjoyment of the land. In addition the Court is given express power to determine whether the claimant has an interest in the land, where it is necessary to do so as a preliminary step to determining the amount of compensation payable.

Clause 11: Amendment of s. 16—Notice of acquisition

This section which effects the acquisition is recast in modern style recognising the different requirements for service on native title parties. Native title is excluded from subsection (2) which sets out the effect of acquisition on interests in land. A new subsection (3a) attempts to give practical effect to the spirit of the non-extinguishment principle embodied in the NTA. It provides that while the acquisition does not extinguish native title, native title will be extinguished when the Authority takes possession of the land (if obtaining a right to exclusive possession was the purpose of the acquisition) or when the Authority exercises rights obtained by the acquisition in a way that is inconsistent with the continued existence of native title.

The Authority is required to give notice of acquisition in the same way as it gave notice of intention to acquire. Notice must be given to all who hold or may hold native title if the acquisition may result in the extinguishment of native title not yet registered.

Clause 12: Amendment of s. 17—Modification of instruments of title

Notice of acquisition of native title land is required to be given to any Commonwealth or State authority maintaining a register of native title. This is to ensure that the registers accurately reflect the fact that native title has been acquired in a particular instance.

Clause 13: Substitution of heading:PART 4—NEGOTIATION AND COMPENSATION

The heading to Part 4 is altered to recognise that the Part is amended to encompass negotiation proceedings.

Clause 14: Substitution of ss. 18 to 23

The current scheme is that on publication of a notice of acquisition under section 16 the land vests in the Authority. At the same time as the notice of acquisition is served on all persons with an interest in the land, the Authority must make an offer of compensation and pay that amount into Court. The claimant may accept the offer or make a claim for further compensation within 60 days. A disputed claim may be referred by the Authority or the claimant to the Court.

The new scheme generally retains the current procedure but incorporates into it a negotiation process.

The Authority is required to negotiate in good faith with persons who have or had (or who claim to have or to have had) an interest in the land that is divested or diminished or the enjoyment of which is adversely affected by the acquisition. The ERD Court may be requested to mediate between the parties. Non-monetary compensation may be proposed.

An offer is to be made by the Authority and the amount paid into the Land and Valuation Court. If agreement is reached the agreement is filed in the Court. If agreement is not reached (either as to whether a claimant has an interest or as to the amount of compensation), the Authority may refer the matter to the Court. The Court is given power to make all relevant orders including orders as to whether a claimant holds an interest in the land and the nature of that interest.

If native title land is acquired and no persons claiming native title come forward after 2 months, the Authority may apply to the Court for a declaration that the land is not subject to native title or an order fixing compensation to be paid and held in trust for 6 years for potential claimants.

Special procedures are included in Division 1 for the situation where the Authority may, on acquiring native title land, confer rights or interests in the land on third parties. In this situation the Authority is required to negotiate with native title parties before issuing a notice of intention to acquire. If the parties cannot come to an agreement the matter may be referred to the ERD Court for determination. The Court is required to take into account certain criteria. The Minister may overrule a determination of the Court if satisfied that would be in the best interests of the State.

Clause 15: Amendment of s. 25—Principles of compensation

Section 25 is amended as a consequence of removing the concept of an authorised undertaking.

Clause 16: Amendment of s. 26A—Establishment of Committee

A Re-Housing Committee is established under Part 4A of the Act. The membership of the Committee is altered to include a member with expertise in Aboriginal housing nominated by the Minister for Aboriginal Affairs. The current requirement for a member with knowledge and experience in matters of housing is removed.

The Committee assists persons whose residences are compulsorily acquired. The amendment recognises the possibility that land constituting or comprising the residence of a native title holder may be acquired. It ensures that a person with expertise in Aboriginal housing is on the committee.

Clause 17: Amendment of s. 26G—Application to the Committee

References to dwellinghouses are removed and replaced with a concept of genuine use of land as a place of residence. Such persons are entitled to apply to the committee for assistance.

Clause 18: Amendment of s. 27—Powers of entry

Part 5 of the Act gives the Authority powers to temporarily enter and occupy land for the purposes of carrying out a scheme. Section 27 gives the Authority power to authorise entry on land for survey or inspection. Notice is currently required to be given to occupiers or owners of land. The amendment requires the notice provisions set out in section 28A as inserted by the Bill, and the other requirements of Part 5, to be complied with in the case of native title land.

Clause 19: Amendment of s. 28—Temporary occupation

Section 28 gives the Authority power to temporarily occupy and use land in certain circumstances. Notice is currently required to be given to the occupier or, if there is no occupier, owner of the land. The amendment requires the notice provisions set out in section 28A as inserted by the Bill, and the other requirement of Part 5, to be complied with in the case of native title land.

A reference to a dwellinghouse is replaced with a reference to a place genuinely used as a place of residence. References to 500 yards are replaced with references to 500 metres.

Section 28 is also amended as a consequence of removing the concept of an authorised undertaking.

Clause 20: Insertion of s. 28A—Exercise of powers under this Part in relation to native title land

The new section sets out the requirements for notice of entry before exercising a power conferred by the Part in relation to native title land. Notice must be given to all persons who hold or may hold native title in the land. The method of service is set out in the *Native Title (South Australia) Bill*.

If the Authority intends to remove minerals from native title land or to substantially interfere with native title land or its use or enjoyment, the Authority must negotiate conditions of entry with the native title parties (that is, registered native title holders or claimants). The ERD Court may be asked to mediate among the parties. If agreement cannot be reached the matter may be referred to the ERD Court for a decision on whether the Authority may enter the land and, if so, on what conditions.

Clause 21: Amendment of s. 30—Powers of inspection

Section 30 is amended as a consequence of removing the concept of an authorised undertaking.

Clause 22: Amendment of s. 31—Giving of notice and other documents

The requirements for service of notice on a person are substituted. The method of service on native title parties is set out in the *Native Title (South Australia) Bill*.

Clause 23: Repeal of s. 34

Section 34 provides that compensation may include work undertaken to protect, reinstate or improve land. The new provisions for compensation take into account that compensation may be non-monetary and this section is consequently repealed.

Clause 24: Amendment of s. 35—Authority may dispose of surplus land

Section 35 is amended as a consequence of removing the concept of an authorised undertaking.

Clause 25: Transitional provision

Acquisitions in progress at the commencement of this Bill are to be completed under the current provisions.

Mr CLARKE secured the adjournment of the debate.

MINING (NATIVE TITLE) AMENDMENT BILL

The Hon. S.J. BAKER (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Mining Act 1971. Read a first time.

The Hon. S.J. 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.

This Bill makes significant changes to the existing Act. Some of the changes reflect the acceptance by this State of the common law position in respect of native title established by the High Court *Mabo* judgment. Other changes reflect requirements imposed by the Commonwealth's *Native Title Act 1993* (NTA) and the Government's belief that land management issues are matters of critical importance to the economic development of the State.

In preparing its scheme, the Government has sought to ensure that—

· the right to negotiate regime imposed by the NTA is complied with in a manner that does not require the establishment of onerous and time-consuming procedures before tenements may be granted;

· negotiation between native title parties and miners is facilitated and may cover, in appropriate circumstances, every stage of mining activity from exploration to production.

The scheme provides certainty to tenement holders and a system for the grant and administration of title which is as expeditious as possible.

The amendments contained in the Bill are the minimum necessary to ensure valid interests can be granted in compliance with the NTA, the *Racial Discrimination Act* and the *Mabo* High Court judgment and to ensure that the *Mining Act* remains balanced and workable.

In general terms the *Mining (Native Title) Amendment Bill 1994:*

· leaves the existing Wardens Court jurisdiction to deal with non-native title mining matters intact (the *Native Title (South Australia) Bill* provides that if a native title question arises in proceedings before the Warden's Court that court must refer the proceedings to the ERD Court for hearing and determination);

· transfers the role of the Land and Valuation Court under the Act to the ERD Court;

· provides for the ERD Court to be the arbitral body for the purposes of determining whether the grant of a right to prospect, explore or mine for minerals can be made where the "right to negotiate" procedure fails to achieve an agreed result. The ERD Court is also to have jurisdiction to determine claims of native title and assess compensation payable to native title claimants;

· to be non-discriminatory, provides for the definition of "owner" to be amended to include "a person who holds native title to the land".

A new Part 9B inserted by the Bill provides that a prospecting authority or mining tenement confers no right to carry out mining operations on land subject to native title unless the mining operations do not affect native title.

The right to carry out mining operations on native title land may only be acquired from an agreement between the native title parties and the mining operator, or in the event that an agreement cannot be reached, a determination of the ERD Court. In addition to the agreement it will still be necessary for the mining operator to hold the appropriate tenement authorising the operations.

While not conferring rights to prospect or mine on native title land, a mining tenement nevertheless prevents the issue of any competing mining tenement. The mining tenement holder's priority is preserved.

In this way, the State can operate in an efficient manner in issuing mining tenements while facilitating negotiations between mining tenement holders and native title holders.

The salient features of the "right to negotiate" procedure from the NTA are replicated in this Bill, with some improvement on the NTA procedures, inasmuch as it provides for direct negotiation between mining tenement holder and native title holder in relation to some or all future mining operations and for notice of entry to be dealt with in the course of negotiations by the tenement holder.

An expedited procedure where the impact of operations is minimal is provided along the lines of the procedure established in the NTA.

Provision is made that where there has been a negotiated agreement between a native title party and mining tenement holders the agreement and conditions are binding on successive tenement holders and native title holders.

Any agreement reached between a native title holder and mining tenement holder as a result of the "right to negotiate" will be entered in the Mining Register.

If agreement cannot be reached, the ERD or Supreme Court will decide the matter. Provision is made for the Minister to overrule a determination of the ERD Court following negotiation proceedings if the Minister considers it to be in the interests of the State. Once a determination has been made, the issues cannot be re-opened without the authorisation of the ERD Court.

The Bill makes it clear that the procedure contained in the *Pitjantjatjara Land Rights Act 1981* or the *Maralinga Tjarutja Land Rights Act 1984* for mining approval on land held by the respective communities apply unchanged by the NTA or this Bill.

A sunset provision of two years is provided in Part 9B. If related provisions of the NTA are held to be invalid by the High Court the provisions will be allowed to expire. If the relevant provisions of the

NTA are held to be valid, then the Government will seek the repeal of the expiry provision.

In the unlikely event that the South Australian scheme is found to be inconsistent with the NTA the Government undertakes to give priority to existing tenement holders on reapplication for tenements. Provisions ensuring that this undertaking may be carried out are included in the Bill.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 6—Interpretation

Cross references to definitions of native title, native title holder, native title land and registered representative of native title holders in the *Native Title (South Australia) Bill* are inserted.

The definition of owner is amended to encompass native title holders. Consequently, rights and duties of owners under the Act extend to native title holders.

A definition of the Environment Resources and Development Court (ERD Court) is included and the definition of the Land and Valuation Court is removed. This reflects the transfer of the role of the Land and Valuation Court under the Act to the ERD Court.

The definition of appropriate court is substituted. The new definition recognises the role of the ERD Court and the Supreme Court (through the transfer or referral of ERD Court matters) in the determination of claims for compensation under the Act. The reference to the Land and Valuation Court is removed.

The definition of declared equipment is amended to include the declarations previously included in regulations. The scope of the term will appear on the face of the Act.

A definition of prospecting authority is inserted for ease of reference to a miner's right together with a precious stones prospecting right.

Clause 4: Amendment of s. 9—Exempt land

Section 9(1)(d) currently imposes a general rule that mining is not allowed within 400 metres of dwellinghouses or within 150 metres of industrial or other buildings.

The provision is recast in modern language and the reference to dwellinghouse removed in favour of a reference to a place of residence. This is to ensure that native title holders who reside near prospective mineral land also have the benefit of an exemption under section 9.

Clause 5: Amendment of s. 15—Powers of Minister, Director and authorised persons

Section 15 empowers the Minister, Director of Mines or other authorised persons to enter land with such vehicles, assistants or equipment as may be necessary for the purpose of making any geological, geophysical or geochemical investigation. Subsection (2) provides that in so doing, a person must not unnecessarily impede or obstruct any lawful work or operations being carried out by the owner or occupier. The subsection is recast to recognise the types of rights and interests comprised in native title. The power to enter and investigate or survey is required to be exercised in a manner that does not unnecessarily impede or obstruct the lawful use or enjoyment of the land by an owner (rather than just the lawful work or operations being carried on by an owner).

Clause 6: Amendment of s. 17—Royalty

Clause 7: Amendment of s. 19—Private mine

These amendments transfer the role of the Land and Valuation Court to the ERD Court.

Clause 8: Amendment of s. 24—Registration of claim

This section is amended to ensure that a mining registrar may refuse to register a claim if that would be contrary to the Government's undertaking to the mining industry that priority of title will be respected in the unlikely event that the South Australian scheme is struck down.

Under the current provisions, registration of mineral or precious stones claims following pegging is obligatory (except in specified limited circumstances). It would theoretically be possible, in the unlikely event that the South Australian scheme was found to be invalid (and tenements issued under it to be invalid), for a claim to be pegged out and registered over land subject to an invalid tenement by a person other than the holder of the invalid tenement. An application for a mining lease by the holder of the newly registered claim would then prevent the registration of any other claim (including claims re-pegged by the holder of the earlier invalid lease). To prevent this situation occurring, the amendment allows the registrar to refuse registration of a claim if registration would be inconsistent with the prior public undertaking about priority of title given by the Minister to the mining industry.

Clause 9: Amendment of s. 28—Grant of exploration licence

The Minister is currently required to publish a notice in the *Gazette* before granting an exploration licence. The amendment requires the notice to also be published in a State and local newspaper. The amendment ensures that the notice reaches a wider audience, in particular, native title parties.

Clause 10: Substitution of s. 30A—Term of licence, etc.

The current section 30A provides that the initial term of an exploration licence is a maximum of 2 years. Extensions up to a total maximum term of 5 years are possible. Conditions may be added, varied or revoked or the licence area reduced on renewal or, with the licensee's consent, at some other time.

The new section 30A retains the total maximum term of 5 years. If the initial term is less than 5 years, the licence may be extended up to a total maximum term of 5 years either through a right of renewal or at the discretion of the Minister. The ability to alter a licence is similar (but also expressly includes a power to alter the term of the licence).

The licence continues in operation until an application for renewal is decided, even if this is after the date on which the licence would otherwise have expired. The right of renewal is to arise from the lease itself to fit in better with the approach taken in the NTA.

Clause 11: Amendment of s. 33—Cancellation, suspension, etc. of licence

The role of the Land and Valuation Court is transferred to the ERD Court.

Clause 12: Amendment of s. 35A—Representations in relation to grant of lease

The amendment removes the requirement for abutting land owners to be notified of an application for a mining lease. Notice is still required to be given to the owner of the land which, under the amended definition, will include native title holders.

Clause 13: Amendment of s. 37—Nature of lease

Currently, a mining lease is not required to be registered on the certificate of title of land to which it relates. The amendments mean that the Registrar-General need not register a mining lease but must note the grant of the lease on the relevant CT or crown lease at the request of the Director of Mines. This is designed to improve the State's land records.

Clause 14: Amendment of s. 38—Term and renewal of mining lease

The amendment provides that a mining lease continues in operation until an application for renewal is decided, even if this is after the date on which the lease would otherwise have expired. A provision to this effect is currently contained in the regulations. The amendment removes any doubt about the status of a tenement where there is a delay in the renewal of the tenement for any reason.

Clause 15: Amendment of s. 40—Rental

Rental (as provided for in a mining lease and the regulations) must currently be paid to the freehold owner of the land, after deduction of 5 per cent for the Minister.

The amendments set up a system for paying rental to native title holders entitled to exclusive possession of the land as well as to freehold owners (according to the proportion of the total area of land held).

The requirement that the native title holders hold rights amounting to exclusive possession of the land in order to be entitled to receive rental has been inserted to ensure that those with rights akin to the rights of freehold owners receive the same entitlement as freehold owners but that those with lesser rights (eg rights akin to an easement or *profit a pendre*) do not. It should be noted that lessees from the Crown, easement holders and others with non-proprietary rights over land do not have an entitlement to receive rental. The amendments ensure that the provision is non-discriminatory.

The Minister's deduction of 5 per cent is retained. If there are no registered native title holders the Minister is to hold the rental in trust until a determination is made of who is entitled to the payment. After 5 years the money may be credited to the Consolidated Account with any further claims being made against the State.

The right to rental arises on the granting of a mining tenement, whether or not mining operations are carried out. Consequently it is not a form of compensation.

Clause 16: Amendment of s. 41C—Nature of lease

This amendment is equivalent to that made in relation to mining leases and requires the Registrar-General to note a retention lease on the relevant CT or crown lease at the request of the Director of Mines.

Clause 17: Amendment of s. 41D—Term and renewal of retention lease

This amendment is equivalent to that made in relation to mining leases and allows an application for renewal of a retention lease to be determined after the date on which the lease would otherwise have expired.

Clause 18: Amendment of s. 41E—Rental

This amendment relates to rental under retention leases and is equivalent to that made in relation to mining leases.

Clause 19: Amendment of s. 46—Registration of claims

This amendment is similar to that made in relation to mineral claims. It allows a mining registrar to refuse to register a claim if that would be contrary to a public undertaking by the Minister to holders of mining tenements or purported mining tenements. It also allows an application for renewal of a precious stones claim to be determined after the date on which the claim would otherwise have expired.

Clause 20: Substitution of s. 50—Consent required for claims on freehold or native title land

Currently a precious stones claim cannot be pegged out on freehold land unless the owner of the land gives written consent.

This provision is retained and extended to native title holders who hold native title conferring a right to exclusive possession of the land. The amendment ensures that the provision is non-discriminatory.

Clause 21: Amendment of s. 52—Grant of licence

This amendment relates to rental under miscellaneous purposes licences and is equivalent to that made in relation to mining leases.

Clause 22: Amendment of s. 53—Application for licence

The amendment removes the requirement for abutting land owners to be notified of an application for a miscellaneous purposes licence. This is equivalent to the alteration made in relation to mining leases.

Clause 23: Amendment of s. 54—Compensation

The role of the Land and Valuation Court in relation to compensation in respect of the grant of a miscellaneous purposes licence is transferred to the appropriate court within the meaning of the Bill (the Supreme Court, ERD Court or the Warden's Court). Where native title is involved the matter will be a native title question and will only be able to be determined by the Supreme or ERD Court under the *Native Title (South Australia) Bill*.

Clause 24: Amendment of s. 55—Term of licence

This amendment is equivalent to that made in relation to mining leases and allows an application for renewal of a miscellaneous purposes licence to be determined after the date on which the licence would otherwise have expired.

Clause 25: Substitution of ss. 58 and 58A—Entry on land

The new sections set out how entry on land (other than land in a precious stones field) by a mining operator is to be effected. New section 58 provides that a mining operator may enter land by agreement with the owner or in accordance with conditions determined by the appropriate court. New section 58A provides a mechanism for a mining operator who has not previously negotiated an agreement with the owner or obtained a determination of the court to enter land after first giving at least 21 days notice to the owner (which includes native title holders). If the owner holds a right to exclusive possession of the land, the owner has a right to object to the appropriate court within 3 months. The court may determine which parts of the land may or may not be entered and the conditions applicable to entry.

The amendments ensure that the provisions are non-discriminatory.

Clause 26: Amendment of s. 59—Use of declared equipment

Section 59 restricts the use of declared equipment, ie, heavy earth moving or drilling machinery, on land. In the case of freehold land, the owner must receive at least 21 days notice and may object to the use of the equipment. The amendments mean that a native title holder is an owner for the purposes of this section.

The amendment enables declared equipment to be used on land in accordance with the terms of an agreement between the owner and the mining operator or the determination of the Warden's Court or the ERD Court. The provision has been expanded in this manner to recognise that the required negotiation between the mining operator and native title parties will cover the use of declared equipment.

Clause 27: Amendment of s. 60—Restoration of land

This amendment is consequential to the previous clause and extends the provision to cover restoration of land at the direction of an official after use of declared equipment on native title land.

Clause 28: Amendment of s. 63E—Term, etc., of access claim

The amendment makes it clear that there is a right to renewal of an access claim.

Clause 29: Insertion of Part 9B—NATIVE TITLE LAND

DIVISION 1—GENERAL

63F. Qualification of rights conferred by prospecting authority or mining tenement

This provision is central to the South Australian scheme. A prospecting authority or mining tenement confers no right to carry out mining operations on native title land unless the mining operations do not affect native title (or a declaration that the land is not subject to native title land is obtained).

The right to carry out mining operations on native title land can only derive from an agreement with the native title holders or, if agreement cannot be reached, a determination of the ERD Court. The clause makes it clear that even with an agreement, the appropriate mining tenement must still be held for mining operations to be carried out.

63G. Prospecting and mining rights to be held in escrow in certain circumstances

A mining tenement nevertheless prevents the grant of any further competing tenement. This affords the tenement holder protection from "claim jumpers" while he or she either obtains a declaration that the land is not affected by native title or negotiates an agreement with native title holders.

If a mining tenement is granted wholly or substantially in respect of native title land, the Minister may revoke the tenement if the holder is not acting with reasonable diligence in seeking a declaration or negotiating an agreement.

DIVISION 2—APPLICATION FOR DECLARATION

63H. Application for declaration

This section allows the making of an application to the ERD Court for a declaration that land is not subject to native title. The application is to be made under the *Native Title (South Australia) Bill* which deals in detail with the making of claims and determinations of native title.

DIVISION 3—NEGOTIATING PROCEDURE

63I. Negotiation of right to prospect or mine on native title land

Negotiation may take place with registered claimants of native title, including claimants who register within 2 months of notice given under the Division. The provision makes it clear that the agreement may extend to future prospecting authorities or mining tenements so that agreements may cover a number or even all stages of a project.

63J. Notification of parties affected

Notice of an intention to negotiate must be given to potential native title parties, the ERD Court and the Minister. Service on potential native title parties is governed by Part 5 of the *Native Title (South Australia) Bill*.

63K. What happens where there are no registered native title parties with whom to negotiate

If no native title claimants come forward, an ex parte application may be made to the ERD Court for a summary determination of the conditions on which the land may be entered and mining operations carried out.

63L. Expedited procedure where impact of operations is minimal

If the mining operations are of an insignificant nature (as defined in the section) and no written objections are forthcoming after notice of intention to negotiate is given, an ex parte application may be made to the ERD Court for a summary determination of the conditions on which the land may be entered and mining operations carried out.

63M. Negotiating procedure

Negotiations are to proceed in good faith and the Court is given the power to mediate. The Minister is given power to intervene in the process.

63N. Agreement

An agreement may provide for payment to the native title parties based on profits or income derived from mining operations on the land or the quantity of minerals produced.

An agreement must set out conditions of entry to the land. This provision is intended to ensure that the question of entry onto the land is addressed while the parties are negotiating, so as to obviate the requirement for separate notice to be given (or negotiated) at a later date.

An agreement is to be registered by a mining registrar although the Minister may prohibit registration if of the opinion that it has not been negotiated in good faith. The Minister's prohibition is subject to an appeal to the ERD Court.

Once registered the agreement is binding on successors in title.

63O. Application for determination

If agreement is not reached within 4 months for prospecting rights or 6 months for mining rights, application may be made to the ERD Court for a determination that mining operations may be carried out and the conditions on which they may be carried out. The time periods reflect NTA requirements.

The Court may determine that mining operations may not be conducted on native title land, or that such operations may be conducted subject to conditions. A determination that operations may be conducted must deal with the conditions of entry to land. Again, this is to ensure that the question of entry is addressed at this stage.

The Court is required to make a determination within 4 months in respect of prospecting rights and 6 months in respect of mining rights.

63P. Criteria for making determination

This clause lists factors to be taken into account by the Court in making a determination and reflects NTA requirements.

63Q. Effect of determination

A determination takes effect on registration by a mining registrar and binds successors in title. It has effect as a contract.

63R. Ministerial power to overrule determinations

The Minister may, within 2 months, overrule a determination of the Court following a failed negotiation procedure if of the opinion that it is in the interests of the State to do so.

63S. No re-opening of issues

Once an issue has been decided by determination under Part 9B, the parties cannot make an agreement that is inconsistent with the determination without authorisation of the Court.

DIVISION 4—MISCELLANEOUS

63T. Non-application of this Part to Pitjantjatjara and Maralinga lands

The *Pitjantjatjara Land Rights Act 1981* and the *Maralinga Tjarutja Land Rights Act 1984* are not affected by this Part. The independent procedures set out under those Acts must be followed.

63U. Compensation to be held on trust in certain cases

Compensation is a matter for determination of the ERD Court. Compensation is to be paid into the ERD Court—

- to be paid to the registered representative on request or in some other way considered just and equitable; or
- to be returned if a declaration is made that native title does not exist in the relevant land or if a decision is made not to proceed with the activity to which the compensation relates.

63V. Non-monetary compensation

Non-monetary compensation is to be considered.

63W. Saving of pre-1994 mining tenements

Claims registered before 1.1.94 and leases and licences granted before 1.1.94 are not affected by this Part.

63X. Expiry of this Part

The Part expires after 2 years.

Clause 30: Amendment of s. 65—Powers etc. of Warden's Court

The role of the Land and Valuation Court as the court of a appeal from the Warden's Court is transferred to the ERD Court.

Clause 31: Amendment of s. 66A—Removal of cases to ERD Court

The role of the Land and Valuation Court as the court to which cases of unusual difficulty or importance may be removed from the Warden's Court is transferred to the ERD Court. Note that the amendment to the ERD Court Act provides for matters to be referred or removed from the ERD Court to the Supreme Court.

Clause 32: Amendment of s. 72—Research and investigation

In addition to conducting research and investigation into problems relating to mining operations or the treatment of ores, this amendment empowers the Minister to conduct research and investigation into the existence of native title on mineral land. This will enable funds to be applied towards analysing and understanding the interrelationship between mining and native title issues.

Clause 33: Amendment of s. 75—Provision relating to certain minerals

Currently claims or leases in respect of extractive minerals may only be granted to freehold owners of the land. This is in recognition of the fact that mining for extractive minerals is generally a much more intrusive and destructive activity than other sorts of mining. Having obtained a lease for extractive mining on his or her land, the freehold owner may then transfer the interest to a mining operator.

The amendment provides that claims or leases in respect of extractive minerals may only be granted in relation to freehold land or land in respect of which native title conferring a right to exclusive possession exists with the owner's consent. The amendment ensures that the provision is non-discriminatory. Neither Crown lessees or the holders of lesser interests in land nor the holders of native title with similar interests can veto extractive mining on the land.

Clause 34: Insertion of s. 75A—Avoidance of double compensation

The new section 75A requires a court assessing compensation under the Act to take into account compensation payable from any other source.

Clause 35: Amendment of s. 79—Minister may grant exemption from certain obligations

The amendment prohibits the Minister from granting exemptions to Part 9B or so as to discriminate against the holders of native title in land.

Clause 36: Insertion of s. 89A—Immunity from liability

The new section provides immunity from liability for acts in good faith by an officer or employee of the Crown or a person holding a delegation under the Act.

Mr QUIRKE secured the adjournment of the debate.

NATIVE TITLE (SOUTH AUSTRALIA) BILL

The Hon. S.J. BAKER (Deputy Premier) obtained leave and introduced a Bill for an Act relating to native title; and amending the Acts Interpretation Act 1915. Read a first time.

The Hon. S.J. 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.

In the last session three Bills relating to native title were introduced to enable comment on the State's response in the main areas affected by the *Mabo* decision and the Commonwealth's *Native Title Act 1993* (NTA). These were:

- *Mining (Native Title) Amendment Bill*
- *Land Acquisition (Native Title) Amendment Bill*
- *Environment, Resources and Development (Native Title) Amendment Bill*.

Those Bills have been amended and together with this Bill form the current package of native title legislation before the Parliament.

A statutes amendment Bill amending various other pieces of legislation affected by native title is currently in preparation and will be brought before Parliament as soon as possible.

Submissions on the package have been sought and received from, among others, the Commonwealth, ALRM, the Aboriginal Lands Trust, the Chamber of Mines and Energy Inc and the SA Farmer's Federation. A number of alterations have been made to the Bills in response to the submissions. Many of the alterations are of a technical nature to ensure consistency with the NTA.

As stated when the package of legislation was first introduced, the Government believes that the NTA is in many ways a less than optimal resolution of the issues raised by the High Court in its decision in *Mabo*. The Government is actively engaged in seeking improvements to the legislation and in seeking the overturning of parts of the legislation where it believes that the Commonwealth has invalidly encroached on matters within the responsibilities of the State. However, to ensure that dealings in land in this State may proceed with as much certainty as is possible, the State must legislate to take account of the Commonwealth Act as it now stands.

This Bill brings together various issues relating to native title that are most conveniently and efficiently dealt with in a special Act, rather than in the general laws of the State.

Interpretation—Part 2

Part 2 of the Bill provides various standard definitions relevant to native title issues ensuring that a standard approach applies across the State's statute law. (The definitions were previously repeated in the various Bills.)

The definitions included are based on the provisions of the NTA.

The Commonwealth and the State agree that pastoral leases granted under South Australian legislation before the enactment of the *Racial Discrimination Act* in 1975 extinguished native title. The definition of "native title" contains a declaratory provision to that effect. To ensure that native title includes native title over waters as well as land the definition of "land" in the *Acts Interpretation Act 1915* is substituted by the schedule.

Jurisdiction of State courts in native title cases—Part 3

The provisions contained in Part 3 of the Bill were previously contained in the *Environment, Resources and Development Court (Native Title) Amendment Bill*.

The NTA establishes a system under which native title questions may be determined by the National Native Title Tribunal (NNTT), the Federal Court or a recognised State body (which may be a court, office, tribunal or other body). The NTA provides for recognition of a State body by the Commonwealth Attorney-General if the criteria set out in section 251 are met.

In the Government's view this "executive" exercise of Commonwealth power in respect of a State body is most undesirable.

In addition, it is unsatisfactory that recognition of a State body does not affect the jurisdiction of the NNTT or Federal Court but results in two forums in which native title claims and so forth may be determined. The questions at issue clearly impact squarely on the State's responsibility for land management issues and the development of land in ways essential to the economic well-being of the State.

It is the Government's policy that native title questions should be resolved by State judicial bodies.

Accordingly, Part 3 of this Bill gives jurisdiction to the Supreme Court and the Environment, Resources and Development Court (ERD Court) to determine native title questions and provides for native title cases to be transferred from the ERD Court to the Supreme Court where that is considered appropriate. The measure will stand independently of the NTA but will allow for recognition of the ERD Court and Supreme Court by the Commonwealth Attorney-General under the NTA.

The Commonwealth criteria for recognition are:

- procedural consistency with NNTT and efficiency;
- informality, accessibility and expeditiousness;
- availability of mediation;
- adequate resources;
- consultation with the Commonwealth on non-judicial appointments;
- provisions to allow bodies corporate to hold native title on trust;
- provisions to require that the Native Title Registrar receives notification of decisions.

With the amendments contained in this and the *Environment, Resources and Development Court (Native Title) Amendment Bill*, it is believed that the ERD Court will meet the criteria. The structural similarities between the ERD Court and the NNTT are obvious. This, combined with the flexibility and adaptability of the ERD Court and its experience in land management cases, makes it the logical choice of body to determine native title issues in this State. (Native title claims are essentially about interests in and the development and management of land.) The facility to add members, adapt procedures, use specialist expertise and the informal, accessible and expeditious procedures enhance its suitability.

The *Environment, Resources and Development Court (Native Title) Amendment Bill* provides for the appointment of one or more "native title commissioners", being persons with expertise in Aboriginal law, traditions and customs. The presence of such commissioners will ensure that relevant expertise is available to the Court when deciding native title questions.

As the ERD Court is an existing body, the additional jurisdiction in relation to native title will not require a duplication of resources. If additional members are appointed, the question of accommodation for the Court may come sharply into focus because of existing space constraints. Up to 50% of such costs may be recovered from the Commonwealth for the first 5 years.

The amendments provide the Supreme Court with equivalent jurisdiction and enable native title cases to be transferred to the Supreme Court where either the ERD Court or the Supreme Court considers that appropriate. The Bill applies to procedures of the Supreme Court in the same way as it applies to procedures of the ERD Court and so it is believed that the Supreme Court will also meet the Commonwealth criteria.

The Bill requires other courts to refer native title questions to the ERD Court. The ERD Court is given jurisdiction to finally determine all matters referred to it if it considers that appropriate.

These provisions ensure that the Supreme Court, as the superior court of record in this State, can hear the more complex native title cases but allows the ERD Court to be the principal trial court for native title cases generally.

The government believes that the ERD Court/Supreme Court system will operate to the benefit of native title claimants and others who wish to seek declarations on native title questions in this State.

Procedure in native title cases—Part 3

The Bill requires the Registrar to notify potential native title parties, persons with a registered interest in the land, mining tenement holders and the Commonwealth Registrar of all hearings and determinations of native title questions.

The Bill requires the Court to take account of the cultural and customary concerns of Aboriginal peoples in conducting proceedings in relation to a native title question.

These provisions reflect NTA requirements.

State Native Title Register—Part 4

Part 4 establishes a State Native Title Register to be kept by the Registrar of the ERD Court. The Register is a register of claims to native title in particular land and of declarations about whether or not native title exists in particular land. It covers the matters contained in both the Register of Native Title Claims and National Native Title Register under the NTA.

The Bill provides for claims to native title to be assessed and proceeded with provided they are not frivolous or vexatious or without substance on face value.

These provisions were previously contained in the *Environment, Resources and Development Court (Native Title) Bill*.

Native title declarations—Part 4

Part 4 allows for interested persons to apply for a declaration that native title does or does not exist. Registration of a claim is to be treated as an application for a declaration that native title exists as claimed.

The procedures involved in making and revoking or varying such a declaration are regulated as required under the NTA (including procedures requiring registration of a body corporate to represent native title holders whenever native title is declared to exist).

The Bill requires declarations of native title made by the ERD Court to be comprehensive *ie* the declaration is to exclude the possibility of any other native title existing in the land. Consequently if there has been a declaration by the ERD Court, notification of native title holders will be able to be achieved by notification of their registered representative (see Part 5).

These provisions were previously partly in the *Environment, Resources and Development (Native Title) Bill* and partly in the *Mining (Native Title) Amendment Bill*. This is an area where changes have been made in response to submissions received.

Service on native title holders—Part 5

Part 5 inserts provisions setting out a standard method of service of notices and documents on native title holders.

The method of service expands on that set out in the NTA as appropriate for effective notification of potential native title holders. Regulations will be required in support of these provisions.

Service provisions were previously contained in each of the Bills.

Validation of past acts—Part 6

This is an area of law brought before the Parliament for the first time in this Bill.

It is an area where the State is required to follow the Commonwealth Act more or less to the letter.

The Commonwealth Act allows the State to validate past acts that are invalid because of the existence of native title. The effect of validation is stated in the Bill in the terms used in the Commonwealth Act.

Under the Commonwealth Act the State is liable to pay compensation to native title holders whose interests are affected by validation of past acts. The Commonwealth Act provides for the Commonwealth to agree to provide financial assistance to the State. It is the Commonwealth's responsibility to meet the full cost of compensation awarded as a result of its legislation and negotiations will proceed with the Commonwealth to that end.

Confirmation of Crown and other rights—Part 7

A provision confirming ownership of minerals was previously contained in the *Mining (Native Title) Amendment Bill*. The provision contained in this Bill is much broader in scope and makes full use of the opportunity afforded by the Commonwealth to confirm Crown and other rights.

I commend the Bill to Honourable Members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

PART 2

BASIC CONCEPTS

Clause 3: Interpretation of Acts and statutory instruments

Definitions relating to native title are included in this clause and clause 4.

Native title means the communal, group or individual rights and interests of Aboriginal peoples in relation to land or waters (including hunting, gathering or fishing rights and interests) where—

- the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples; and
- the Aboriginal peoples, by those laws and customs, have a connection with the land or waters; and
- the rights and interests are recognised by the common law; and
- the rights and interests have not been extinguished.

Native title also includes statutory rights and interests of Aboriginal peoples (except those created by a reservation or condition in pastoral leases granted before 1.1.94 or related legislation) if native title rights and interests are, or have been at any time in the past, compulsorily converted into, or replaced by, statutory rights and interests in relation to the same land or waters that are held by or on behalf of Aboriginal peoples.

A statement is included that native title was extinguished by the grant of a freehold interest in land, the grant of a lease (including a pastoral lease), or the grant, assumption or exercise by the Crown of a right to exclusive possession of land, at any time before 31 October 1975.

Native title land means land in respect of which native title exists or might exist excluding land declared by a court or other competent authority not to be subject to native title.

The definition of land included in the *Acts Interpretation Act 1915* is amended by the schedule to include waters (above or below land) and airspace over land. (Land is currently defined to include buildings and structures and this is retained.)

A native title holder encompasses persons recognised at common law as holding native title and bodies corporate registered as holding native title on trust (registration occurs after a court determines that native title exists and should be held in trust).

The registered representative of native title holders means the body corporate registered as their representative under Commonwealth or State law.

For the purposes of notification to native title holders and entitlement to make applications the expression representative Aboriginal body is defined. The relevant bodies are Anangu Pitjantjatjara, Maralinga Tjarutja, and any other prescribed body. The criteria for prescription of a body are similar to that set out in the Commonwealth Act.

A native title question is defined as a question about—

- the existence of native title to land;
- the nature of the rights conferred by native title in a particular instance;
- compensation payable for extinguishment or impairment of native title;
- acquisition of native title to land, or entry to and occupation, use or exploitation of, native title land under powers conferred by an Act of the Parliament;
- any other matter related to native title.

Aboriginal peoples is defined to mean peoples of the Aboriginal race of Australia.

Clause 4: Native title

This clause sets out the meaning of native title as explained above.

PART 3

NATIVE TITLE QUESTIONS

DIVISION 1—JURISDICTION

Clause 5: Jurisdiction of Supreme Court and ERD Court

The Bill gives jurisdiction to the Supreme Court and the ERD Court to hear and determine native title questions.

Clause 6: Reference of proceedings between courts

The Supreme Court may, and other courts must, refer native title questions to the ERD Court.

The ERD Court is given jurisdiction to finally determine all questions involved in proceedings referred to it (whether or not relating to native title).

The ERD Court may refer proceedings involving a native title question to the Supreme Court.

Similarly, the Supreme Court is given power to remove such proceedings from the ERD Court to itself.

In deciding which court should hear proceedings, consideration must be given to the importance of the questions involved in the proceedings and the complexity of the legal and factual questions involved in the proceedings.

DIVISION 2—NATIVE TITLE COMMISSIONERS

Clause 7: Native title commissioners

The Supreme Court and the ERD Court are required to use native title commissioners in proceedings involving native title questions. The *Environment, Resources and Development Court (Native Title) Bill* sets out further detail on how the ERD Court is to make use of commissioners and the manner in which they are to be appointed.

DIVISION 3—CONFERENCES

Clause 8: Conferences

The amendment requires contested native title questions to be referred to a conference, that is, a mediation process.

Clause 9: Mediator

The mediator is to be a native title commissioner selected in accordance with the Rules. The mediator is empowered to allow participation in the conference by telephone, closed-circuit TV or other means of communication. This is in particular recognition of the difficulties that may be incurred by native title holders located in remote areas.

Clause 10: Conclusion of conference

The Court may make orders to give effect to the terms of an agreement reached at a conference. The mediator is to close the conference if it appears that no agreement will be reached.

Clause 11: Evidence

Evidence given at the conference is not to be used in the proceedings unless all parties consent.

Clause 12: Disqualification

The mediator is to take no further part in the proceedings unless all parties consent.

DIVISION 4—HEARINGS

Clause 13: Principles governing hearings

Native title cases before the Supreme Court and the ERD Court are required to be conducted with a minimum of formality.

Clause 14: Court to take into account matters of concern to Aboriginal people

In conducting native title cases, the Supreme Court and the ERD Court are required to take account of the cultural and customary concerns of Aboriginal peoples (although the court is not required to inquire into matters of which there is no evidence before the Court).

DIVISION 5—NOTIFICATION OF HEARINGS AND DECISIONS

Clause 15: Registrar to be informed of applications etc. involving native title questions

The ERD Court Registrar is to be informed about applications, proceedings and decisions involving native title questions.

Clause 16: Notice of hearing and determination of native title questions

The ERD Court Registrar is required to give notice of a hearing of a native title question and of the determination of the question to—

- all who hold or may hold native title in the land to which the proceedings relate (under Part 5 this requires notice to be given to registered representatives, claimants, a representative Aboriginal body, the Commonwealth Minister, the State Minister and as required by regulation);
- any person who has a registered interest in the land;
- any person who holds a mining tenement over the land;
- the Commonwealth Registrar.

There is two months from a notice of hearing in which persons may be joined as parties to the proceedings.

PART 4

CLAIMS AND DETERMINATIONS OF NATIVE TITLE

DIVISION 1—STATE NATIVE TITLE REGISTER

Clause 17: Register

The ERD Court Registrar is required to keep a register of:

- all decisions of State courts or competent Commonwealth authorities as to the existence of, or nature of, native title in this State
- all claims to native title over land accepted under this Division
- the name and address for service on claimants
- information required by regulation.

The register is to be available for inspection. Part of the register is to be kept confidential.

DIVISION 2—REGISTRATION OF CLAIMS

Clause 18: Registration of claims to native title

A claim of entitlement to native title over land in respect of which native title might exist is to be registered unless the ERD Court Registrar, with the agreement of the Master of the ERD Court, believes the application to be frivolous or vexatious or that the application cannot be made out for obvious reasons.

The information to be provided by claimants to the Registrar is set out in the clause.

A refusal to register may be reviewed by the Court.

DIVISION 3—NATIVE TITLE DECLARATIONS

Clause 19: Native title declaration

The following persons may apply for a declaration:

- a registered claimant (indeed the application for registration is treated as an application for a declaration);
- a person whose interests would be affected by the existence of native title in land (including a person who proposes to carry out mining operations on the land);
- a representative Aboriginal body;
- the State Minister;
- the Commonwealth Minister.

Clause 20: Application for native title declaration

The form and contents of an application are set out in the clause.

Clause 21: Hearing and determination of application for native title declaration

The Court may allow an interested person to introduce evidence and to make submissions.

The Court may declare that native title does or does not exist in the land or a particular part of the land. If the Court declares that native title does exist it must make a comprehensive declaration, *ie* the declaration will exclude the possibility of other unregistered native title existing concurrently. The Court may also define the nature of the rights conferred by the native title and identify the native title holders.

Clause 22: Registration of representative

If the Court proposes to declare that native title exists it must seek a nomination of a body corporate to represent the native title holders and an indication of whether the native title holders want the body corporate to hold the native title in trust. The eligibility of bodies corporate to be nominated and the terms of trusts will be set out in the regulations. This is equivalent to requirements in the NTA. The body so identified is known as the registered representative.

Clause 23: Revision of declaration

Provision for variation or revocation of a declaration is made but only where the declaration is no longer correct because of events that have taken place since it was made or where the interests of justice require it. An application for variation or revocation may only be made by the registered representative of the native title holders, the Commonwealth Minister, the State Minister or the Registrar.

Clause 24: Merger of proceedings

Proceedings relating to native title claims over the same land are required to be merged.

Clause 25: Protection of native title from encumbrance and execution

If native title is held in trust by a body corporate under this Division, the native title cannot be dealt with, or being taken in execution proceedings, except as authorised by regulation.

PART 5

SERVICE ON NATIVE TITLE HOLDERS

Clause 26: Service on native title holder where title registered

If notice is to be given to the holders of native title that has been registered or to a registered claimant, it must be given to the registered representative of the native title holders (in the case of claimants this is a person designated by the claimants).

Clause 27: Service where existence of native title, or identity of native title holders uncertain

If notice is to be given to all persons who hold or may hold native title, it must be given to—

- all registered representatives of native title holders; and
- all persons registered as claimants of native title; and
- the relevant representative Aboriginal body; and
- the Commonwealth Minister; and
- the State Minister; and
- as required by the regulations.

Declarations of native title made by the ERD Court are required to be comprehensive *ie* the declaration excludes the possibility of any other native title existing in the land. Consequently if there has been a declaration by the ERD Court, notification of native title holders will be able to be achieved by notification of their registered representative.

PART 6

VALIDATION OF PAST ACTS

Clause 28: Interpretation

Definitions in the NTA are to apply for the purposes of this Part.

Clause 29: Validation of past Acts attributable to the State

This clause remedies any invalidity of past acts due to the existence of native title.

Clause 30: Effect of validation—category A past acts that are not public works

In the case of certain freehold grants and certain leasehold grants native title is extinguished.

Clause 31: Effect of validation—category A past acts that are public works

Public works extinguish native title on completion of construction or establishment. (Although public works commenced to be constructed or established before 1 January 1994 are to be taken to have extinguished native title on 1 January 1994.)

Clause 32: Effect of validation—inconsistent category B past acts

Leasehold grants (other than leases that are category A past acts and mining leases) extinguish native title only to the extent of inconsistency with the continued exercise of rights conferred by native title.

Clause 33: Effect of validation—category C and D past acts

The non-extinguishment principle applies.

Clause 34: Extinguishment does not confer right to eject or remove Aboriginal peoples

Clause 35: Preservation of beneficial reservations and conditions

Reservations of conditions beneficial to Aboriginal peoples are preserved.

PART 7

CONFIRMATION OF CROWN AND OTHER RIGHTS

Clause 36: Confirmation

This clause confirms any existing ownership of natural resources, certain water and fishing access rights and to confirm public access to and enjoyment of certain areas as allowed by section 212 of the NTA. Section 212(3) provides that the confirmation "does not extinguish or impair any native title rights and interests and does not affect any conferral of land or waters, or an interest in land or waters, under a law that confers benefits only on Aboriginal peoples".

PART 8

MISCELLANEOUS

Clause 37: Regulations

A general regulation making power is inserted to support the requirement for regulations under the definition of "representative Aboriginal body" and the method of service provisions.

SCHEDULE

Amendment of Acts Interpretation Act 1915

As noted above the definition of land included in the *Acts Interpretation Act 1915* is amended to include waters (above or below land) and airspace over land. (Land is currently defined to include buildings and structures and this is retained.)

Mr CLARKE secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT (NATIVE TITLE) AMENDMENT BILL

The Hon. S.J. BAKER (Deputy Premier) obtained leave and introduced a Bill for an Act to amend the Environment, Resources and Development Court Act 1993. Read a first time.

The Hon. S.J. 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.

This Bill makes amendments to the constitution and procedures of the ERD Court complementary to the jurisdiction given to the Court under the *Native Title (South Australia) Bill* to hear and determine native title questions.

The Bill provides for the appointment of one or more "native title commissioners", being persons with expertise in Aboriginal law, traditions and customs. The presence of such commissioners will ensure that relevant expertise is available to the Court when deciding native title questions.

There is a likelihood that native title commissioners will hold personal interests in matters before the Court that are sufficiently remote not to justify disqualification. The Bill accordingly adjusts the conflict of interest provisions contained in the Act.

The amendments also enable certain categories of proceedings (native title, mining, compulsory acquisition and other prescribed categories) to be transferred to the Supreme Court where either the

ERD Court or the Supreme Court considers that appropriate. These provisions ensure that the Supreme Court, as the superior court of record in this State, can hear the more complex cases.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

Native title jurisdiction is defined as the jurisdiction of the Court to hear and determine a native title question. This jurisdiction is conferred on the court by the *Native Title (South Australia) Bill*.

A native title question is defined in that Bill as a question about—

· the existence of native title to land;

· the nature of the rights conferred by native title in a particular instance;

· compensation payable for extinguishment or impairment of native title;

·acquisition of native title to land, or entry to and occupation, use or exploitation of, native title land under powers conferred by an Act of the Parliament;

· any other matter related to native title.

If the Court when hearing and determining a native title question is to consist of or include a commissioner or 2 or more commissioners, the commissioner or at least one-half the number of commissioners must be native title commissioners (see amendment of section 15).

A native title commissioner is defined in this Bill as a commissioner with expertise in Aboriginal law, traditions and customs.

Clause 4: Amendment of s. 10—Commissioners

Section 10 enables the Governor to appoint Commissioners and sets out knowledge and experience required for appointment. The amendment sets out the requirements for appointment as a native title commissioner, namely, expertise in Aboriginal law, traditions and customs. The presence of these commissioners will ensure that relevant expertise is available to the Court when deciding native title questions.

The amendment requires the Minister to consult the relevant Commonwealth Minister about proposed appointments of native title commissioners as required under the Commonwealth *Native Title Act*.

Clause 5: Substitution of s. 13—Disclosure of interest by members of the Court

This section currently disqualifies a member from sitting at a hearing if the member has a personal interest or a direct or indirect pecuniary interest in the subject matter of the proceeding.

The new section requires a member who has a pecuniary or other interest that could conflict with the proper performance of the member's official functions in proceedings to disclose the interest to the parties. The member must not take part in the proceedings if the Presiding Member so requires or if the parties do not consent. This is similar to a provision recently included in the *Industrial and Employee Relations Act*.

Clause 6: Amendment of s. 15—Constitution of Court

The amendment sets out the requirement referred to above that, if the Court when hearing and determining a native title question is to consist of or include a commissioner or 2 or more commissioners, the commissioner or at least one-half the number of commissioners must be native title commissioners.

The amendment requires the Court to consist of, or include, a legal practitioner of at least 5 years' standing when sitting to exercise its native title jurisdiction. This is a requirement of the Commonwealth *Native Title Act*.

The amendment also requires that where the Court is constituted of a full bench questions of law must be determined by the Judge.

Clause 7: Amendment of s. 18—Time and place of sittings

The amendment deletes the requirement that ERD Court Registries be at District Court Registries and requires ERD Court Registries to be at places determined by the Governor.

Clause 8: Insertion of s. 20A—Transfer of cases between the Court and the Supreme Court

New section 20A allows the ERD Court to refer proceedings involving a native title question, a question related to mining or exploration for minerals or petroleum, compulsory acquisition of land or any other proceedings of a prescribed class to the Supreme Court.

Similarly, the Supreme Court is given power to remove such proceedings from the ERD Court to itself.

In deciding in which court proceedings should be heard consideration must be given to the importance of the questions involved in the proceedings and the complexity of the legal and factual questions involved in the proceedings.

Mr CLARKE secured the adjournment of the debate.

LAND AGENTS 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.

Ideas about regulation have changed significantly over the past 20 years. Consideration of the role that regulation plays has assumed growing importance in recent times due to the greater pressures which exist for Australian and South Australian businesses to compete nationally and internationally as to prices, standards and service. Regulation by its very nature involves the imposition of additional costs and other burdens upon business by Government, in the administration of legislation. Such costs ultimately are passed onto consumers.

Whilst in opposition the Government received many complaints from associations representing land agents, conveyancers and valuers about the nature of and the effectiveness of the regulatory provisions relating to these occupations. The associations indicated a desire to play a more significant role in the administration of their industry and occupation. Shortly after taking up office, the Government instigated a review of the regulatory framework of all legislation in the Consumer Affairs Portfolio. A Legislative Review Team was appointed to conduct the Review and requested that they give priority to the review of the *Land Agents, Brokers and Valuers Act*.

Over many years the Real Estate Institute has played a significant role in the direction being taken by the real estate industry in this State. The Institute has clearly stated its preference for a more co-operative approach in the regulation of its profession. It has demonstrated a mature approach to issues concerning the real estate profession and the role that it plays in working with Government towards achieving high standards of behaviour and competence among land agents is acknowledged.

There are four key features of the Land Agents Bill. These are firstly, a recognition of the legitimate public interest in the continued imposition of education and probity standards for agents, but a simplification of the related bureaucracy. Secondly, the partial de-regulation of the controls on those employed by agents, with a compensating statutory duty of proper management and supervision of the business of an agent upon the corporation . Thirdly, the removal of anti-competitive restrictions on the licensing of corporate agents and fourthly the provision of mechanisms for the involvement of industry in the active enforcement of the duties of land agents including the monitoring of trust accounts.

The Bill introduces a system of registration for land agents. A registration system will be far more streamlined and efficient than the current licensing system. Registration is based on an administrative system, whereas licensing is based upon a quasi-judicial system which has regard to a person's fitness and propriety to hold a licence.

In essence registration requires an applicant to meet certain criteria before being granted registration. The administration costs associated with a registration system are less than for a licensing system. Resources can therefore be saved or diverted to other areas such as the enforcement of provisions of the Act, or for education and information purposes.

The Bill proposes that corporations will be entitled to register as a land agent. A statutory duty on the part of the corporation is provided which will require that a corporation with registration as a land agent, properly manage its agency business through a natural person who is a registered agent. Under the Bill liability will exist against both the directors of the corporation and the agent corporation for failure to properly supervise and manage the agent's business. The interests of consumers will therefore be protected under this system, and it removes the potentially anti-competitive restrictions upon corporate registration.

Under the Bill hotel brokers and real estate managers will no longer be regulated and sales representatives will no longer be required to be registered. The registration and licensing of these

groups appear to add extra levels of regulation to the profession without any additional responsibility being attached to them or benefit to the public. The need for the current style of regulation of these occupations no longer exists in the 1990's, and their deregulation is supported by the Real Estate Industry and is also recommended in the Vocational Education, Employment and Training Committee report on partially registered occupations. Partial deregulation of these groups may enable the profession to move to a more efficient structure, yielding economies that could be passed onto consumers. The benefits flowing to consumers from such efficiencies are likely to outweigh the alleged consumer protection originally provided by regulation.

It is proposed in the Bill that the Commissioner have the power to delegate specific matters under the Act to industry organisations by means of a written agreement. This is a new and significant development. Government will be working with Industry to develop appropriate complaint resolution procedures and codes of conduct for real estate agents, to ensure that a balance exists between the rights of consumers and the responsibilities of agents. The Government favours the Institute taking a leading role in surveillance of its industry and will be working toward negotiating such an outcome upon suitable terms and conditions.

The Bill contains broad and extensive disciplinary provisions, including a power to discipline a land agent for a breach of an assurance that he or she may have entered into at the request of the Commissioner for Consumer Affairs, under the provisions contained in the *Fair Trading Act 1987*.

The substantive provisions of the existing legislation relating to trust accounts have been retained and an additional power has been given to the Commissioner to appoint a person as temporary manager of the business of the land agent to transact any urgent or uncompleted business of the agent under the circumstances prescribed in the Bill. This management provision reflects a similar provision contained in the *Legal Practitioners Act 1936*.

Finally, it should be noted that the Bill as received from the other place now contains provisions that are not acceptable to the Government and amendments will be moved in the Committee stage to restore the Bill to the form preferred by the Government.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

Director of a body corporate is given a wide meaning to encompass persons who control the body corporate. Under the Bill directors of a body corporate may be disciplined, or prosecuted for an offence, alongside the body corporate.

Clause 4: Meaning of agent

The definition of agent sets the scope of the Bill. An agent is defined as a person who carries on a business that consists of or involves—

- · selling or purchasing or otherwise dealing with land or businesses on behalf of others, or conducting negotiations for that purpose; or
- · selling land or businesses on his or her own behalf, or conducting negotiations for that purpose.

Land encompasses interests in land and strata titles. Dealing with land encompasses granting or taking leases or tenancies over land. Business includes an interest in a business or the goodwill of a business but excludes a share in the capital of a corporation. Sell includes auction and exchange.

A person is excluded from the definition of agent in so far as the person participates in any of the following activities:

- · selling or purchasing or otherwise dealing with land or businesses on behalf of others, or conducting negotiations for that purpose, in the course of practice as a legal practitioner;
- · selling land or businesses, or conducting negotiations for that purpose, through the instrumentality of an agent;
- · engaging in mortgage financing. (Mortgage financing means negotiating or arranging loans secured by mortgage including receiving or dealing with payments under such transactions. Mortgage includes legal and equitable mortgages over land.)

Clause 5: Commissioner to be responsible for administration of Act

PART 2

REGISTRATION AND MANAGEMENT OF AGENT'S BUSINESS

Clause 6: Agents to be registered

It is an offence to carry on business as an agent or to hold oneself out as an agent without being registered.

A person who acts as an agent but who is not registered is not entitled to commission.

A registered agent must obtain a written authorisation to act as a person's agent and, if that authority is not obtained, the agent is not entitled to commission.

Clause 7: Sales representatives to be registered

Employment of or as a sales representative is prohibited unless the person is registered as a sales representative or agent.

Clause 8: Application for registration

An application for registration must be in the form required by the Commissioner and must be accompanied by the relevant fee.

Clause 9: Entitlement to be registered

The requirements for registration of a natural person as an agent are as follows:

- · the person has the educational qualifications required by regulation; and
- · the person has not been convicted of an offence of dishonesty; and
- · the person is not suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- · the person must not be an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; and
- · the person must not have been a director of a body corporate that has, within five years of the application for registration, been wound up for the benefit of creditors.

The requirements for registration of a body corporate as an agent are as follows:

The body corporate—

- · must not be suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- · must not be being wound up or under official management or in receivership; and

directors of the body corporate

- · must not have been convicted of an offence of dishonesty; and
- · must not be suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- · must not have been the director of a company that has, within five years of the application for registration, been wound up for the benefit of creditors.

Clause 10: Entitlement to be registered as sales representative

A person is entitled to be registered as a sales representative if—

- · the person has the educational qualifications required by regulation; and
- · the person has not been convicted of an offence of dishonesty; and
- · the person is not suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth.

Clause 11: Duration of registration and annual fees and returns

A registered agent or sales representative must pay an annual fee and lodge an annual return. Registration is liable to cancellation for non-compliance.

Clause 12: Incorporated agent's business to be properly managed and supervised

The business of an incorporated agent must be properly managed and supervised by a registered agent who is a natural person.

Clause 13: Requirements for professional indemnity insurance

A registered agent is required by this clause to have insurance as required by the regulations when carrying on business as an agent and non-compliance results in suspension of the agent's registration.

PART 3

TRUST ACCOUNTS AND INDEMNITY FUND

DIVISION 1—PRELIMINARY

Clause 14: Interpretation of Part 3

DIVISION 2—TRUST ACCOUNTS

Clause 15: Trust money to be deposited in trust account

An agent is required to have a trust account and to pay all trust money into it. Money includes any cheque received by the agent on behalf of another.

Clause 16: Withdrawal of money from trust account

Money may be withdrawn from a trust account only for the purposes set out in this clause.

Clause 17: Payment of interest on trust accounts to Commissioner

Interest on trust accounts is to be paid to the Commissioner for payment into the indemnity fund maintained under the Bill.

Clause 18: Appointment of administrator of trust account

The Commissioner may appoint an administrator of an agent's trust account if the Commissioner knows or suspects on reasonable grounds that the agent—

- · is not registered as required by law;
- · has been guilty of a fiduciary default in relation to trust money;
- · has operated on the trust account in such an irregular manner as to require immediate supervision;
- · has acted unlawfully, improperly or negligently in the conduct of the business;
- · in the case of a natural person—is dead or cannot be found or is suffering from mental or physical incapacity preventing the agent from properly attending to the agent's affairs;
- · has ceased to carry on business as an agent;
- · has become bankrupt or insolvent or has taken the benefit (as a debtor) of a law relating to bankrupt or insolvent debtors or, in the case of a body corporate, is being wound up, is under official management or is in receivership.

Clause 19: Appointment of temporary manager

The Commissioner may, in conjunction with appointing an administrator of an agent's trust accounts, appoint a temporary manager of the agent's business for the purpose of transacting urgent or uncompleted business.

Clause 20: Powers of administrator or temporary manager

The administrator or manager is given powers with respect to the agent's documents and records and has any additional powers set out in the instrument of appointment.

Clause 21: Term of appointment of administrator or temporary manager

The term of appointment is a renewable term of up to 12 months but the appointment may be terminated sooner by the Commissioner or the Commercial Tribunal.

Clause 22: Appeal against appointment of administrator or temporary manager

An agent may appeal against the appointment to the Commercial Tribunal within 28 days.

Clause 23: Keeping of records

An agent is required to keep detailed trust account records and to provide receipts to clients. The records are required to be kept for at least 5 years.

Clause 24: Audit of trust accounts

An agent's trust account must be regularly audited and a statement relating to the audit lodged with the Commissioner. The agent's registration is liable to cancellation for non-compliance.

Clause 25: Appointment of examiner

The Commissioner may appoint an examiner in relation to the accounts and records, or the auditing, of an agent's trust account.

Clause 26: Obtaining information for purposes of audit or examination

An auditor or examiner of an agent's trust account is given certain powers with respect to obtaining information relating to the account.

Clause 27: Banks, etc., to report deficiencies in trust accounts

The report is to be made to the Commissioner.

Clause 28: Confidentiality

Confidentiality is to be maintained by administrators, temporary managers, auditors, examiners and other persons engaged in the administration of the Bill.

Clause 29: Banks, etc., not affected by notice of trust

Financial institutions are not expected to take note of the terms of any specific trust relating to a trust account but are not absolved from negligence.

Clause 30: Failing to comply with requirement of administrators, etc.

It is an offence to hinder etc. an administrator, temporary manager, auditor or examiner.

DIVISION 3—INDEMNITY FUND

Clause 31: Indemnity Fund

The Commissioner is to maintain an indemnity fund comprised of—

- · the money standing to the credit of the current indemnity fund kept under the *Land Agents, Brokers and Valuers Act 1973*;
- · interest paid by banks, building societies and credit unions to the Commissioner on trust accounts;
- · money recovered by the Commissioner from an agent in relation to the agent's default;
- · fines recovered as a result of disciplinary proceedings;
- · interest accruing from investment of the fund;
- · any other money required to be paid into the fund under the Bill or any other Act.

The fund is to be used for—

- · the costs of administering the fund;
- · compensation under the Bill;
- · insurance premiums;
- · prescribed educational programs conducted for the benefit of agents, sales representatives or members of the public, as approved by the Minister;
- · for any other purpose specified by the Bill or any other Act.

Clause 32: Claims on indemnity fund

A person may claim compensation from the fund if the person has suffered pecuniary loss as a result of a fiduciary default of an agent and has no reasonable prospect of otherwise being fully compensated.

No compensation is payable if the default is that of an unregistered agent and the person should have been aware of the lack of registration.

Clause 33: Limitation of claims

The Commissioner may set a date by which claims relating to a specified fiduciary default or series of defaults must be made.

Clause 34: Establishment of claims

The Commissioner must notify the agent concerned of any claim for compensation and must listen to both the agent and the claimant on the matter. The Commissioner must determine the claim and notify the claimant and agent of the determination.

Clause 35: Claims by agents

An agent may make a claim for compensation from the fund if the agent has paid compensation to a person in respect of the fiduciary default of a partner or employee of the agent. The agent must have acted honestly and reasonably and all claims in respect of the default must have been fully satisfied.

No compensation is payable if the default is that of an unregistered agent and the person should have been aware of the lack of registration.

Clause 36: Personal representative may make claim

Clause 37: Appeal against Commissioner's determination

An appeal against the Commissioner's determination may be made to the Commercial Tribunal within 3 months by the claimant or agent.

Clause 38: Determination, evidence and burden of proof

Possible reductions for insufficiency of the indemnity fund are to be ignored in determining a claim.

Admissions of default may be considered in the absence of the agent making the admission.

Questions of fact are to be decided on the balance of probabilities.

Clause 39: Claimant's entitlement to compensation and interest

Interest is to be paid on the amount of compensation to which a claimant is entitled.

Clause 40: Rights of Commissioner

If a claim for compensation is paid out of the fund, the Commissioner is subrogated to the rights of the claimant against the person liable for the fiduciary default.

Clause 41: Insurance in respect of claims against indemnity fund

The Commissioner may insure the indemnity fund.

Clause 42: Insufficiency of indemnity fund

The Commissioner is given certain powers to ensure that the fund is distributed equitably taking into account all claims and potential claims, including the power to set aside a part of the fund for the satisfaction of future claims.

Clause 43: Accounts and audit

The fund is to be audited by the Auditor-General.

PART 4

DISCIPLINE

Clause 44: Interpretation of Part 4

Disciplinary action may be taken against—

- · an agent (including any person registered as an agent but not carrying on business as an agent and any former agent);

· a director of an agent that is a body corporate (including a former director);
· a sales representative (including a former sales representative or a person registered or formerly registered as a sales representative).

Clause 45: Cause for disciplinary action

Disciplinary action may be taken against an agent if—
· registration of the agent was improperly obtained;
· the agent has acted contrary to an assurance accepted by the Commissioner under the *Fair Trading Act 1987*;
· the agent or any other person has acted contrary to this Bill or the *Land and Business (Sale and Conveyancing) Act 1994* or otherwise unlawfully, or improperly, negligently or unfairly, in the course of conducting, or being employed or otherwise engaged in, the business of the agent;
· in the case of an agent who has been employed or engaged to manage and supervise an incorporated agent's business—the agent or any other person has acted unlawfully, improperly, negligently or unfairly in the course of managing or supervising, or being employed or otherwise engaged in, that business;
· events have occurred such that—
· the agent would not be entitled to be registered as an agent if he or she were to apply for registration;
· the agent is not a fit and proper person to be registered as an agent;
· in the case of an incorporated agent, a director is not a fit and proper person to be the director of a body corporate that is registered as an agent.

Disciplinary action may be taken against a sales representative if—
· registration of the sales representative was improperly obtained;
· the sales representative has acted unlawfully, or improperly, negligently or unfairly, in the course of acting as a sales representative;
· events have occurred such that—
· the sales representative would not be entitled to be registered as a sales representative if he or she were to apply for registration; or
· the sales representative is not a fit and proper person to be registered as a sales representative.

Disciplinary action may be taken against a director of a body corporate if disciplinary action could be taken against the body corporate.

Disciplinary action may not be taken if it is not reasonable to expect the person to have been able to prevent the act or default.

Clause 46: Complaints

A complaint alleging grounds for disciplinary action against an agent may be lodged with the Commercial Tribunal by the Commissioner or any other person.

Clause 47: Hearing by Tribunal

The Commercial Tribunal is empowered to adjourn the hearing of a complaint to enable investigations to take place and to allow modification of a complaint.

Clause 48: Disciplinary action

Disciplinary action may comprise any one or more of the following:
· a reprimand;
· a fine up to $8 000;
· suspension or cancellation of registration;
· if registration is suspended, the imposition of conditions as to the conduct of the agent's business at the end of the period of suspension;
· disqualification from obtaining registration;
· a ban on being employed or engaged in the industry;
· a ban on being a director of a body corporate agent.

A disqualification or ban may be permanent, for a specified period or until the fulfilment of specified conditions.

Clause 49: Contravention of orders

It is an offence to breach the terms of an order banning a person from the industry or from being a director of a body corporate in the industry. It is also an offence to breach conditions imposed by the Commercial Tribunal.

PART 5
MISCELLANEOUS

Clause 50: Delegation

The Commissioner and the Minister may delegate functions or powers under this Bill.

Clause 51: Agreement with professional organisation

An industry body may take a role in the administration or enforcement of the Bill by entering an agreement to do so with the Commissioner. The Commissioner may only act with the approval of the Minister. The Commissioner may delegate relevant functions or powers to the industry body.

An agreement must be laid before each House of Parliament and does not have effect—
(a) until 14 sitting days of each House of Parliament (which need not fall within the same session of Parliament) have elapsed after the agreement is laid before each House and;
(b) if, within those 14 sitting days, a motion for disallowance of the agreement is moved in either House of Parliament—unless and until that motion is defeated or withdrawn or lapses.

Clause 52: Exemptions

The Minister may grant exemptions from compliance with specified provisions of the Bill. An exemption must be notified in the *Gazette*.

Clause 53: Register of agents

The Commissioner must keep a register of agents available for public inspection.

Clause 54: Commissioner and proceedings before Tribunal

The Commissioner is entitled to be a party to all proceedings.

Clause 55: False or misleading information

It is an offence to make a false or misleading statement in any information provided, or record kept, under the Bill.

Clause 56: Statutory declaration

The Commissioner is empowered to require verification of information by statutory declaration.

Clause 57: Investigations

The Commissioner may ask the Commissioner of Police to conduct relevant investigations.

Clause 58: General defence

A defence is provided for a person who commits an offence unintentionally and who has not failed to take reasonable care to avoid the commission of the offence.

Clause 59: Liability for act or default of officer, employee or agent

An employer or principal is responsible for an act or default of any of his or her officers, employees or agents unless the officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority.

Clause 60: Offences by bodies corporate

Each director of a body corporate (as widely defined) is liable for the offence of the body corporate.

Clause 61: Continuing offence

If an offence consists of a continuing act or omission, a further daily penalty is imposed.

Clause 62: Prosecutions

The period for the commencement of prosecutions is extended to 2 years, or 5 years with the authorisation of the Minister. Prosecutions may be commenced by the Commissioner or an authorised officer under the *Fair Trading Act* or, with the consent of the Minister, by any other person.

Clause 63: Evidence

Evidentiary aids relating to registration, appointment of an administrator, temporary manager or examiner and delegations are provided.

Clause 64: Service of documents

Service under the Bill may be personal or by post or by facsimile if a facsimile number is provided. In the case of service on a registered agent, service on a person apparently over 16 at the agent's address for service notified to the Commissioner is also acceptable.

Clause 65: Annual report

The Commissioner is required to report to the Minister annually on the administration of the Bill and the report must be laid before Parliament.

Clause 66: Regulations

The regulation making power contemplates, among other things, codes of conduct (which may be incorporated into the regulations as in force from time to time) and regulations fixing agent's charges or otherwise regulating those charges.

Schedule: Repeal and transitional provisions

The *Land Agents, Brokers and Valuers Act 1973* is repealed.

Transitional provisions are provided in relation to—
· licensed agents and registered managers becoming registered agents;
· continued registration as a sales representative;
· the continued effect of approvals, appointments, orders and notices;

· mortgage financiers (These provisions are equivalent to those contained in the *Land Agents, Brokers and Valuers (Mortgage Financiers) Amendment Act 1993* but not yet in operation).

The Hon. M.D. RANN secured the adjournment of the debate.

SMALL BUSINESS CORPORATION OF SOUTH AUSTRALIA ACT REPEAL BILL

Adjourned debate on second reading.
(Continued from 12 October. Page 567.)

The Hon. M.D. RANN (Leader of the Opposition): It is with mixed feelings that I speak in support of this Bill. I am sure that all members share with me the knowledge that small and medium sized businesses have been and will continue to be the engine room for jobs growth in South Australia. Unfortunately, there is a perception in the small business community that State Governments, particularly this one, align themselves with big business, big projects and big industry to the detriment of the small business sector.

During the time when I was either a member of or working for the State Government, that accusation was aimed at us regarding projects such as the submarine project. However, when you look behind the rhetoric, you realise that the submarine project, the Grand Prix, the smart end of the frigate project, Science Park and the revitalised and more effective automobile industry all had and have a massive spin off for a range of small companies, whether they be suppliers, subcontractors or small high technology concerns. So it is clear that small business is almost always a beneficiary of major projects both directly through winning subcontracts and indirectly through the multiplier effect.

The Bannon and Arnold State Labor Governments understood that a comprehensive economic platform cannot focus solely upon winning big new projects to the neglect of small businesses which operate in South Australia. That is why we established the Small Business Corporation and, more recently, the South Australian Centre for Manufacturing, Labor Government initiatives which, between them, have assisted thousands of small to medium sized enterprises to get ahead. I have some concerns about the Small Business Corporation losing its independence and its activities coming under the umbrella of the EDA. It must be put on record that there is a different culture that affects small business, and it is foolhardy for politicians and bureaucrats to assume that a small business is simply a smaller version of a big business, because small businesses face different problems, different challenges and different opportunities.

The success of the Small Business Corporation, measured in terms of its level of acceptance by and service to the small business community, has been nothing short of extraordinary. I want to pay tribute to the staff of the Business Centre and the Small Business Corporation for doing an outstanding job, which they continue to do. In the 1992-93 financial year alone, more than 38 000 small business people were assisted by the corporation. According to a survey of client responses, the corporation was rated as being between 85 per cent and 98 per cent effective in the advice and assistance it gave. I have some degree of pride in the role of the Small Business Corporation over the years. When we were in opposition between 1979 and 1982, Jack Wright and I went on an interstate trip to Melbourne and Sydney, from memory, to look at the small business advice agencies. It was out of that trip that we formulated together a policy to establish the Small Business Corporation in this State.

I was very interested last year when I was the Minister responsible for small business to go to Western Australia and look at its articles of association which set up its Small Business Corporation. They were virtually word for word what we had established previously in South Australia. So, we moved on the debate in terms of the provision of advice for the starting up of a small business, for small business people in difficulty or for small business people who see opportunities. I believe that much of the corporation's success can be traced to the fact that it had an independent board made up of people experienced in small business. Because of that independent board and because we drew its members from the small business sector, the corporation was perceived—and rightly so—as being user friendly and client focused, rather than just being another branch of a big bureaucracy: it was down there with the people.

That is why it was important to separate the Business Centre from the big Government departments. It was located on South Terrace. We were moving through regional development boards to outsource some of the assistance that was given through the Small Business Corporation to regional areas. During the time that I was Minister for business and regional development, responsible for small business, the corporation went through a period of rapid change. It undertook new projects, such as the operation of our Business Licence Information Centre, which has assisted thousands of clients by helping to cut through the red tape and simplify licensing procedures.

However, I acknowledge that the corporation was based on an early 1980s model and required further fine tuning to bring it into the 1990s. Last year I took some steps in that direction. If re-elected, a Labor Government would have taken further steps to make the Small Business Corporation relevant and fully responsive to the needs of small businesses leading into the new millennium. I support strongly the move to provide more outlets for advice and assistance on small business. I believe that the Commonwealth's AusIndustry model is an appropriate one as long as the States continue to have ownership and input and as long as it does not become another big Commonwealth bureaucracy run by Commonwealth bureaucrats located in Canberra rather than by people with access and relevance to small businesses in South Australia. Our regional needs are different and must be understood by Canberra.

AusIndustry must not be a Commonwealth model: it must be a national model. That is the same debate that I had over the establishment of the Australian National Training Authority (ANTA). When the Commonwealth wanted to have some vast bureaucracy, for TAFE to become just a remote colonial posting of DEET in Canberra, we insisted and rolled the Commonwealth to ensure that there was a national partnership model rather than a Commonwealth-Canberra model.

It is important, as I have consulted with small business representatives regarding this Bill, to note that the major fear that has been expressed to me is that, because small business is no longer mentioned specifically in legislation, Government now or in the future may give only lip service to small businesses' special needs. Small business must not be taken for granted. Concern, and indeed on some occasions outrage, has already been expressed to me over the new Government's performance on shop trading hours, because of promises

made before the election on the front steps of this Parliament—promises that were made to be broken.

Small business believes it has been treated with contempt and that the needs of big business have once again been put before its own in terms of shop trading hours. So, the Opposition—and I hope the Minister will listen to me—will be proposing an amendment to the Economic Development Act to enshrine in legislation the establishment of the Small Business Advisory Council. It just cannot be an advisory committee: it needs to be established in legislation to enshrine in the Act the importance of small business. I trust that this amendment will receive bipartisan support.

I am still talking with small business on this issue, and today I received some information from the Australian Small Business Association. It has certainly not been possible to finalise the drafting of an appropriate amendment nor to give notice of a motion instructing the Committee of this House to consider clauses outside the original purposes of the Bill. Indeed, in the spirit of cooperation for which I can work with this Minister at least, I would like to discuss the proposal with him, and we can address it in the Upper House stages. I am simply saying that I support the Minister's idea of a Small Business Advisory Council, but let us put a line in the legislation establishing it by statute, so that there can be no alibis and no excuses from the bureaucrats in the EDA that small business needs will be taken into account: they will be required to be taken into account because of legislation.

I will listen carefully to the Minister's response to my proposal before deciding whether to speak to my colleagues in another place regarding a possible amendment, or instead in the near future introducing a private member's Bill to amend the Economic Development Act.

I would like to put on record my sincere appreciation of the superb job undertaken by those involved in the Small Business Corporation over the years for the betterment of small business in this State. In particular, I believe that Fij Miller, in her role as Deputy Chair for many years and more recently as Chair of the corporation, has been totally professional, responsive and forward looking. I also want to acknowledge the years of hard work and dedication put in by other members of the board, particularly Jack Tune, an outstanding South Australian, who made an exceptional contribution to the small business sector in this State. He was the previous Chair of the corporation; he was the Chair for about a decade (maybe a little longer); and certainly his wise counsel to small business has been a significant addition to the role of the Small Business Corporation over the years. I also want to pay tribute to the hard work of Ron Flavel until his recent departure and to his staff at the corporation for a job well done.

I refer the House to a letter I received today from the Australian Small Business Association, which presented both its support for and concerns about areas of this legislation. I hope that the Minister will respond to those concerns. It states, in part:

> ASBA has however some concern about some aspects of the proposal. Some of these are:
>
> 1. The majority of the briefing and the proposal addresses itself to the provision of services to the business community.
> 2. Very little of the proposal addresses itself to obtaining input on policy matters from the small business community.
> 3. The definition of the specific unique requirements of the small business sector seem to be less clearly recognised.
> 4. There appears to be a possibility that an elite group will obtain concentrated assistance and/or recognition to the detriment of the majority of the small business community.

Further, the document states:

> We feel that a slightly altered structure for the Small Business Advisory Council may be in order. Our suggestion being for the Small Business Advisory Council to have direct input to the board of the EDA on the broad needs of the small business community and for another body to be set up to advise on service delivery rather than the requirements of the small business community and to assist with this after small business policy matters have been decided on, approved and recommended by the Small Business Advisory Council. The detail of this proposal would obviously require further discussion.

It goes on:

> We feel that there is a likelihood that the bottom section of the triangle which provides for the vast mass of the small business community is likely to be serviced at a lesser level than the more privileged, less numerous and larger firms in the upper section of the triangle. Concentration on the upper levels of the triangle is likely to bring quicker and more visible effects than the lower level and accordingly will be more politically beneficial to the Party in government. It should however be remembered that the lower sections of the triangle is the incubation area for the future and should this area be neglected it will have a detrimental effect on the whole economy of the State in the future.

It continues:

> We also feel that the method and delivery of services should be decided after and possibly separately from the general policy needs of the small business community as this is a function of policy.

Further, it states—and it is important to put this on the record:

> We believe that this is the most important role of the Small Business Advisory Council and is obviously the most neglected. The policy making role of the Small Business Advisory Council, from this document, appears to be the least required and/or desired by the current Administration. It appears that the current Administration has decided what small business needs, has acted as a benevolent 'Big Daddy' in handing out the packages which it believes will be good for small business, but has not and probably will not put in place a true consultation process with small business prior to setting their policies in place.

I agree with the Australian Small Business Association and its President Peter Siekmann that there needs to be some deliberate enshrining of the special place, needs, problems and opportunities of small business. Again, I quote from the President of the Australian Small Business Association, who says:

> We feel it very necessary for the grass roots of small business to have direct input into the policy making areas of Government. We have tried on a number of occasions to have people which are sympathetic to, and understand the needs of small business, placed on various Government advisory bodies with singular lack of success, the normal excuse being that individuals are preferred.

So, I would like to see an amendment made to the EDA Act enshrining the Small Business Advisory Council in legislation. It is not just one of the ex-hundred advisory councils that Ministers collect during their terms in office; I certainly collected a few. Let us put this in the legislation so that the EDA knows right from the start that, even if the Small Business Corporations Board, its independent board, has been abolished, it must still listen to this advisory council. These are not people who will waste time going to meetings and everyone agreeing but then their views being ignored.

The Hon. J.W. OLSEN (Minister for Industry, Manufacturing, Small Business and Regional Development): In responding to the Leader's comments, I will refer to a few relevant points. Regarding the independence of the small business unit, which will be called the Business Centre, it will remain a stand alone unit. It will have its own shop front. It will be a separate entity and unit from the Economic Development Authority and, therefore, it will maintain its

independence as a unit of the Government business assistance programs. Clearly, that is an objective.

Until February this year, for 50 years my family had been involved in operating a small business in a small country town. During that 50 years, we experienced some very good times but also some extraordinarily difficult times. So, from personal experience I know the sort of roller coaster ride there is in looking after a small business operation: the amount of work for the remuneration you get; the sort of determination required; and the hours you must put into a business operation. One of the reasons why I became involved in the parliamentary process was simply that, as a small business operator, I became very annoyed at what I considered was the Government's lack of understanding of small business and the plethora of regulations, restrictions and impediments to small business. It was almost as if, when a small business made a profit, it was more a question of, 'Who did you rip off to make the profit?' there being no suggestion that you worked hard and had a good formula for success. Therefore, the priorities were not right in terms of supporting and encouraging a small business to be profitable so it could invest in new plant and equipment and more employees.

Being the Minister now responsible for small business, I have a very keen and direct interest in this matter, and I assure the Leader of the Opposition and the House that it is my intention to ensure the interests of small business, in terms of both the provision of programs and of access to advice on programs and also to have an input in policy determination by Government which impacts on small business. When Mr Ron Flavel left the Business Centre earlier this year to pursue the studies that he had been involved in for some time, I was pleased to receive a letter from him indicating his support for the general thrust that the Government was developing for the Business Centre of the future.

The appointment of an independent council is not a 'might be'; it is a 'will be'. There will be a council and it will be put in place by the Government. I am happy to discuss with the Leader of the Opposition, if he wishes, questions related to whether we really need to have statutes to support that. I give him an absolute commitment that in the life of this Government there will be a council and it will pursue the task of policy development for small business. It will look at the interaction between the Business Centre and the Centre for Manufacturing. For example, the McKinsey report says that in Australia we have to target 15 000 companies to elevate them into the export markets. I guess South Australia's share of that is 1 500. So, the top of the triangle, which I think the Leader referred to in the letter he quoted from ASBA, is really those 1 500 businesses targeted by the McKinsey report of the Federal Government to take up the export market opportunities.

The bottom part of the triangle is where we are proposing to expand it to give greater small business operator access to service, to information and to the Business Centre. I would see that as being a step forward in Government policies and services reaching out to a broader cross-section of the business community, because one of the great impediments of small-medium business operators today is that their commitment to their workplace (their shop or whatever the business they run may be) is pretty constant over six or seven days. To take time out to obtain access to upgraded training programs or further information, accessing or even comprehending the range of programs available, is extraordinarily difficult for them.

So, in negotiating with the Federal Government for the provision of Ausindustry into the model, the model we are putting in place and the determination and objective of the Government will enable us to reach out to a greater cross-section of the business community. There is a benefit for small business in ensuring that within the Economic Development Authority proper regard is made of small business in policy determination. I should refer to the Business Centre on South Terrace, because the board changed from Small Business to the Business Centre and the reason for doing so, as put to me, was something that we incorporated at the suggestion of the Chairman (Fij Miller) and the board; that it ought to be called the Business Centre. We accepted their recommendation and that is what will be incorporated.

But in the past you had the Business Centre on South Terrace and you had the Economic Development Authority, and there was no interaction between the two. In the overall economic development of the State I would like to see proper regard made to these small-medium enterprises in South Australia. That can be done by interaction between the Business Centre and the Economic Development Authority rather than their being standalone, separate units as was the case in the past; not to compromise the Business Centre as an independent unit of the Economic Development Authority, housed separately and independently staffed, with that standalone unit providing service, support and advice.

The Government has demonstrated its *bona fides* by putting in place policies such as giving small businesses funds of up to $5 000 to develop a business plan. We saw that one of the great impediments to business operators was the lack of information to give financial institutions to undertake financial restructuring or to put in place a business plan to obtain finance for new plant and equipment, whatever the case might be, whereas the several millions of dollars that we have allocated to that program demonstrates our *bona fides* to try to help small business take the next step of financial restructuring to put in new plant and equipment and have the capacity to employ new people.

It may be a hackneyed phrase but very true that employment opportunities for South Australians of the future will come from the small-medium enterprises in this State. We welcome the big ticket companies coming to South Australia and bringing critical mass, that is important. However, the first three contracts Australis has let are to small-medium enterprises in South Australia. As with the submarine project, that is where the benefits flow across and out to small-medium enterprises. In relation to the Ausindustry model to which the Leader referred, the way we have run the NIES program efficiently is to the credit of the Centre for Manufacturing, and the Commonwealth Auditor-General has acknowledged that the efficient operation of NIES in this State is something that the other States ought to emulate.

Through the Centre for Manufacturing and the Economic Development Authority we have been cooperatively negotiating with the Commonwealth, because from my point of view and that of the Government we want to have the Ausindustry program in place at the earliest opportunity to support business in South Australia. But the point that was made in relation to ownership and control being State owned and State controlled, in effect, and delivered, is a very important one. It is currently a sticking point in the negotiations, and at the Industry Ministers meeting on 28 October it may well be a problem if it is not resolved.

Last Thursday I took the opportunity to speak to Senator Cook whilst he was in Singapore at the forum, indicating that

I thought we ought to be putting in place the memorandum of understanding of broad principles, and then the States in a bilateral arrangement would put in place State-Commonwealth arrangements. That way I think the 28 October Industry Ministers meeting will be productive and have an outcome, and a memorandum of understanding will be put in place. If the Commonwealth is not prepared to negotiate on that basis it would seem to me that the debate will falter at that meeting. The point is well made, and is one to which I subscribe, that there are regional differences; and, given our track record in South Australia in the delivery of the programs, no Commonwealth agency could say that they could do it better. That being the case, I think we have strength in our argument in South Australia. The Leader also referred to a letter from Mr Siekmann from the Small Business Association. I presume that that is a letter to the Leader from Mr Siekmann.

The Hon. M.D. Rann interjecting:

The Hon. J.W. OLSEN: If the letter is in the system I have not seen it. I have been away for four days, but I understand that my office has had no correspondence from Mr Siekmann. However, we will look at it and address the questions he raises. We have not had any opposition from Partnership SA, the Employers Chamber, ASBA, small retailers and the other organisations with which we have had discussions about the general principle of what we are wanting to achieve. There are questions in relation to the council: some say you do not need a council, that they—the associations—are better able to represent that policy determination. I hear what they say, but the Cabinet has signed off that there will be a council for this. That position, in my view, is non-negotiable. As I said, we can discuss that with the Leader, having given these commitments during this debate. If he wishes to pursue the matter, I am happy to have discussions in due course or some time between the Bill passing this House and being considered in the Upper House.

I repeat: with this Bill I come to the Parliament not only with a personal commitment for the support of the small-medium enterprises of South Australia but also with a policy commitment from the Government. The simple reality is that they are the people who will drive forward the economy of South Australia in the future; they are the people with whom the Government will want to work cooperatively to get outcomes for South Australians. After all is said and done, the bottom line will be more jobs for South Australians.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. M.D. RANN: I was very pleased with the Minister's response about the possibility of discussions with me regarding an amendment to the EDA Act which would enshrine in legislation the Small Business Advisory Council. I seek an assurance from the Minister that he will be prepared to meet with me, Peter Siekmann and representatives of the Australian Small Business Association to discuss its concerns to see whether we can, in a bipartisan way, establish a council that is satisfactory to the Small Business Association and look at how we can frame the legislation.

The Hon. J.W. OLSEN: As the Leader would know, I and officers of the Government have had a number of discussions with different groups. As the former Minister would understand, there is a plethora of groups representing small business in South Australia, as is the case in other States. I have other meetings scheduled and further meetings are being requested to which we agreed. I think those meetings ought to continue. I am more than happy to discuss a proposed amendment with the Leader.

What we are talking about is not amending this Bill but introducing another measure. The Leader would understand that that is a question for Cabinet to determine: I cannot give a commitment for the introduction of legislation in this Parliament without Cabinet authority and approval: I am sure that the Leader would understand that. However, I am more than happy to discuss this matter with the Leader in good faith, consider it and then come back after I have discussed it with my Cabinet colleagues.

The Hon. M.D. RANN: I am happy with that. My only point in raising the Australian Small Business Association's concerns is that the Minister has not heard—and I am not in any way critical; it could be a late letter and he has been overseas—its concerns which are obviously genuine and which seem to be along the same lines as the concerns that I have about enshrining in legislation the special needs of small business. I am happy, in good faith, to accept the Minister's response to my question.

The Hon. J.W. OLSEN: I was coming out of the building in which EDA is housed at about lunch-time today and I ran into Mr Siekmann, who was going into the building. He did not indicate the purpose for which he was going in. I guess he may have been delivering the letter to the Economic Development Authority and, within a couple of hours, that would not be transmitted to my office. However, the EDA and I will have a look at that correspondence and the concerns that are expressed by him.

Clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

STATE LOTTERIES (SCRATCH TICKETS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 August. Page 272.)

Mr QUIRKE (Playford): Before I address the most important aspect of this Bill—and that is the aspect I and other members will seek to change by way of amendment during Committee—I want to make some remarks on the measure as it first came before the House.

This measure has arisen as a result of confusion in respect of the wording on the scratch tickets—a large number of which have been printed, sold and scratched and prize money paid out. According to the second reading explanation, a person believed that the wording was ambiguous, took the Lotteries Commission to court and the commission was found to be correct in its interpretation and wording on the scratch ticket. The Bill seeks to put beyond any doubt and beyond any argument the wording currently on scratch tickets. The Opposition has no problem with that and will support it. We are not happy with the question of retrospective legislation. When it deals with an issue, the Government has the power to change the rules afterwards. There is an obligation on Government to ensure that those sort of things are done rarely. In the parliamentary process we need to point out where and when these things are done, that it is done for the good of the community and that an overwhelming case exists to support retrospective legislation. In this instance that is so.

The court decision has made abundantly clear that the Lotteries Commission, at least in that one test case, was on

firm ground. Having said that, it is prudent that the Bill is to be amended to place beyond any doubt that the wording on the tickets is correct. I understand that, had the court case gone differently, we may have been debating the loss of considerable amounts of money. The second reading explanation states that some $6.2 million would have been lost had the court not found in favour of the Lotteries Commission. Today we are placing beyond any doubt whatsoever the wording on the scratch tickets so that that is sorted out.

This Bill has become something more than what was originally intended, and that is a good thing for the parliamentary process. I welcome the decision by the two major political Parties to make this a conscience issue in respect of my amendments and those of other members (and I saw some of them for the first time as recently as two or three minutes ago). Gambling in all its forms in South Australia for both political Parties has been a conscience issue. A ground rule of the Labor Party is that, if a measure increases or decreases gambling, makes it available for the first time or retracts the right of certain individuals to gamble (as my amendments seek to do), it is a conscience issue.

It is a healthy Parliamentary debate, and I look forward to an interesting debate. I hope that it will not be a confusing debate as I have seen a lot of amendments to amend amendments, and other amendments all to the same clause. I have told the Clerk and several members of the House on both sides that we could have a series of votes. I will canvass some of the main issues in a moment. I hope that through this parliamentary process and through the debate we can make the community of South Australia proud of the way in which we have dealt with this issue. I am sure that most members have come in with an open mind and are prepared to listen to the debate and make up their mind accordingly. I cannot say I am doing that because I have been saying for six months that in my view there ought to be a minimum age for scratch tickets.

My position is fairly simple. Irrespective of the penalties, and irrespective of all the things we will be debating later, the key issue is whether or not there will be a minimum age in South Australia for the purchase of scratch tickets. One member discussed it with me and said, 'What about some other forms of gambling? What about Keno and one or two other things like that?' I have made my position clear, and I have no argument about applying a minimum age for Keno, either. Scratch tickets are the sort of thing, with the instant reward or satisfaction (or dissatisfaction in most instances, when you scratch them and get nothing out of it), that should not be available to minors. It is not appropriate, as the law currently stands, for primary school kids to go to the local newsagent and buy this product. I have seen amendments on file to make the minimum age 16 years. If 16 years is the age, I am comfortable with that. However, I will persist with my amendment to make the minimum age 18 years, and I do so for the sake of consistency.

In the gaming machine legislation and in various other Bills, including the TAB measures, 18 years is the minimum age. We need to have a consistent age across the field. If members feel that it should be 16 years, I do not have an enormous problem with that. However, I have a problem with the fact that at the moment there is no minimum age whatsoever and that any child of whatever age, whether or not with an adult, can go to a newsagent or wherever they are sold and purchase these tickets without any restrictions. It is incomprehensible that this situation has come about. It happened under the previous Government, and I was made aware of it about six months ago. Had I been made aware of it before that I would have tried to do something about it then. A Bill dealing with scratch tickets is now before the House, and my amendments (and other members have followed my lead), attempt to sort out this problem. Whether it is 16 or 18 years or no age limit at all, we will determine in the House tonight.

The first point I make is that there ought to be a minimum age. In my view it is absolutely crazy that there is no minimum age in respect of the purchase of scratch tickets. Secondly, if the debate goes a certain way, and it looks as though my amendments will be supported, the Deputy Premier will seek to broaden the debate with an amendment of his own, which will have the effect of including Club Keno as well. I have no problem with that. I did not seek to do that in this Bill because I would have preferred, through the private member's process, an omnibus gambling amendment Bill that achieved that in a whole range of areas. It appears that the Deputy Premier will seek to move some amendments to the amendments I am putting forward to achieve that result. We could have a number of votes tonight. Although I have only just seen these other amendments, I will probably support that position.

I will make that much clearer during the Committee stage. In essence, it is consistent with the approach I have taken on this, which is that there ought to be a minimum age for this type of gambling. Club Keno is not that far removed from scratch tickets, although I think scratch tickets are particularly insidious with respect to individuals who find gambling hard to control. As I have said on every other gambling measure before this House (and I quite openly admit it), I am a wowser. In respect of gambling, no-one has made any money out of me, and they are not going to. That is the case because I do not buy into it. If you are over the age of 18 and want to play a gaming machine, bet on the TAB or buy a fistful of scratch tickets, that is fine. I have no problem with that. I voted for the gaming machine legislation, and I was happy with self-regulation. I was happy with the system that got up. I was a little disappointed that it took a few years to put it in place, but my view is that we have some of the best gaming machine legislation in the country (if not the world), and it is working well.

There is one key element, which has been alluded to in the newspapers. A case reported in the *Sunday Mail* two months ago involved a woman who took her child of about 10 months with her to certain licensed premises. She complained about the fact that, while she had the child with her, the manager would not permit her to remain within the precincts of the gaming machines area. Had she remained in there and had the manager not done anything about it, he, as well as the person concerned, would have been in breach of the regulations and the spirit of the legislation that went through this House three years ago. The argument about whether or not children should be allowed in gaming areas was very short because most members accepted the fact that children under the age of 18 ought not be in the precincts of gaming machines or in the area defined under the Act and by regulation. My amendment proposes to ensure that persons under the age of 18 years cannot buy scratch tickets in South Australia.

Some of the amendments on file provide for a minimum age of 16 years. Members who support that—and I do not think it is the sort of thing that a war should be fought over—should understand what that means. Parliament has determined 18 years as the age for a whole range of activities in our community. Members have pointed out to me that you

can drive a car at the age of 16 years, or at least you can go on your Ps when you are 17. There is no doubt that you can drive a car below the age of 17. At that age you cannot go into a gaming machine area or the TAB, and you cannot do a number of other things where Parliament has determined 18 as the minimum age. In the interests of consistency, I hope the minimum age remains at 18. I hope that a majority of this House accepts that we need a minimum age and that that minimum age should be 18 years and not 16.

If the age limit is fixed at 16 years, I suggest to members (and I will not be the one who does it) that we will need some consistency in terms of the TAB, gaming machines, and so on. When legislation dealing with those areas comes back before this House, will we see the minimum age lowered from 18 years to 16? That is the logic of the position being put forward by those persons who believe 16 is the appropriate minimum age. I am happy to support 18 years as the minimum age on the grounds of consistency across the board. Some members suggest that the penalties in my amendments are far too high for the person selling the scratch ticket. I believe the defence mechanism helps the person considerably and is consistent with other forms of gambling and with the penalties that apply to the sale of gambling products—whether it be in the TAB, gaming machine areas or wherever. I hope members who argue that the penalties are too severe will see the logic of that position. The logic of that position is that the next time we debate the gaming machines legislation and the TAB legislation the penalties in respect of minors should be reduced.

One amendment on file seeks to wipe out penalties for minors altogether. I do not support that. I have some sympathy with the argument that we should reduce the quantum of the penalty. Again, it is a consistency argument. If members wish to reduce the penalty, so be it. To provide legislation in this area that does not penalise one party—whether it be $1, $5 or $10—is going to far on this issue. There should be some obligation on the citizenry who are not yet 18, 16 or whatever we determine as the minimum age to respect the law. The only way the law can work is to provide some sort of penalty. Whether members accept the penalty provided in my amendment or the penalty in one of the many amendments being circulated will be very interesting to see. I do not want to take up too much time, because I think the principal debate will occur at the Committee stage.

In terms of the orderliness with which we deal with all these amendments, I hope that members will look closely at what we are doing because this is probably one of the smallest and trickiest pieces of legislation I have seen. No doubt there will be many other comments when we deal with the amendments. I conclude by saying that the original intention of the Bill, namely the retrospective parliamentary approval of the wording on the scratch tickets, has the support of the Opposition. The other amendments in respect of the minimum age and the consequent amendments that come from that, whether it be in respect of penalty or the definitions, are conscience issues.

Mr KERIN (Frome): I am largely in agreement with the member for Playford. I have some concerns with the age limit and the penalties, but I will canvass them during the Committee stage. I am in favour of an age limit. As members of Parliament, we need to show leadership within the community. Quite a few lottery agents have told me that they feel as if they have been left to make the moral decision on who can and cannot be sold scratch tickets. I think it is Parliament's role and responsibility to make that moral decision and not handball it to the agents.

We need to provide a framework for them and to offer them some support and protection. At present they are faced with the decision of who to serve and who not to serve. One agent told me that he is sick of having angry parents coming in with both sides of the story: they are cross at him for having served their children; or, on the other hand, they are cross because they have sent their son or daughter down to buy a few tickets and they have been knocked back. We need to address that issue.

As I said, I will canvass later the issue of the age limit. I know that it will be welcomed by the agents as long as there are not hefty penalties attached to it. Reality would suggest that if we have happy agents we are much more likely to have the intent of the Bill realised in the community.

I look forward to the Committee stage. Many questions have been asked about the procedures in terms of what happens tonight. It will be a good learning exercise for those greener members, such as the member for Ross Smith and a few others, as to how the procedures work. I fully support the Bill as presented by the Treasurer, as I think most members do.

Mr BRINDAL (Unley): As the member for Frome has just said, it is unusual in making a contribution to the second reading stage of this Bill that probably what constitutes the major portion of the argument will be quite properly canvassed in the Committee stage as it will be a part of the amendments. However, it is proper that, in the second reading stage, we address the Bill before the Chair as introduced by the Treasurer.

The Bill as presented to the House has little in it to cause controversy. It has been necessitated, I believe, by a dispute that has gone as far as the courts as to the exact interpretation of instant lottery tickets. Therefore, this legislature is doing what it should do, that is, bringing a law that is found to have a failing or loophole back into this place so that the intent of this Parliament is quite clear.

In bringing any law back into this Parliament, it becomes the prerogative of any member to move amendments to that law, and that is what I believe we will see later today. The Treasurer, in an act of good government, is bringing into this Parliament a law that needs amending so that the people of this State can better understand it, so that the courts can better interpret it and so that it is more effective for the people of South Australia.

It is, of course, the right of the member for Playford or any member when a Bill comes into this House to seek to amend it. The matter that has already been canvassed as being part of the amendments deals with age and qualifications of people to buy tickets. As I said, I will not canvass that issue here, except to discuss the principle behind all these measures, that is, what we do here as parliamentarians.

Although I was going to raise this in the Committee stage, I will state now that I agree with much of what the member for Playford has said; I, too, can claim to be something of a wowser when it comes to gambling. The member for Playford will know that I have been quite consistent in this in my approach to such matters before the House. I have equally tried to be consistent with what I believe is a very liberal principle, and that is that this Parliament should not pass unnecessary law.

I would put to members in this Chamber that the Bill as presented to the House is necessary law that has been brought

before this House because changes are necessary to the law. I would also put to members that, before they introduce amendments, which seem to be coming at us like confetti, they consider carefully not whether it is the right of this Chamber to introduce law—it certainly is—but whether it is advisable that this Chamber should legislate on all matters related to the law.

We have, I believe, reached a stage where we possibly legislate too much. This Parliament cannot be responsible for everything. We must, as a society—and I agree with the member for Playford in this—take responsibility for our children, both our own children and even those of others. Society owes to all its children a collective responsibility. However, I would dispute in this Chamber with the member for Playford whether we can accept that responsibility always through a legislative framework. Sometimes surely we can stand up in this place, and outside, and say, 'This is wrong. We don't think that it should happen. It should not be allowed to happen.' But we do not have to take what I believe is sometimes the unnecessary next step, that is, to rush in here with amendments, to pass laws which make us feel good but which might not be enforceable and, if they are enforceable, which might be more enforceable on those who are innocent victims of that which goes wrong than those who supposedly perpetrate the misdeed.

I am a Liberal and I am proud to be a Liberal. As a Liberal I believe that it is essential to good government that Government keep as much as possible out of the affairs of the ordinary citizens of this State. It is, in my opinion, the business of us as legislators to come in here and to pass laws only when those laws are necessary for the good of the people of this State, not unnecessarily to interfere in the lives of any of our citizens, whether they are children or adults, whether they are parents bringing up children or newsagents engaged in a particular trade.

While I have a particular attitude towards gambling, and though I have little trouble with this aspect of the Bill as presented to this House because we have already Instant Money tickets in this State, I nevertheless have another issue to address. It is a principle that I ask this House to consider very carefully tonight. I refer to the principle of necessary law: is it necessary to pass some laws? Is it necessary always to say that there is a problem and come up with a solution to the problem, whether or not it exists?

I, as a Liberal, believe there is too much law in this State. I would like to see much less law. I would like to see the repeal of whole bodies of law. As the member for Playford said, later in the debate there will be a very interesting discussion, not because some of us agree with the principles that he is espousing but because some of us may well disagree with the path down which he seeks to go.

I commend the Treasurer for his introduction of this Bill. I think it is necessary and I ask members, before they put their amendments, to consider carefully whether or not those amendments are necessary and why they are being brought into this place. I will not suggest that they are being brought in to grab a headline, because I do not believe that. However, I do believe that sometimes we can be overzealous in guarding the rights of people whose rights are more properly guarded by us as citizens within society, by us as parents, custodians, uncles and aunties rather than by us as legislators and policemen. We have too many policemen and too much legislation. Let us get on with the job of raising our kids, not with the job of legislating them into subservience.

The Hon. S.J. BAKER (Treasurer): I thank members for their support for the Bill before us. I note that other matters were raised and I would like to canvass again some broad issues in relation to the running of the lotteries products. This Bill is born out of necessity. The legal fraternity obviously misreads or is deliberately challenging what the Parliament is attempting to do. There is no doubt in my mind about what the original amendment on this issue was meant to achieve.

A clause in the original Bill addressed the issue of what was a valid winning ticket. In recent times, the then Treasurer brought back another Bill. I said at the time, 'I don't think it will do the job. I think it will still be subject to dispute.' I was given all the assurances in the world that everyone knew what a winning ticket was, that there was no dispute, that it would be carried out in the fashion which the Bill suggested, and that only real winning tickets could be presented for a prize.

I then demanded of the then Treasurer that that be checked with Crown Law. I was assured that it would be checked and that if there was any difficulty it would be fixed up during the passage of the legislation between the two Houses to make it abundantly clear. What has happened, of course, is that that has again been challenged and we have to include a further level of clarity in the legislation regarding what is a winning ticket. So, we are protecting the public and the taxpayer, and I thank members for their support.

I would like to talk about the running of lotteries, which are an important component of our revenue stream. Indeed, the Lotteries Commission is one of the most highly regarded authorities in Australia. It returns a solid $70 million plus to the budget every year and it has consistently performed well, and the board and its employees are a credit to the commission. The wider question of who should or should not buy a lottery ticket has been debated sometimes fiercely and sometimes in the media over time. I note that the matter of who should or should not be able to buy lottery products was the subject of a Cabinet submission that failed, but more recently it has been the subject of a campaign by the *Sunday Mail*. As a result, I took the initiative of saying, 'If we have a problem, let's fix it; if we don't have a problem, let's get on with life.'

I would like now to put on the record some statistics so that we can then pursue the Bill as it stands plus the amendments that will be forthcoming. I say at the outset that a lot of time and effort was put into satisfying ourselves as to whether we had or did not have a problem. There were 12 135 shoppers of lottery products observed in 10 stores during May 1994 at times when we would have expected young people to buy a lottery product and not when they would be expected to be at school. Of those 12 135 shoppers, 104 were under the age of 18, representing .86 per cent of the sample take. We were quite surprised by that result in the light of the publicity that was given to the matter. In fact, we found that only about 2 per cent of those who bought products were under the age of 21.

The figures were checked and storekeepers were asked a range of questions about the perceived age of people who bought lottery products. I think we are all a bad judge of age and, when we cross the boundary lines between 16, 17, 18 and 19, it is a bit difficult for anyone, even with a keen eye, to determine whether a person is over the age of 18. Some shopkeepers over-estimated the incidence of younger people buying lottery tickets, so the survey was more than helpful in satisfying us. We discovered that 63 per cent of the young buyers were male and 37 per cent female, and 76 per cent

were students, so 24 per cent were not students: they were either unemployed or had a job. Of that .86 per cent, most visited the store for that purpose. We did not ascertain whether they visited the centre to buy a lottery product but they visited the store for that particular reason. Most young purchasers bought either a Club Keno ticket (48 per cent)—and I want members to listen to this—and 46 per cent bought an Instant Money ticket. So, marginally, Club Keno was more popular than Instant Money. Club Keno was played mainly by 16 to 17 year olds with Instant Money being more popular with those of a younger age up to 15 years. Club Keno was, again, male dominated.

The average expenditure on the day of interview amongst under 18 year olds was $2.80, although they claimed their average expenditure was more like $4. Over three-quarters claimed they were purchasing tickets for themselves and, of those under 16, 37 per cent said they were purchasing for their parents. So, mum or dad went into the sports store and the kids went along and bought their lottery tickets from the agency. It was not as though the younger people were actually buying them on their own behalf. Although the claimed frequency of purchase varied, the most frequent response was about once a week. So people came in about once a week to purchase a lottery product, and one-third claimed they were investing winnings straight away.

Of the young purchasers, 81 per cent disagreed with restricting sales to adults, and the managers of the shops were divided on the issue of whether there should be a restriction. When asked what effect, if any, legislation restricting sales to adults would have, young purchasers were divided: half said it would have no effect, some said that there would be a more frequent purchase because they would be flouting the law, whilst 46 per cent said that it would encourage them to stop altogether or to buy less frequently. There is a deterrent element amongst that very small sample of people. So, there are some good, strong, valid debating points about this issue.

I will give the House the details of the way the survey was conducted. The lottery outlets were at Colonnades, Marion, Castle Plaza, Adelaide, Arndale, West Lakes, North Park, Tea Tree Plaza, Parabanks and Elizabeth. Members would agree that not only did we time the survey properly between 12.30 p.m. and 5.30 p.m. on a particular day so that we would capture the young people but also we chose centres that would be more likely to be frequented by young people. We deliberately tried to capture the young people in the sample. Overall, we suggest that .86 per cent of participants is probably an over-estimate of total activity.

In terms of the number of people who were spotted (104), 9 were up to the age of 12; 29 between the ages of 13 and 15; and 66 in the 16 to 17 year age range. Some interesting highlights emerged from the survey and the small number of people affected. As I said, some of the under 12s bought tickets for their parents. Of the 104 under age respondents, 9 per cent were aged under 12; 29 per cent were aged between 13 and 15; and 66 per cent were aged 16 or 17.

So that has been the largest part of that sample, as we would expect, and we would expect that involvement to grow as children got older and received more pocket money. Average buys amounted to 1.5 for Club Keno games and 2.5 for instant money tickets. With regard to money spent on lottery tickets, 46 per cent said it was $1 and $1 only; 26 per cent said it was $2; 6 per cent, $3; 6 per cent, $4; and 7 per cent, $5. Right at the top of the scale, where more than $20 was spent, there were only two people in the 16 to 17 year age group, but we do not have a reference as to whether they were employed persons. We would have that on record, but I have not dug it out. We are finding with the skew that the main action is at the top end with the older children or young adults.

In terms of buying patterns, 77 per cent were buying for themselves; 15 per cent, for parents; 4 per cent, for friends; and about another 7 per cent, for other reasons, including sisters, bosses, and so on. Only 13 per cent said they purchased on a daily basis; 19 per cent, two or three times a week; 33 per cent, once a week; 14 per cent, two or three times; and 10 per cent, once a month. Figures then declined after that. I have already mentioned that the mean spending was about $4. Of course, that is the mean: the average is less than that. For those who actually won, 40 per cent took their winnings with them; 31 per cent reinvested straight away; and the rest reinvested later. I have already mentioned the agreement and disagreement about the effect of legislation and how people felt about it, so that does not need to be re-emphasised. We found one or two problem areas but they are very limited. If anybody wants to look at that report it is available, and I am more than happy to make the results available, because they put a perspective on this issue.

Before we debate amendments, I thought I would take the time to put the total situation in perspective in order that we can understand what we are dealing with and what we are trying to achieve. Inconsistencies and anomalies can come out during debate. It is important to understand that, with regard to campaigns and public statements concerning a widespread problem, I as Minister was more than happy to get on with the job of sorting them out and putting out a strong recommendation. The evidence that we came forward with was quite different from that.

Of course, it had to be reasonably strong evidence because, as every member of this House would be aware, if you say, 'We don't condone these sorts of gambling,' then what about other forms of gambling? Should they also be included under the legislation? Why should we pick out the Lottery Commission's products? Of course, that issue has a great deal of validity, because why should we say, 'You can't go along and buy a scratch ticket, but you can buy a "peely" ticket' (something you actually peel back—a bingo ticket) 'or a raffle ticket; you can buy all those things but you can't buy this particular product'?

So, importantly, the problem was not of sufficient magnitude to galvanise the Government into instant action, although all those issues we have talked about have obviously been canvassed with my colleagues. I am more than happy to be involved in the forthcoming debate on this issue. It is not something about which I feel particularly strongly. It is something that will be sorted out by conscience in terms of the amendment, which I am happy to accommodate because that is what the Parliament is all about. I thank members for their support for the Bill as it stands.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

New clause 3A—'Insertion of s. 17B.'

The CHAIRMAN: I will make a brief comment about the series of amendments which members have circulated but which the Chair has not perused. The principal amendment is obviously that one proposed by the member for Playford, and all the other amendments propose changes to that amendment: they are subordinate amendments. In essence, the member for Playford's amendment will become the motion before the Committee and, once the honourable

member has moved his amendment, the Chair will decide on the *seriatim* nature of the amendments proposed by other members. I believe there are five amendments *in toto* to be moved so far.

Mr QUIRKE: I move:

Page 2, after clause 3—Insert new clause as follows:

3A. The following section is inserted after section 17A of the principal Act:

Minors not to participate in instant lotteries

17B(1) A person must not sell a ticket in an instant lottery to a minor.

Penalty: $1 000

(2) It is a defence for a person charged with an offence against subsection (1) to prove that he or she believed on reasonable grounds that the person to whom the ticket was sold was of or above the age of 18 years.

(3) A minor must not purchase a ticket in an instant lottery.

Penalty: $500

(4) Where a person, acting at the request of a minor, purchases a ticket in an instant lottery on behalf of the minor, that person and the minor are each guilty of an offence.

Penalty:

(a) in the case of the purchaser—$1 000;

(b) in the case of the minor—$500.

(5) In this section—

'instant lottery' means a lottery promoted or conducted by the Commission in which the tickets are sealed or conceal in some other way the symbols giving rise to the winning chance;

'minor' means a person who is under the age of 18 years.

We have an added problem that will necessitate a further amendment: we will have to go back to the commencement of this Act for any amendment which has the effect—whether it be my amendment or the amendments moved by other members—of achieving a minimum age. Under 'commencement' my amendment provides:

The Act will be taken to have come into operation on the day on which the principal Act came into operation.

That is appropriate for bundles of scratch tickets but not for somebody who may be in the category, as the Deputy Premier said a moment ago, of the 104 under 18 year olds who went out and bought scratch tickets when the sample was taken. An amendment will be circulated very shortly to enable us to achieve the proper implementation of that provision in the Act. In essence, as the Chairman has said, my amendment will be the principal motion, and amendments will be moved by other members to parts of it.

It seeks to treat the position concerning scratch tickets in the same way as that relating to gaming machines and the TAB, and to put in place a minimum age of 18. It seeks to provide a penalty for a person, and a defence for that person, should a ticket be sold to a minor. I also point out that my proposal provides a penalty for a minor knowingly buying one of these products. The Deputy Premier, in answer to some of the points that I raised during the second reading debate, said that the Lotteries Commission, or whoever it was, did a broad survey sampling some 12 000 persons, and found that .86 of a per cent, I think it was, or 104 respondents, were under the age of 18. In my opinion that is 104 too many. I do not think this is the biggest issue that we will ever debate in this House. I suggest that if you had open slather so that primary school kids could go into the gaming machine area you probably would have more than would buy scratch tickets, but I do not know that that is an argument I would want to rest on here.

In this House we must set out the basic rules for conduct in these areas. I do not care if the sample found only four, instead of 104, persons under the age of 18 out of the 12 000: the issue to me is one of consistency and, as a father of three boys, I do not believe that my kids should be able to go into a newsagent and buy these things until they reach a definite age, and I propose that to be 18. I know my friend the member for Frome is proposing a lesser penalty and my colleague the member for Napier is proposing that the age be 16 years: I can live with that. I have moved this amendment in the interests of consistency and as a provision that can be amended. But I believe there ought to be a minimum age.

In fact, if the sample had found there was no problem at all I would still say we had a problem, because we are allowing primary school kids to go and buy these things and, in my view, that is not appropriate in our society. As a consequence, I move the new clause and hope that enough members see the wisdom of establishing a basic, reasonable goalpost, where persons under a certain age cannot buy these products. My amendment seeks to set the parameters. I do not mind some of the changes that I have heard mentioned: in fact, one or two improve the position. The basic principle I am fighting for here—and I am pleased to say that I have had much support from both sides of the House in many debates over the past few weeks—is that there ought to be a minimum age.

The CHAIRMAN: There are two choices before the Chair. One is that we receive all the amendments—and there are some five of them—before inviting members to speak generally. However, if any individual member feels strongly that he or she would like to speak generally to the principle behind this amendment of the member for Playford, the Chair is happy to accommodate that. I know that the Hon. Mr Speaker has indicated that he would like to make comment.

The Hon. G.M. Gunn: I am in your hands.

The CHAIRMAN: In that case, I would prefer to receive the amendments from all members so that members are well informed as to the various intentions, and then members can speak accordingly, fully informed.

Mr EVANS: Does that mean that we then come back to discuss the full principle of the Bill, such as the principle of an age limit?

The CHAIRMAN: General discussion will be permitted at the end of the debate on the amendments. Are members quite happy with that? It is complex and the debate may be less usual, but cooperation would be appreciated. The member for Frome intends to move an amendment, but his is not the first amendment. The first amendment appearing from all members—and as I said I will try to take them *seriatim*—appears under the name of the Deputy Premier and is to section 17(b)(1).

The Hon. S.J. BAKER: I understood that we would in principle accept or reject the proposition that there should be an age limit, by the insertion of this amendment, and then we would deal with the 'subject to' matter. But I would like some clear indication of what steps we will follow. The honourable member has moved his amendment to the Bill. Previously, it was my understanding that we then dealt with the amendments to that amendment to the point where we discarded or accepted and then finally voted on the final construct of the new clause.

Mr Chairman, I would like your guidance on how this will be handled: it might make some difference to the way people debate the general age proposition. Is the position such that, for those people who do not like the idea of any age in the

Bill, this is the time for them to say so, then we can get on to the individual items associated with the general proposition?

The CHAIRMAN: No. If the vote is taken on the member for Playford's amendment, which has been inserted in the Bill, that virtually concludes the debate and prevents other members from submitting. In effect, the member for Playford's amendment has now become the principal amendment and is in itself subject to further amendment by the four members who have intimated that they would like to amend the new clause. Since the amendments of individual members impinge upon different clauses (or all the clauses, in some cases) affected by the member for Playford's amendment, I propose to take the amendments strictly *seriatim*, line by line. So, the Treasurer, whose amendment is to subclause (1), will be the first to speak.

The Hon. S.J. BAKER: That is the procedure that we previously practised. It could well be that at the end, as the final amendments are agreed or otherwise to the Bill, the package that is left will then be the subject of a further debate on whether there should be any change at all to the existing legislation. The reason I have an amendment here is not that it necessarily supports the proposition put forward by the member for Playford. However, it is an issue that if, in principle, the Parliament believes there should be an age limit, then to leave it to the instant money games means that it will not be very long before we have another *Sunday Mail* campaign and we will need to come back and talk about Club Keno. If there is sense to anything, given that Club Keno runs alongside the poker machines and we have already made a decision on 18 years being the age at which poker machines and the Casino shall operate, it seems inconsistent if we restrict this to instant money.

We also have the issue of how many kids spend their money on X-Lotto. When the member for Playford alerted me to his amendments I sent a note to the Lotteries Commission and asked, 'Will this lead to any unwanted consequences?' The response from the Lotteries Commission was that, if it should pass, there would be further anomalies with regard to other games which may not seem quite as pernicious to young people as instant money but, nevertheless, are part of the total gambling package we have been talking about. It is not my intention to support in principle the member for Playford's amendment but simply to suggest to the Parliament that, if we are to make a change, it should encompass all the Lottery Commission's products because I can guarantee that we will be back in a year—

Mr Brindal interjecting:

The Hon. S.J. BAKER: —three months—debating the merits of X-Lotto and Club Keno, which are addictive for certain people. I recommend this amendment simply for cleanliness and to make sure that Parliament does achieve an element of consistency.

Mr QUIRKE: I accept the amendment. The Deputy Premier is correct. The logic and consistency of the argument is that, when a Bill addresses Club Keno, for example, it will lead to a similar debate. I have no argument with that. My position has been consistent throughout. The reason I did not move that way in this Bill is that it dealt only with scratch tickets. At the time my understanding was that I would have had to bring in an omnibus anti-gambling Bill of one kind or another to achieve this. What the Deputy Premier seeks to achieve is consistent with the position I have taken and I support it.

The Hon. G.M. GUNN: I support the amendment of the Deputy Premier because it widens the ambit of the amendment of the member for Playford. I am not particularly keen on gambling. I believe it is one of our social ills. The gambling that is rife in the community reminds me of a vacuum cleaner sucking money out of unsuspecting members of the public who can ill-afford to waste it. Any course of action that will tighten or restrict that process has my full support. It has been too easy for Governments to dip their hands into people's pockets by allowing these sorts of exercises to be extended throughout the community.

I believe that thinking members of the community have come to a realise that the time has come for Parliament to show leadership. It is wrong that minors can go into these establishments and purchase tickets or participate in these sorts of practices when their parents are not aware of it or without the approval of their parents. Parliament has not only a responsibility but an obligation to ensure that this activity is brought to an end. I support the amendment of the member for Playford. I believe that 18 years is the appropriate age. I have much pleasure in strongly supporting the amendment of the Deputy Premier. I do not often participate in debates in this Chamber, but I feel very strongly about this matter, and I believe the community feels strongly about it. Parliament should act immediately. I believe that it is appropriate for the Parliament to allow conscience votes in debates of this nature. I am pleased to participate and support the amendment.

The Hon. FRANK BLEVINS: I oppose the amendments. I will support those amendments which I believe are better than the original amendments I saw from the member for Playford, but I will vote against the Bill if it comes to a vote. I agree that it is reasonable that society has a minimum age for gambling. I do not have a great deal of difficulty with that: if Parliament decides that, no sleep will be lost in the Blevins household.

This is a conscience vote for members of the Labor Party, and I assume that applies to members opposite also. When given a free vote, I vote against these kinds of restrictions for a number of reasons. I do not believe that there should be an age restriction. I do not believe that that is practical or desirable. I think that commonsense in the community ought to prevail. The question of a penalty on children is silly. I think it is absurd. Whilst I have not heard all the debate, I hope that nobody in the Parliament would support a penalty on a child. If there is to be a penalty, it ought to be on the person who sells the ticket.

There are many reasons why I disagree with legislation of this nature, but I will not list them all. I am sure the Parliament has heard those principles from me often enough to be bored with it. Not every problem in the community can be legislated away, and I think it is undesirable in many areas for us to attempt to do so. This is a very minor problem, if it is a problem at all. To put further restrictive legislation on the statute book, as I have said, is highly undesirable. I also think that people have a lot less faith in society than I have. Putting this legislation on the statute book and 'showing the lead', as I heard one honourable member say, and maybe others have said it, I think is the wrong way in which to lead the community. In matters such as this, particularly with issues as trivial at this, Parliament ought to show the lead to the community by saying that, if it is a problem, it is the community's problem.

Society is quite capable, either individually through parents, guardians or carers or collectively, of teaching young people what is worthwhile and what is not. If young people buy a scratch ticket and have a bit of harmless fun, as adults do, not a great deal of harm is done. They soon learn that

there is not much pleasure in donating money to the Treasurer, which is all they are doing. Children, like adults, are fairly quick learners. To prohibit this activity makes it a challenge, and I am sure that after this more young people will buy scratch tickets than ever did before simply because it will be illegal.

That is not why I am opposed to it. Issues involving children—issues of censorship, of which this is a form (and I acknowledge that that is putting wide parameters around it)—are such that society as a whole can teach young people what is worthwhile and what is not. I believe that it can. It does not need legislation to teach society's young people collectively that we will bash them on the head or fine them $500 if they buy a scratch ticket or, if newsagents happen to sell a scratch ticket to a child, that we will bash them on the head or fine them $500. Are we so poor and pathetic as adults that we are incapable of teaching our children individually or collectively the worth or otherwise of scratch tickets and other things that people like to see as a problem?

The only reason this is before the Parliament—and for no other reason—is that the *Sunday Mail* said so. The *Sunday Mail* would have to be the most pathetic newspaper in the whole of Australia, if not the world. We are attempting to restrict people's rights and telling adults to abrogate all their rights to the Parliament in this area because the lead writer of the *Sunday Mail* and some poor journalist on $28 000 (and probably the only job he or she can get) says that you have to do it. I have no criticism of the journalist; everybody has to eat.

Members interjecting:

The Hon. FRANK BLEVINS: I have had some thundering editorials in the *Sunday Mail* against me, and it has only helped. I assure all members opposite who are frightened of the *Sunday Mail* that it is a paper tiger, because nobody over the age of two years in the whole of South Australia would take that newspaper seriously—nobody. Do not worry about the *Sunday Mail*.

Members interjecting:

The Hon. FRANK BLEVINS: Even though they are quite pitiful, the most intellectual thing in the *Sunday Mail* is the weekly letter from W.B. Wreford from one of the southern suburbs. It is a reasonably serious matter that we feel it necessary to legislate against a trivial problem when it ought to be the role of society to educate children as to what is worthwhile and what is not.

Mr BRINDAL: I am surprised to find that I agree with the honourable member opposite, not least in his comments about that newspaper. I am not always fond of the editorials in that newspaper. Many members in this Chamber have not been here long. As I understand it, we will consider each of the amendments to the Bill. The Deputy Premier has brought in a Bill and there are a series of amendments, the principal one being the amendment of the member for Playford. There are about five others. We will consider them almost in reverse order. I hope that is the way we proceed, because that will help members to know when to speak and on what—

Members interjecting:

The CHAIRMAN: Order! I assure the member for Unley that, one way or another, the Chair will help members out.

Mr BRINDAL: I was going to explain it again but, when the member for Hart admitted that his level of intellect was confined to reading the *Sunday Mail*, I thought that it would be a futile exercise. I find myself in agreement with the member for Giles because, while I accept what the members for Playford and Eyre said as a matter of principle and totally concur with their views about the ills of gambling in society and have voted that way consistently in this case, I am forced to agree with the member for Giles that it is unnecessary legislation. The member for Giles has often said in this Chamber that he has strong leanings towards a socialist viewpoint. I have equally strong leanings towards a liberal viewpoint, and I point out to the member for Giles that it was true Liberal philosophy which spawned early socialist thinking. He is a later aberration of our particular political line of thought. We are perhaps the more pure version of where he is coming from.

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

Mr BRINDAL: I was saying before the dinner adjournment that I find myself in a remarkable degree of agreement with the member for Giles.

Mr Bass: That would be a first!

Mr BRINDAL: In a collegiate spirit, I say to the member for Florey that the longer he is in this place the more he will realise that, while there are sometimes profound differences between all members of this House, the number of times on which members concur on a subject is much more often and much more worth commenting on than the media tends to report. It always reports our differences but never when we agree. The other thing the member for Florey will discover is the amazing bedfellows he finds himself with at times. Sometimes members find themselves sitting on the floor of the House surrounded by the people they thought they would never be sitting on the floor of the House with—but it does occur from time to time.

As I said in my second reading speech, and as the member for Giles said in his contribution, I concur with the sentiments of the members for Eyre and Playford. I do not think that gambling by minors is a good thing but I doubt whether that is a legitimate matter for legislation in this place. I therefore find myself in disagreement not on the principle of gambling for minors but on whether we should be introducing law into this place that affects such a matter. In the end we have to take some responsibility for ourselves and our children. Society has to take some responsibility for itself. It cannot, whether it is the *Sunday Mail*, the Central Mission or any other group of people, turn around and say, 'People cannot help themselves. This needs to be fixed. Let's go to Parliament and get Parliament to fix it.' Parliament is not the universal panacea for all the ills of society. It is one institution and it is the institution to help.

Most members in this place would concur with the fact that the fundamental unit of not only our society but all societies is the family. The family is and should be given absolute primacy. It is a legitimate function of this place to nurture and protect the family in whatever form that family may be. It is not a legitimate prerogative of this House to interfere in the rights of the family. Whether or not somebody buys scratchies is largely a matter of parental upbringing and nurture. It is related more to families than to the right of this House to bring in legislation.

To his credit, the member for Playford has thought this matter through. There is some merit in his proposals and he is to be given credit for not, as I feared originally, coming down hard so that in the end the trader would be prosecuted for selling and the minor comparatively easily treated because, by definition, they are a minor. I note, to the member for Playford's credit, that he addresses some of those issues less fiercely than I would have thought. I intend to

support some of the amendments because, where those amendments go more towards the point which I have been making, I will support them in case this Bill is passed by the House. I do not intend to support the Bill. I intend to support some of the amendments on the legitimate grounds that, if this House is determined to pass a Bill, I will try to assist by using my vote to ensure that the Bill is the best Bill the House can pass. Having said that, I still have trouble with the Bill.

However, I support this amendment, as do the Treasurer and the member for Playford. If we are to have an age limit for one form of gambling we can, must and should be consistent. If there is to be an age limit for scratchies, it should apply to Club Keno and to all forms of gambling. I do not accept, as the member for Giles has said, that it is Parliament's business to impose age limits. Having said that, I accept that, if we are to start doing it for one thing, we should at least be consistent and do it for all things of a similar class.

The Hon. Frank Blevins: Why compound the wrong?

Mr BRINDAL: It is not compounding the wrong: it is at least making the wrong uniform. If we are to have a wrong, let us be absolutely consistent and march to the same tune and go down the wrong track absolutely in time. Let us not do it piecemeal. I support the amendment but I continue to oppose in principle the principal amendment to the Bill.

Mr EVANS: The point I want clarified—and it might be a naive question—refers to the situation where a local organisation, for instance a football club, runs a raffle, the prize for which is over $500, and obtains a licence from the commission. It is therefore running a lottery which is either promoted or conducted by an agent of the commission through the club. Are those lotteries covered by this amendment?

The Hon. S.J. BAKER: No, they are not covered by the amendment. The Lotteries Commission does not promote any products but its own. It would be stupid to do so, because it would dissipate its own revenue base. The Lotteries Commission does not conduct lotteries on behalf of other people. The football clubs and all those other institutions are not covered by this amendment.

Mr CAUDELL: How will non-payment of a fine be handled if the seller and the purchaser are both minors?

The Hon. S.J. BAKER: The first point the honourable member assumes, and quite wrongly, is that I support the principal amendment.

An honourable member interjecting:

The Hon. S.J. BAKER: No, I am not. What I am saying is that, if the Parliament decides there should be an age limitation relating to one segment of lottery products, we will be debating the same issues again in three months regarding all the other lottery products such as X-Lotto and Club Keno. The survey showed quite clearly that Club Keno enjoyed a greater level of support than scratchies.

So, for clarity of purpose, if the Parliament believes that these are pernicious and that something should be done to stop young people indulging in these products—and I have already talked about the anomalies that occur in these situations—let us be consistent so that we are not back here debating the same issues in three months or six months. If the Parliament passes this in principle, I want it to work properly. I do not want to continue to have fights with the *Sunday Mail* or to have the various welfare organisations saying, 'Minister you have one amendment that solves part of the problem. Let's solve the whole problem.' I do not think there is a great difficulty with this amendment; there may be one or two people who reserve the right. On the issue of the penalties, obviously I am not happy about them at all, but there are amendments and we will be looking at them.

The Hon. FRANK BLEVINS: In case any student of *Hansard*, if there are any, or any member of the House was under the misapprehension that I had the same point of view in all respects as the member for Unley, I am about to disabuse them. I oppose this amendment. The principle of the amendment before us to introduce an age rule is wrong: to compound the error that Parliament may make is obviously a greater wrong.

I have no problem in coming back in three months. If the *Sunday Mail* has nothing else to worry about—the world is going up in flames here, there and everywhere—if this pathetic issue is the best it can deal with, we will come back in three months. It does not bother me at all; I will make exactly the same speech then.

The Hon. S.J. Baker interjecting:

The Hon. FRANK BLEVINS: You may well have, but I happen to believe that these things do have some importance. I am not quite sure, anyway, that you do have better things to do with your time. Nevertheless, I oppose this amendment. Just to make it clear: it is wrong. To broaden the scope of the Bill only compounds the error.

The attitude adopted by welfare organisations always amuses me. This is in no way to denigrate them, but if it were possible to wipe out all these 'evils' by legislation like this—and this is about as trivial an evil as there is on this pretty evil earth at times—at the behest of the welfare organisations, they would be out of business. Their whole reason for existence would disappear, because these all-knowing MPs have this enormous power to legislate against every problem, real or imagined. They would have nothing else to do.

Again, there is the apparent lack of confidence that they have in their own ability to persuade people to see their point of view, which they see as correct and highly moral. They must believe that they cannot do it. The welfare organisations must believe that they are failures, that they cannot put a point of view in the community and have that point of view generally accepted against these things. I have more confidence in them than they have in themselves.

I think that they play a valuable role in educating the community, and for them to run to the Parliament at the behest of the *Sunday Mail* for this imagined problem and for all of us, like sheep, to line up and follow them is demeaning. Surely it is demeaning for members of Parliament to legislate in this way. I find it demeaning myself. I apologise; I should not say that about other people.

Ms GREIG: I support this amendment and some of the amendments that will follow. As a member of this House and, more importantly, as a parent, I believe it is inappropriate for children, some as young as eight years, to be spending their money or their parents' money on any form of gambling. Over the past few months we have had the opportunity to investigate the issue of under-age gambling and to rethink our position on whether a limit on age should be set for the purchase of lottery tickets.

I have addressed this subject in my electorate with the local community in order to gauge people's views and feelings. Many of the people to whom I have spoken assumed that there already was an age limit because there is in other States. So, they have naturally said to their children that under-age gambling is illegal, and that is how it has always been.

On talking to some of the local shopkeepers, I found that they were unclear as to whether or not it was legal. Those who knew the position were very worried. When children came into their store with money for tickets, they hesitated to sell them but knew that their hands were tied. It had created a real problem. Their answer was that some form of legislation would be a blessing in disguise, because at least they would have something to cite to the children.

One of the shopkeepers told me a story of a boy of 9 or 10 years who had gone into the shop and bought $10 worth of tickets. He was a local and when the shopkeeper questioned him he was virtually told to mind his own business. As it was, the parents also used the same shop. When they came in that afternoon and were told what their son had done earlier in the day, they then informed the shopkeeper that their son had been sent to the shop to buy his grandmother's milk. That $10 was her milk money for the week. He had gone home and told his parents that other children had bashed him up and stolen his money. They believed their son; they did not realise that anything had happened. So, it was quite distressing for them, as well as for the grandparents, when they realised what the child had done.

I think it is important, within this whole debate, that we still realise that children are children and that they need some guidance. It is our responsibility to provide that guidance for them.

Mr CAUDELL: I would assume that, when legislation is brought before a House, it is to fix a problem and not the symptom. What we have here is basically people turning a good Bill into a bad Bill through a series of amendments, because all they seem to be addressing is the symptoms and not the problem. What really is the problem? We know that the symptom is the fact that 104 out of 12 000 people are buying scratch tickets. In fact, we have a sledge hammer being used on a walnut in an effort to fix a problem.

An honourable member interjecting:

Mr CAUDELL: It is a pea, and a split pea at that. It is obvious, because this is a ridiculous situation. The question that I raised with the Deputy Premier was that, if both the seller and the purchaser of the ticket are minors, the fine is $500 for the purchaser and $1 000 for the seller. There are not too many minors in my electorate who can come forward, on demand, with $500 and $1 000.

An honourable member interjecting:

Mr CAUDELL: They may be able to in the member for Playford's electorate, but I can assure members that in the electorate of Mitchell not too many minors have that sort of money. What do the movers of these amendments suggest will happen to those minors? Do we send them to Yatala or to the local police station for a week and lock them up just to fix a symptom and not the problem? We should be addressing that area. So, we have a bad amendment to fix a problem that is basically a split pea.

As I said, the problem may be too much money or stealing, but no-one has addressed that at the same stage. We get down to the provision of proof of age. Not everyone has a licence. The initial amendment moved by the member for Playford provides:

> (2) It is a defence for a person charged with an offence against subsection (1) to prove that he or she believed on reasonable grounds that the person to whom the ticket was sold. . .

What about a person who has such a doubt, but the purchaser, who is over 18, does not have a licence. Not everyone in this community has a licence. We no longer have the Australia Card. Perhaps we should introduce legislation so that every child is asked at some stage, 'Are you going to get a licence? If you are not going to get a licence perhaps we should tattoo your date of birth on your arm.' In that way, we can overcome all future problems of identification. But that is Tatts Lotto, and that is outside the configuration of this amendment.

As the operator of a business that requires proof of identification, I appreciate the problem of obtaining proof of age and of being able to substantiate a number of issues accordingly, but it is no use bringing in amendments just because they make some people feel warm and cosy. That is what this is all about; we want to enact legislation so that a person can legally buy a scratch lotto ticket. However, it is not illegal for a minor to rub it out and see what they have won. This particular amendment does not provide that it is illegal for a person to use a scratch lotto ticket. It relates to a person acting at the request of a minor, but what if a person does not act in that way. What if someone has given a minor a scratch lotto ticket for their birthday and the chance to win $25 000? I am sure that the member for Playford would not begrudge some of the constituents in the electorate of Mitchell being given the chance to win $25 000. It is not illegal for such a person actually to use a scratch lotto ticket.

I am sick and tired of seeing amendments being passed simply to provide that warm and cosy situation. As I said before, it is not illegal under the amendments proposed for a minor to sell a scratch ticket. Let us look at these warm and cosy regulations and Bills that we have before us. It is illegal to buy a cigarette but it is not illegal for a person under the age of 18 to smoke a cigarette. It is illegal for a person to buy alcohol from licensed premises but it is not illegal for that person to be given alcohol by their parents at the dinner table. It is illegal for a minor to buy a lottery ticket but it is not illegal for a minor to use it or to sell a ticket.

Let us look at the enforcement side of the legislation. We have all seen the Crown Law Department's advice to the Government in 1991. The member for Giles supports the opposition of these amendments because he is very astute when it comes to reading legislation. He is very astute in some instances. The advice that was given to the previous Government in 1991 included advice from the Crown Law Department which said that we would have mammoth problems with enforcing these regulations if they were brought in under regulation or legislation. Therefore, in 1991 the problem existed; in 1994 the problem still exists; and in 1996 the problem will continue to exist.

We have the problem of being able to establish who sold a ticket, who bought it, and whether there were any witnesses. It is one person's word against another's. Did they ask for the ticket; who did they ask for the ticket; is the minor telling the truth? What we need is legislation that fixes the problem, not legislation that merely addresses a symptom. If we have a totally ridiculous situation, we should show it up for what it is, as something that is totally ridiculous and should be opposed.

Mr WADE: I rise with a little bit of a frown on my youthful brow because earlier I decided to speak against this amendment. I chose to do so during the second reading debate but was advised by my colleagues that I could not speak about something that is an 'if'. I said that I would wait until we got into Committee to talk about 'ifs'. I have now been met with five or six 'ifs', all of which I totally reject. We are going right back to basics and asking ourselves: 'What is a minor?' All these amendments refer to minors. What is a minor? Is a minor under 21 years of age? As the

Opposition would be well aware, as far as an apprentice is concerned, you are an adult at 21. Is a minor under 18 years of age? Maybe so. In domestic violence cases a person aged 17½ is a minor. Under our child sexual abuse legislation a minor is under 16. Do we go back to the old days when an adult at a drive-in was aged 12 years and over? Is a minor under 12 years of age? What really is a minor?

We talk about consistency. What is the member for Playford being consistent with: the apprenticeship legislation, the child sexual abuse legislation or the domestic violence legislation? Where is the consistency? There is no consistency in any of our Acts and regulations regarding the definition of a 'minor'. Tonight I bought some petrol—at Mobil of course—and I was given a ticket. If my daughter was there I would have told her to pay the bill and she would have been given the ticket and might have won a new Ford. She is under 16 and my other daughter is under 18. I cannot ask either of them to pay the bill, because although she would not have asked for a ticket it would be given to her together with the change from buying the petrol. Where do we draw the line?

An honourable member: Are you for the amendment or against it?

Mr WADE: I am against the amendments. Let us look at these thousands of kids, about whom the *Sunday Mail*, the member for Playford and other members are concerned and who are out there buying these scratchies by the thousand. Let us look at the report by McGregor Marketing in a little more detail. There were 12 135 purchasers assessed of whom 104 were under 18 (.86 per cent, as has been said), 65 (.5 per cent) of whom were aged 16 to 17. Assuming that we go crazy and one or two of these amendments are passed and we actually bring down the age to 16, let us see how many in that age group bought a scratch ticket. Out of 12 135 purchasers, 39 (.3 per cent or one-third of 1 per cent) were under 16 years of age. Of these 39, 14 stated that they bought the tickets for their parents. We must believe these young children—it is possible that mum could not go out to buy a scratch ticket because the other kids were sick.

We now have 39 children: if we take off 14 we will end up with 23. We are left with 23 children under 16 years old buying scratchies for themselves. But that is not all: 51 per cent of those 23 said that they would buy a ticket, anyway, in spite of any law. So, we come back to 11. Out of 12 135 purchasers, here we are putting up five or so amendments to cover 11 children. That is what one might call overkill. There appears to be a great desire to provide within some kind of law all the responsibility of teaching our children their responsibilities to society and to themselves. The attitude is, 'Let the law take care of it; let us abrogate our responsibility to our children.' We are saying to our children, 'You cannot buy a scratchy because the law says you can't,' not 'because I, as your parent, am saying that you will not buy a scratchy'. The parents are not enforcing their social values on that child. A parent could say to their child, 'Well, I'd love for you to be able to buy a scratchy, I really would.' They could think, 'Let's play the good parent for the child; let's not be the mean parent; let's just blame the law; let's put it all back on the law.'

If all our laws worked, we would have no reason to have our Police Force or our courts. The law will not place a social value on my child. I am the only person who can do that. If they want to go off and gamble when they are over 18 years of age, when they are adults who are voting and doing their own thing, I have no influence over that, but while they are my children it is my responsibility to ensure that they are doing the right thing by society, themselves and me. It is a parental responsibility, and you cannot abrogate that by saying, 'Let's pass a law, let's back away and let somebody else take care of it.' That does not work. It is better that we bring pressure to bear on members of the community to again take control of and responsibility for their own life and that of their children. That is really what it comes down to.

The amendments achieve nothing. What they all do is say, 'It's not the responsibility of adult society to teach our children constructively and positively but that of the law, the police and the courts.' By that means we teach our children negatives not positives. We are trying to be positive towards raising our children. The member for Elizabeth would know this, as she comes from a school background: you give school children positives not negatives. We are looking at aversive stimulation. The amendments have not counted one group. We have said, 'Let's punish the children for trying to purchase; let's punish the seller for trying to sell.'

Perhaps the amendment would be worth while if it said, 'Let's put these fines on the parents. If a child goes into buy a scratchy the parent gets the fine.' Then we are not blaming the purchaser; the child is a minor and, as the member for Elizabeth said, we cannot have that in there. Her amendment would seek to remove all consequences from the minor; the adults should take the responsibility. How can the seller be responsible? Let the parent be responsible. Let the purchaser tell the police, who will then charge the parent for allowing their child to purchase. It will not happen too many times before parents take responsibility, and we come back to the position I have outlined. Of course, that will not happen. Because that will not happen—and that is really the course we are looking at—the amendments are rubbish. They will not achieve a thing. All they do is satisfy a great desire to pass a law affecting 11 people, and that is ridiculous.

Mr BASS: It is obvious that the background of the member for Mitchell, affectionately called the member for Fawlty, is in negotiating for the petrol industry and renting cars, because the grip he has on the whole situation is completely off beam. The member for Elder, the member for curly hair, obviously comes from a background of industrial relations because he, too, has completely missed the point.

The CHAIRMAN: Order! I remind the member for Florey that gratuitous insults are not contained within the amendments.

Mr BASS: They are not gratuitous insults; they are supposed to be compliments, Mr Chairman.

The CHAIRMAN: Order! I ask the honourable member to adhere to the subject of the amendments.

Mr BASS: I know we are talking about scratch tickets, but it is much bigger than that. We are talking about minors beginning the very quick road to ruin. Members opposite may laugh about this, but none of them has done what I have done in my life (besides the things I will not tell you about), involving 33 years in law enforcement. For four years of that time I worked in the Bureau of Criminal Intelligence, which licensed every person who worked in the Casino when it first came to South Australia. I had a lot to do with the Casino. Getting the gambling bug is like taking drugs: it is a quick path to ruin.

The first time that a minor purchases a ticket for $1, scratches the three or five little windows and wins $10, $50 or $100, he or she will have the bug. I can assure members that minors who suddenly find that they can win something by spending $1 will quickly start buying more scratch tickets. I can guarantee that, if a minor buys one scratch ticket with

the last dollar in his pocket, scratches it and wins $10, he or she will buy more, because the thinking will be, '$1 for $10: if I put in $10, I will have $100.' Members know as well as I do that that minor will lose his or her $10.

I agree with the Treasurer's amendment. The member for Playford's amendment has an excellent defence for the person who sells the scratch ticket to the juvenile, and it is a very easy defence to prove. My daughter could go to a shop and ask for a scratch ticket. She looks 20 but she is 17. If she were pulled over by the police, and they said, 'You've just bought a ticket' and they went back to the shop, the seller could quite honestly revert to the defence that my daughter actually looks older than she is. So, the defence is good. I can assure the House that gambling is not good. We should not be responsible for letting one person—I am not interested in all the statistics—go down the path of destruction. If that happens because Parliament could not treat this matter seriously, then it is an absolute disgrace. I support the Treasurer's amendment and the member for Playford's amendments.

Mr SCALZI: I wish to support the member for Playford's amendment because it is about consistency. I note that the member for Playford's former profession, like mine, was that of a teacher, and I am sure that there is educational value in what he is proposing. This amendment is not about the age of consent; it is not about smoking; and it is not about tickets that you can scratch after you purchase $30 of petrol. It is about a Government body being consistent about gambling. Scratching a ticket might not appear to be in the same category as going to the Casino; and it might not be in the same category as the pokies. It might not appear so, but the reality is that it is. In other words, we are legislating on a certain form of human behaviour dealing with gambling. It is about spending some money in order to get much more back.

The CHAIRMAN: Order! The Chair invited members to comment generally to the amendment of the member for Playford when the debate commenced in Committee. One member took advantage of that invitation. We subsequently moved on to specific amendments, of which the Deputy Premier's is the first. Members are now availing themselves of the general opportunity to debate broadly. The honourable member said that this was not about four or five different things but about gambling in particular.

This amendment is strictly about whether the term 'instant lottery' should be expanded to 'a lottery promoted or conducted by the commission', and I ask members to stick specifically to the subject of the amendment with the reminder that, at the conclusion of the amending phase of the Committee, members still have the opportunity to speak generally to the clause as amended or as not amended. If the honourable member can speak to the Treasurer's amendment rather than generalising, it would facilitate the Committee stage.

Mr SCALZI: Thank you, Mr Chairman; I was not aware of that. I was not in the Chamber at that time. In order that the debate might proceed I reserve the right to discuss the amendment in general at the appropriate time.

Mr CONDOUS: I heard what you just said, Mr Chairman. I am not going to stand up here and waffle on for hours: I want three minutes to put exactly how I feel and then that is finished for the night. I think we all ought to do that, because most of us have made up our mind as to how we will vote. As a politician I feel that I have an obligation to the youth of the community; not just in the electorate of Colton but in the whole of South Australia. I believe that, with the expectancy of life now at about 73 years for men and 78 for women, people have plenty of time in their adult life in which to gamble. As members of Parliament we must be responsible and say that we will have consistency right across the community; that we will bring in all the things that come under the State Lotteries Commission, make it 18 years of age and support the line of being responsible people who have a bit of respect among the voting public, and show that we care for our children.

We are well known throughout the world as some of the greatest gamblers in the world, but only because we started at such a young and tender age. We have become some of the biggest drinkers in the world, with every other vice that goes with it. So, let us bring back a bit of sanity into the community and support what the member for Playford has put before us: let us bring in 18 as a consistent age. I am sure that we will have the support of 90 per cent of the community, and they are the people who matter and the children for whom we are making the decisions.

Mr MEIER: I support the Treasurer's amendment to the member for Playford's amendment. I believe that including the words 'a lottery promoted or conducted by the commission' wherever the words 'instant lottery' occur provides a much wider range of prohibition. I have no problem with that at all. I do have some problems with other aspects of the member for Playford's amendment as it relates to the penalties that apply, but we will deal with that later. I am happy to support the Treasurer's amendment.

Mr ROSSI: I support the amendment to prevent minors from buying tickets, and if I had my way I would extend the legislation to prevent advertising of undesirable habits such as gambling, as is done for smoking. Advertising teaches people to develop bad habits. Gambling usually involves minors for a trial game and adults who are in financial difficulty and want to get their debts paid off quickly. In the meantime, they get further into debt. I support the amendment.

Mr KERIN: I move:

Leave out from subsection (1) '$1 000' and insert '$200'.

I will be brief, and invite everyone else to do exactly the same. The penalty proposed is $1 000, and my amendment seeks to reduce that to $200. While I definitely support the age limit, I feel that the agents we have are carefully vetted; the reason I see for the whole thing is to provide a framework under which they work. If we support those people by setting an age limit, we will get the right response anyway, and I feel that $1 000 is much too stern a fine for this sort of thing. The member for Giles noted earlier that the penalty was a knock on the head and $1 000. I have not been able to find the knock on the head in the Bill. I believe that $200 is an adequate penalty, and I hope that we can get through this without everyone speaking again.

Mr QUIRKE: As I said before, I do not have a problem with what the honourable member is seeking to achieve. In fact, he is seeking to achieve two things: a reduction in the level of penalty for both the seller and purchaser—and that is fine—and a reduction in the age to 16 years.

The CHAIRMAN: The member for Frome is simply moving the first line of his six amendments. The Chair said that it would take each amendment in strict sequence so that members of the Committee know precisely where they are.

Mr QUIRKE: I am on my feet because of the other issue—namely, the question of age. I want to separate the two issues. I know that many members prefer the lower penalty but still prefer 18 years. I feel much stronger about the age of 18 years than I do about the lower penalty.

Mr BRINDAL: I support the amendment. I have been here only slightly longer than the member for Colton and the member for Frome, but we are the Parliament of South Australia. It is an ancient and honourable institution.

Mr Foley: Ancient? It's 100 years old.

Mr BRINDAL: The Westminster tradition is many hundreds of years old. We have rules and we have them for a reason. Mr Chairman, you know what those rules are. I enjoy sitting in this Chamber during debates like this and listening to the points made. Members have a perfect right to speak three times to each clause. I take offence at the member for Frome and the member for Colton telling me or any member that they should not get to their feet or that they should be succinct because members have made up their mind. I have not and I am sure that you, Sir, have not made up your mind on certain issues. I want to hear the debate and participate in it, and I urge the member for Frome and member for Colton to do likewise.

The Hon. FRANK BLEVINS: I support the amendment. I make it clear that I will support later amendments that delete altogether the penalty on minors.

The Hon. S.J. Baker interjecting:

The Hon. FRANK BLEVINS: Clearly the Deputy Premier was not listening or maybe I did not explain myself very well. Because I do not want the Deputy Premier of this State wandering around under any misapprehension, I repeat that I support the reduction of penalty only on the basis that, if the amendments are to be passed and an age limit and penalties are to be inserted in the Bill (and I hope that does not happen), they ought to be the minimum possible. So, I will assist all members who are moving down the scale to achieve something that is more acceptable to me. I would not want anybody to infer from my support of the amendment that I support the principle: I do not.

Mr FOLEY: I support the amendment moved by the member for Frome. I feel that the penalty of $1 000 for a small business or shop owner is at the higher end of the scale. Whilst I support a penalty, I do not believe that a fine of $1 000 is commensurate with the offence. Shop owners and small business owners in my electorate in the main have very complex and diverse businesses. They have difficulties in many things in which they do. To levy a fine of the order of $1 000 on those shop owners is excessive. I urge members to support a fine at the lower end of the scale.

Mr CAUDELL: If the mood of this Parliament is such that it requires some form of penalty, $200 is a lot better than $1 000. At no stage in any of the amendments have members considered the issue of a minor who happens to work behind a shop counter and sells scratch tickets. If a minor is found guilty of the offence of selling a scratch ticket to a minor, how does the member for Frome intend to enforce the fine of $200 if the minor has insufficient means to pay the fine?

The Hon. S.J. BAKER: The normal situation is that the responsibility is with the employer. We cannot say that the employee who made the mistake would not incur a penalty from the employer. This is the same with tobacco shops or whatever: the action is against the employer.

Mrs KOTZ: I support the amendment. Not having spoken earlier, at this point in the debate I find myself in rather a predicament because, after listening to the member for Giles, I find for the first time in my five year history in this Parliament that I have some sympathy with the honourable member's arguments.

The Hon. Frank Blevins interjecting:

Mrs KOTZ: After spending five years in here, I do not think I am a slow learner but a very quick learner. I support the amendment. I believe $1 000 is excessive. In supporting the principle of what the member for Giles said, I do not believe that there should be a penalty against children. I believe it is sufficient that the law-makers of this State indicate that there are guidelines for shop owners, parents and children in regard to this area of gambling. My major concern is that the Government is involved, as long as the law is not changed, in encouraging children to gamble. I do not believe that punitive means are effective. If there is not to be an amendment providing for no penalty for a child, I will support the reduction to $200.

Mr CAUDELL: I asked a question of the member for Frome which was answered by the Treasurer. I am concerned that the employer will be held responsible for the actions of an employee who sells a scratch ticket to a minor, despite the best intentions of the employer to train his or her staff, to ensure that proper procedures are put in place with regard to a procedures manual or to put up a sign in the premises indicating that any person under a certain age will not be sold a ticket or gambling device. Based on what the Treasurer said—and I am interested in what the member for Frome has to say—the employer is responsible. A number of analogies can be drawn: if I owned a pistol and someone else fired it, does that mean that I, as the owner, would be responsible for the actions of the person who fired it?

You may very well shrug your shoulders, but we can look at another analogy closer to home and one that I lobbied for long and hard. For a long period this State was out of kilter with regard to parking offences. For many years the owner of the vehicle was responsible for any of the actions of the driver with regard to parking offences, yet the owner of the vehicle had no relationship or was at arm's length in terms of the actions of the driver of the vehicle. It is horrendous for the owner of the vehicle to be responsible. Fortunately, that law has been changed. We are now talking of introducing another law which makes the owner of a business, despite the best intentions, responsible for the activities of their staff, regardless of directions given. That is totally horrendous and unforgivable.

Aside from a little bit of frivolity in a number of scenarios that I gave, I am serious that we have a very good Bill about to be made a very bad Bill by a series of amendments which are ill-thought through. The best scenario in this situation is for this madness to come to an end and for people to sit down, really study the problems about to be caused and come back with some proper amendments that truly reflect the situation in the marketplace. Have we looked at what the youth of South Australia are saying? Some people have gone out and asked what the newsagents and the heads of the churches feel, but how do the youth of South Australia feel? If you asked the youth of South Australia to put up their hands, those between the ages of 16 and 18 years would say that they totally oppose these amendments.

I ask the member for Frome whether it is his intention that the owner of the premises be responsible for the activities of his or her employees and, despite the best intentions of the employer with regard to their having an operations manual, signage, proper training and instructions—

Members interjecting:

Mr CAUDELL: If I am allowed to finish the question, if the employee deliberately goes—

Mr ROSSI: On a point of order, Mr Chairman, how much time is allowed for questions? This gentleman has been speaking for over five minutes on the one question.

The CHAIRMAN: I am not sure whether the member for Lee is chastising the Chair, but Standing Orders permit every member to speak to each amendment three times for a maximum of 15 minutes, preferably on the subject of the amendment.

Mr CAUDELL: Maybe I should repeat the question.

Members interjecting:

Mr CAUDELL: The member for Frome said that he heard the question. It is an extremely serious subject. Despite the best intentions of the employer, if the employee deliberately violates the operating procedures, manuals, signs and so on, and sells a scratch ticket to a minor, is the employer responsible for the payment of the fine?

The CHAIRMAN: If the member for Frome wishes to respond, he is at liberty to do so, as it is his amendment. The responsibility lies more with the Minister.

Mr KERIN: With this amendment I am also supporting a 16 year age limit. The only way an employee can be under age is if they are 15 years. If any employer is prepared to leave someone under the age of 16 years in charge of selling lottery products, they deserve to cop the $200 fine. It is the same in hotels or elsewhere. If you have a young employee, you have to take some responsibility for them. I am sure the member for Ross Smith would totally agree. The employer has to take responsibility for putting a young person in such a job.

Mr MEIER: If I had had my way over the years, many of these legal gambling facilities would not apply in this State. It has not occurred that way and they are with us, so we must bring in restrictions. Members may be surprised that I support the amendment moved by the member for Frome to impose a fine of $200 and not $1 000. I say that because, from experience in my own electorate, under the provisions relating to the selling of cigarettes to minors, I know that delicatessen owners have been hoodwinked by younger people. I remember one case where the owner of a shop indicated that he had been selling cigarettes to a lass who, for all intents and purposes, he thought was at least 21 years; one of the friends of this girl said, 'You realise that she is under 18 years?' She turned out to be only 15 years. From that time on he refused to sell her cigarettes. She got upset, made threats and said that she would get friends to buy them anyway. He contacted me and asked what could be done against the girl rather than against him. He had done the right thing.

When considering this amendment, I thought that it is in those sorts of cases where a young lady is likely to say, 'Right, I will take you to court if I can get you to sell it to someone else. We will get you sooner or later.' To try this out and see how things go for the next year or so, let us try $200. It is sufficient deterrent because in most cases it is the smaller delicatessen owners who may be caught. To the big chains such as Woolworths, it would not make much difference: if it was $10 000, it would not hurt. Let us leave it at $200. There is a penalty and it is shows that we are serious and that we do not want people selling lottery tickets to under-age people.

Mr EVANS: I disagree with the amendment. The penalty should stay at $1 000 and I say that coming from a small business background. As I understand the debate, some people are arguing that, if we let minors buy scratch tickets, we are putting them on the path to ruin. Therefore, the penalty we are imposing on a business that deliberately (and they can refuse to sell them to the minor) sets a minor on the path to ruin is $200. That is not a disincentive. From scratch tickets, the average retailer would make about $7 000 profit a year, excluding other Lotteries Commission products.

It is a joke to suggest that a $200 fine is a disincentive to a business person. If Parliament is serious about this issue, it should leave the penalty at $1 000. I think a young person's life is worth at least $1 000. The point that this Parliament has not addressed is that they can repeat the offence as many times as they want and still be fined only $200, if the amendment is carried, or $1 000 if I win the debate. That point should have been addressed by the members who proposed the amendments. I oppose the amendment.

I am amazed at what happened during the dinner adjournment. I checked with the Treasurer prior to the adjournment and understood that the penalty would be imposed on the individual and not the business. As members of the Committee would realise, I have a strong interest in the proprietors of small business and those working in small business. The answer I received from the Treasurer was that the penalty would be imposed on the individual.

An honourable member interjecting:

Mr EVANS: That is correct. Something happened during the dinner adjournment and now we have a different circumstance. I also pick up the point the member for Frome raised about a minor selling a ticket to a child. The honourable member did not answer the question in terms of what happens if an adult sells a ticket to a minor. An adult has their own mind: an adult can decide whether they are doing the right thing under the law. I do not see why any business person should have to suffer the fine, whether it be $200 or $1 000, if an adult has consciously broken the law when knowing and having been trained in the law. I do not see why the business should wear that. All members know that, when you go to the delicatessen to buy X-Lotto tickets, scratchies, or whatever, quite often the proprietor of the business is not there. Proprietors often own seven, eight or nine delicatessens and they cannot be in every one. Surely, the individual person who sells the ticket should be responsible for the fine. I oppose the amendment.

Mr CUMMINS: I am concerned by the member for Davenport saying that a young person's life is worth more than $200. Is there any evidence that scratching tickets can cause death?

The CHAIRMAN: The Chair exercises its discretion and places that question in the frivolous category. I will not even score it against the honourable member.

The Hon. FRANK BLEVINS: I think the member for Davenport raised a very important point. I do not support his point of view, because I do not think there is an evil to be remedied in the first place. However, the member for Davenport is quite right if your belief is that gambling is inherently evil: if buying a scratch ticket at 15 years, 11 months and 29 days will lead you to ruin yet you can do it legally the following day and that is fine, you ought to support what the member for Davenport said. What we have here is a very interesting example of conflicting principles. There are the principles of those who say that all gambling is evil. I have not seen any action from those members in the form of private member's Bills or by action in the Party room to do away with scratch tickets or all forms of gambling. If it is so inherently evil and they feel so strongly about it, that

is what they ought to be doing. My guess is that the numbers now exist in Parliament to close down the Casino. All these people who suggested that the Casino, for example, was appalling should use the numbers here to close it down. Let us see your principles now.

There is another principle which conflicts with it, and the members for Frome and Davenport were being honest. What they were saying is that the principle of not hitting our small business people—our local delicatessen owner who will be absolutely mortified by the nonsense that we will finish up with tonight—is far stronger than this alleged hatred against gambling. It will be interesting to see how all these people who hate gambling will line up on this—whether they are haters of gambling or whether their fear of their small business constituencies is greater than their hatred of gambling. Having heard some of the contributions on this amendment, I think all those principles against gambling will fly right out of the window and the delicatessen owner will win. I want to compliment the member for Davenport for drawing this issue to the attention of the Committee. I would not have done this, because I am a much kinder person than is the member for Davenport.

Mr BRINDAL: I point out to the member for Frome that I said to him earlier you can learn from the course of a debate.

The Hon. Frank Blevins interjecting:

Mr BRINDAL: The member for Giles should listen, because I am about to compliment him twice in the same evening, and that is a bit much even for me. I had not thought of the point that the member for Davenport raised which I feel is compelling and which is amply reinforced by the member for Giles. I was going to support the member for Frome: however, having listened to the debate, I am convinced by the arguments of the members for Davenport and Giles. I commend strongly their stance to the Committee.

Mr ROSSI: I support a reduction of the fine to $200 because, as a Parliament and a legislative body, we are here to set standards that will make it unprofitable for different activities to take place and not cause bankruptcies to firms. I think $200 is a fair incentive in terms of the non-profitability of selling tickets to minors.

Mr SCALZI: I oppose the amendment to reduce the penalty to $200 because of consistency. I support the principle of 18 being the age at which a person is free to gamble. The $1 000 fine supports that consistency: it says that we mean business. As far as the arguments that proprietors will go broke and so on, I point out that it is their responsibility to make sure that minors do not deal with that sort of product in their store, because it is a serious matter. We are not talking about a chook raffle or something outside Government control. This is a Government body. This is in the same category as poker machines and other forms of gambling. If you are to legislate about particular behaviour, you have to be consistent. You do not reduce the penalties because they are difficult to police or because they might upset certain individuals who cannot instruct their staff properly, or because you are worried that parents will not be able to control their kids, and so on.

If we are going to be consistent then we have to be consistent with the penalties. If members do not want to have them at all, then they should say so. However, if we are going to have penalties then we should ensure that these penalties mean business. If gambling is a problem then we have to deal with it. It starts with a scratch ticket. Members know very well that sometimes diseases start with a scratch and it is a good idea to deal with the scratch before it gets worse.

Mr FOLEY: I think it is important that we put this into some perspective. We have heard tonight some very clever contributions from my colleague the member for Giles and also from another very clever politician, the up and coming member for Davenport. These are two members whose opinions I respect and I think that I am fortunate enough to understand where they are coming from: they want to elevate the debate to a level where perhaps they can derail the wider issue that we are all here debating tonight.

Let us be very serious and real about this. We are talking about a situation where a minor can walk into a delicatessen and, for $1, win $10 000. What difference is there in that minor pressing a button on a poker machine? We do not allow a minor to play poker machines, we do not allow a minor to bet on the TAB, but we are saying that we can allow a minor to walk into a delicatessen and, for $1, win $10 000. I am asking for some consistency.

The member for Davenport is trying to highlight a side of the debate that suits the cause of those who do not want to see us implement these changes. I say to members: do not be distracted by the clever politicians amongst us—of which I am one; I am so clever I have picked up where they are coming from. The reality is that we do not look any differently at a child walking into a delicatessen than we would at a child walking into a TAB, a hotel or a gambling hall. We do not allow them to play the poker machines or the TAB—

Mr Brindal: You allow them to kill themselves on the road.

Mr FOLEY: If you want to make a change to that, so be it. The reality is that we draw the line somewhere. If we as a Parliament are going to be consistent and set consistent laws then we should draw the line. We should not simply say that because someone happens to sell this form of gambling in a delicatessen it is okay, but if they sell that form of gambling in licensed premises or a casino then there is an age limit. We draw the line.

Mr WADE: Coming from a position where I do not agree with the amendment, I am faced with the fact of a $1 000 penalty or a $2 000 penalty. There are two ways of looking at this. First, we can be sensible and work on the basis that, whatever amendment is passed, $200 is a reasonable penalty. Secondly, we could attempt to ensure that the final proof that gets through to the Committee has something in it that people will not like. I am sure that people would not like a penalty of $1 000, even though they may accept everything else. They are the ways that we can go, and various members assume that some of us, being that smart, would try to elevate the debate to such a level where something ridiculous is included, and in the final washout it will all get knocked out.

The member for Davenport made a very good point, but it is an assumption. The assumption is that, as the member for Florey said, gambling as a child will naturally be an instantaneous disease and you will have it for life—gamble once and you are history. If members believe that assumption then, by all means, they should believe the member for Davenport. If they believe the opposite—that scratch tickets do not guarantee that a young person of 15, 16 or 17 years will face a life of gambling addiction—then that assumption is incorrect and the honourable member's argument is incorrect and we come back to what is sensible, and that is a fine of $200.

Mr EVANS: I wish to rebut a couple of the points that have been made, particularly by the member for Hart. The

honourable member would have members believe that the only form of gambling that is bad is the form that is run by the State. He does not address the fact that a six year old can go to the Port Adelaide Football Club and, for a $1 investment, win $10 000. The honourable member's argument is that gambling is bad. However, he is saying that it is the State-run gambling that is bad.

I am not asking for consistency on this; it is the member for Hart who brought up the idea. So let us be consistent; let the honourable member and all his supporters bring in an amendment that provides that minors cannot be involved in any lottery. They will not support that, and I will tell the Committee why they will not support that amendment. The Port Adelaide Football Club, all the other football and netball clubs and the Girl Guides all survive off the chook raffle.

Apparently the member for Hart and all his supporters believe that that gambling, with a $1 contribution, will not bring minors to a life of gambling, misery and crime. They believe that; that is the argument they are putting up. They are saying, 'Let's make the State-run gambling consistent and ignore all the rest.' As I understand it, we are talking only about the amendment to drop the fine from $1 000 to $200. The member for Hart did not refer to that.

All I am saying is that if this Parliament is serious about making the selling of scratch tickets and associated products a serious offence, if they want the fine to be a serious disincentive, then let us leave it at $1 000 and no retailer will break the law. However, let us ask ourselves: how many retailers do we know in our electorates who have been fined or warned for selling smokes to minors? I have never heard of one. It does not happen. No-one has ever been picked up for it.

An honourable member interjecting:

Mr EVANS: No you can't sell cigarettes to minors. I am saying that the supervision of the law is not there: there is no supervision of the law and there will be no supervision of this law. The retailers will continue on. The only way that this will be a serious disincentive is to leave the fine at $1 000.

The Committee divided on the amendment:

AYES (28)

Andrew, K. A.	Ashenden, E. S.
Baker, D. S.	Baker, S. J.
Blevins, F. T.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Clarke, R. D.	Condous, S. G.
Cummins, J. G.	Foley, K. O.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G. (teller)
Kotz, D. C.	Leggett, S. R.
Meier, E. J.	Penfold, E. M.
Quirke, J. A.	Rann, M. D.
Rossi, J. P.	Stevens, L.
Such, R. B.	Wade, D. E.

NOES (10)

Armitage, M. H.	Bass, R. P.
Brindal, M. K.	Caudell, C. J.
De Laine, M. R.	Evans, I. F. (teller)
Geraghty, R. K.	Lewis, I. P.
Scalzi, J.	Venning, I. H.

Majority of 18 for the Ayes.

Amendment thus carried.

Mr KERIN: I move:

Leave out from subsection (2) '18' and insert '16'.

This amendment changes the age at which a ticket can be sold from 18 to 16, so that a ticket can be sold only to someone of or above the age of 16 years. I believe in an age limit but, having talked to quite a few people about this, I feel that 16 is more appropriate. The people to whom I spoke were almost at one in wanting an age limit, but I feel that 16 is more appropriate. I feel that 16 years addresses most of the arguments that have been put forward for an age limit but more importantly it also addresses many of the arguments against the proposed 18 year age limit. Some say that it is not in line with the age at which gambling is allowed in other legislation, but it brings this legislation into line with such matters as a driver's licence and the age at which a person can purchase cigarettes. It also reflects the age at which many people expect a person to be able to better manage their finances. It is certainly a lot better than the current situation.

Mr ROSSI: I oppose the amendment from 18 to 16, because I believe that 18 is consistently the age of an adult in all other States in all major legislation. There is a saying that a woman is either pregnant or she is not and a person is either a minor or he is not. Therefore, I believe that the age should be 18.

Ms HURLEY: I support the reduction of the age from 18 to 16. I think it is almost an insult to young people aged 16 to 18 to limit the age to 18. Most teenagers are generally responsible and fairly mature and capable of making good decisions about their discretionary spending. The fact that so few of them (.86 per cent) actually bought a ticket is proof of that fact. Many young people aged 16 are working, at least part time and often full time, and are in charge of their own finances. It seems absurd to prevent them from dropping into the local shop and using their money as they wish. Indeed, I know some women who were mothers in charge of family finances at the age of 17. At 16 years of age people are also able to drive and are entrusted to use the roads and operate a vehicle in traffic responsibly.

The point should be made that we need not fear putting young people into a poor environment by allowing them to buy a scratch ticket. We are not putting them into a smoke-filled gambling den; it is really a matter of popping around to the local newsagency or shop to buy a couple of tickets. If we leave it at the age of 18, we are putting young people in a situation of being tempted to buy a ticket and flout the law. While I am aware of the problem of inconsistency with the gambling age in other legislation, I think we must be practical about this and reduce the age to 16.

Mr CLARKE: I, like the member for Napier, support the reduction of the age from 18 to 16 for all the reasons that she has put forward. I came to my view only during the past 24 hours when I had had a chance to think about this matter a bit more. Not only do we allow teenagers at the age of 16 to obtain a driver's licence, but let us be frank about it: at the age of 16 they are lawfully entitled to engage in sexual relations. That is not to say that we would necessarily support them in doing so, but they can do so.

A 16 or 17 year old lad or lass can go to a chemist shop and purchase a condom yet, with the age limit of 18 put forward in the original amendment, they cannot buy a scratch ticket. For those sorts of reasons, it is somewhat absurd to leave it at 18 years, notwithstanding the fact that that is consistent with other gambling laws regarding poker machines and entry to the Casino. Realistically, many thousands of young people between the ages of 16 and 17 years work at Kentucky Fried Chicken or the Pizza Hut. They perform a variety of casual work, pay taxes, and so on.

To say to them that they cannot buy a few scratch tickets is really drawing the long bow just too far. I support an age limit. Any age limit will be somewhat arbitrary. A case could be made out for an individual if that person is more mature at 14 than someone who is 19 or 21 years of age. Nonetheless, we must put in a law that we believe caters for the community as a whole. Sixteen is an appropriate age barrier for all the reasons that I have put forward, and I support the member for Frome's amendment.

Mr SCALZI: With all due respect to the Deputy Leader, he is not comparing pizzas with pizzas. I thought that I would add a bit of multiculturalism. This matter cannot be compared with the age of driving or the age of consent. We are dealing with a particular form of human behaviour, which leads to gambling.

Mr Brindal interjecting:

Mr SCALZI: The member for Unley said that that can be a gamble as well. We are talking about a Government saying you can gamble in one form at 18 years and in another form at 16 years. If the results of those different activities are the same (you can win $5 000, $10 000 or whatever with a scratch ticket), we must deal with that behaviour in the same way, even though on the surface it appears to be different. We are legislators; we are supposed to see behind the surface. We are supposed to look at a matter and put forward a rational argument. Because this gambling cannot be policed, because it will cause problems to the proprietor, and so on, we should not move away from being consistent. These laws have an educational value: we are sending out a message that gambling is a problem, that you have to be 18 years of age to partake in gambling, whether is it is a scratch ticket, a poker machine, going to the Casino or whatever. We are not comparing parents' allowing their children to drink at home, and so on: this is about the age when one is permitted to gamble being either 18 or 16 years—

Mr Kerin: Or nothing.

Mr SCALZI: Or nothing. If we are to be honest with ourselves we must be consistent. Just because on the surface it appears that it is not as serious does not mean that that is the case. To believe that we will alienate young people and so on is a fallacy. If parents buy a scratch ticket, take it home and allow their children to scratch it, it is the same as parents allowing their children to drink wine at home in moderation. That is different from parents taking their children to a hotel and allowing them to drink. There are laws for certain places and laws that apply to the privacy of one's own home. The arguments are all over the place. The age is either 16 or 18 years and whether or not we approve of gambling. Just because there are different forms of gambling does not mean that we must make different rules.

Mr BRINDAL: As I have said to the Committee, I oppose the notion of any age. I am inclined to support the amendment because 16 is better than 18. It is the first time in the course of this debate—

Members interjecting:

Mr QUIRKE: I rise on a point of order, Mr Chairman. I ask the honourable member to withdraw that comment, unreservedly.

Mr FOLEY: I unreservedly withdraw that inference.

Mr BRINDAL: There are few things that would insult me, but that would have. Members have made the point that, when it comes to the matter of age, we somehow have to argue for consistency. I have always tried to argue for consistency, but we have so many laws that are inconsistent that it seems a bit bizarre when some of those members who have been responsible for such inconsistency then come along and say, 'It suits my point at this time to argue for consistency.'

The member for Florey talked about all our young people being on the quick path to ruin and damnation if they were involved in gambling. I sympathise with him because he admitted that he approaches the matter from many years experience as a law enforcement officer. In that job, which is difficult and arduous, he would see some of the worst examples of that which our society produces. Like many other members in this Chamber, I had the privilege of being a teacher. Therefore, I can say with some confidence that I, too, have seen some of the worst examples. However, I have also seem some of the best examples. It is to the credit of our society and our teaching profession that by and large our children grow up very well. Of course, there are people who do not; there are people who for some reason seem to fall through the cracks and whom society fails. However, by and large most teachers will agree that children grow up to be reasonable, decent and responsible human beings.

Most teachers will agree that human beings develop incrementally. It is a problem with our law that we have to choose age limits. For some reason we have the conception that on the day a person turns 18 we confer on them all sorts of rights of passage and all sorts of ennobling. However, as the member for Giles said, when they are 17 years and 355 days old they are incapable of doing a whole plethora of things. One day later, society confers on them the ability to do all those things. The member for Hart asked, 'What's the alternative?' It is difficult to come up with one. At least we in this Chamber can admit that that is not how humans develop. Humans develop a bit at time and are gradually capable of assuming more responsibility.

The member for Hartley argued that you cannot have things that are different, and that we must be consistent over all forms of gambling. Whole categories of our law are different. With regard to the law relating to sexual activity, in certain circumstances the age of consent is 16 years; in other circumstances, because different moral judgments and responsibilities are involved, it is 18.

In some aspects of sexual activity you can have consenting activity at 16; in others it is 18. I put to members that all forms of gambling are not the same: there are different forms of gambling and people are capable of assuming different forms of responsibility at different times. I cannot see that gambling is good or that encouraging children to gamble is good. But if those members who would discourage their children from gambling are serious, as the member for Davenport and the member for Elder have pointed out, let them address the gratuitous scratchies: the games of chance that abound in shops, at the bottom of Coke cans, and in every form in our society. If members would argue, as the member for Florey did, that what we are doing is encouraging a pattern that leads to destruction, why, as the member for Davenport argues, is that pattern established only when a person goes into a newsagent and purchases from a Lotteries Commission agency?

Why is it not established when your son or daughter goes to the petrol station and picks up the gratuitous scratch ticket to win a trip to Sydney? Why is it not established when you have to match three symbols at the bottom of a Coke can? Why is it not established for the thousand and one games of chance available to every citizen, without discrimination as to age, everywhere throughout our society? If members want to argue for consistency, as my colleague and friend the

member for Hartley does, let us be consistent. As the member for Davenport says, let us get rid of all these forms of insidious and pernicious influence that are gradually destroying the very fabric of our society and the moral fibre of those who will come after us. If you want to do that, let us do it; but you do not, because I do not believe that half the members of this place believe some of the rhetoric they are espousing. It is a quick fix.

As the member for Giles points out, it is a fix led in part by the *Sunday Mail* because it had no particular MPs to belt that week in its editorial, so it wanted to come up with something else and it came up with this. If we must argue for consistency, let us do so. Let us acknowledge that our children are developing individuals capable at different stages in their life of making different levels of decision. I can see nothing to suggest that a 16-year-old person who can do so many things in our society now is incapable of doing something relatively simple like going in and buying a scratch ticket.

Mr Foley interjecting:

Mr BRINDAL: The member for Hart interjects but obviously does not listen. As I said, all forms of gambling are not necessarily the same. We are discussing here one particular form of gambling, which I believe is one of the least pernicious forms and must be, because we accept it, other than through the Lotteries Commission, in all facets of our society. I would not be able to run in the next election if it were not for the fact that the Liberal Party runs chook raffles, and I put it to members opposite—

Members interjecting:

Mr BRINDAL: The member for Playford is too kind, but at least I am of a size and shape to qualify as a chook. I think he would have to qualify as a somewhat larger bird. We on both sides think nothing of running raffles and lotteries and probably sending our kids out to sell the tickets. We do not believe that that is pernicious or leads them along the path of destruction. The member who just spoke said that teenagers are capable of accepting responsibility. I agree with her, but adult responsibility starts before the age of 16, so I would rather see no age at all. However, I support the amendment to provide for 16 years of age.

Mr QUIRKE: When the Churchillian rhetoric starts to come out you know it will be a very late night. If a chook raffle for the Liberal Party and for the member for Unley is not a pernicious activity, I do not know what is! I look forward to that motion when it comes before the House. There have been some interesting alliances here tonight, and a number of members have commented on this issue. To me, it is pretty straightforward, and I think most people have made up their mind which way they will go: it is either 18 or 16. I am staying with 18 because of the consistency with all other forms of gambling. You can dream up all the things you can do at 16 or take the approach of the member for Unley and say that different people reach different stages of maturity throughout the whole of their life. You can take that argument if you want to, but the law does not: the law says 18 for most things.

It says 18 for smoking, for buying cigarettes and a number of things like that. I do not want to prolong the debate tonight, but I support leaving the age at 18 years. Members can dream up all sorts of things, from condom machines in public lavatories all the way down; it does not really make much difference. At the end of the day, we are saying that 16 or 18 is the position. I think a number of members will get into this debate who really do not want any age, and that is fine. The principle I have espoused is that there should be a minimum age. If it is 16, to quote the words of the member for Giles, I will not lose any sleep over it tonight. But if we lose the whole thing, I certainly will.

Mr CUMMINS: I want to address the chook argument for a minute. The member for Playford says that the chook raffle is pernicious, but I do not accept that argument. The member for Unley says that the chook raffle is the same as the scratch ticket. The problem with the member for Unley is that he is getting mixed up between chooks and rats, and I will explain why. I should have thought that the member for Unley, as a teacher, would know a bit about basic psychology and what is called the variable schedule of positive reinforcement.

He is nodding that he does, so he has been misleading the Committee. If he knows about the variable schedule of positive reinforcement, he knows that there is a difference between a chook raffle and a scratch ticket. The difference is obvious. A scratch ticket and a poker machine are specifically designed to addict people to gambling.

Mr Brindal: They are not.

Mr CUMMINS: They do. Skinner will tell you this: any psychologist will tell you this. Any first year psychology student who has studied classical conditioning will tell you this. The way they do it is very simple. The machine slots up with a couple of things that look the same and, if you get three, you get a reward. They work it to give you sufficient rewards so that you keep doing it. Then, because you have been rewarded with three, when you get two you keep banging the button and hoping you will get another one. Old Skinner got the rats to do exactly that. But I will divert from rats to pigeons for a minute, because chickens are relevant, too.

Old Hitler got onto this a long time ago, during the Second World War. Hitler tried to devise a plan of training pigeons to fly his rockets to attack British ships. I am not joking: he actually did this. He got to a stage where, using the pokie method, he would train pigeons to be able to press a button to send a rocket down on the ships. But he made one big mistake.

Mr Brindal: He lost the war.

Mr CUMMINS: He did lose the war, but the only reason he lost the war was that he could not teach the pigeons to distinguish between the German and British flags, so he had to abandon the whole scheme. I think it is a diversionary tactic to start talking about chicken raffles. It is not a diversionary tactic to start talking about pigeons and rats. I will not stand here and support the children of this State being conned, basically, by business people and pernicious dealers who use the variable schedule of positive reinforcement to lock them into the habit of gambling at an early age. Therefore, I support the member for Playford's amendment.

The Hon. FRANK BLEVINS: I support this amendment. I do not want anyone to think that I am supporting it because it has any merit; I am supporting it because it is less objectionable than what is in the legislation. I expect that all those members who have told me over the years—almost two decades—how evil gambling is will support the age being 18 years or higher, and I will respect them for the consistency of their view.

Mrs HALL: I support the amendment, which changes the age from nothing to 16 years. I do not support the view that has been advanced by many members this evening that young people should be able or be encouraged to gamble. I support the principle of having an age limit in this area. I do not mind

my colleagues having a different view but they should understand that some of us have a different view to the views they are expressing.

As a mother of two, a stepmother of four and step grandmother of what seems to be hundreds, I genuinely have a concern about the type of society that my kids see and live in. As a State we regulate many aspects of life. I do not believe we should be afraid to regulate on this issue. We set standards and regulate the sale of items to minors in a whole range of other areas. One could argue whether the age should be 18 years or 16 years, but in 1994 I think that 16 years is perfectly justified.

The possible addiction to gambling is a serious potential social problem and it can lead to physical and emotional side effects that, as legislators, we may have to address in the future. I believe that, as legislators, we have a responsibility to the young people of this State. We should not foster the view that receiving something for nothing is okay and as a matter of course is something we should condone.

This attitude will create fundamental problems in the future. South Australia should not be the odd State out in this nation with regard to age limits. I remind members that of the other States (which were listed earlier by the Deputy Premier) Western Australia was the only State that had no age limit on lotteries and had a 16 year age limit on scratchies. I think we ought to follow suit.

The question of gambling and its place in Australian society can always stir an animated and sometimes heated reaction, although I admit that in tonight's debate humour is there as well. There is no doubt that there has been widespread community concern about gambling. That has been addressed by many members this evening. Many members would agree that over an average period of time the gambler is overwhelmingly the loser. I do not believe we should put our young people in that position or encourage them to gamble.

My view is that, whether or not we like it, gambling is part of Australia's lifestyle. However, I think that you need to be adult or near adult to understand the factual side of this—the aftermath and the fall out of gambling, and the social consequences that we, as parliamentarians, see in our offices everyday. As was mentioned earlier tonight, the Lotteries Commission favours an age limit restriction on sales. We ought to note that the original recommendation from 1991 to the then Bannon Government saw no action. I would be pleased if we saw action from the vote here tonight. The argument put earlier about the difficulty in obtaining proof of age is not sustainable because of the other areas that this issue needs to address. I hope the Committee supports the amendment.

Mr VENNING: I did not intend to take part in this debate, but tonight I have heard some of the most trivial trash I have heard in my four years in this place. I want to put my position on the record. I have always been opposed to gambling in every form and in every way. In fact, I have only won two lotteries in my life, and I did not buy tickets in either of them: the first one was birth and the second was national service.

In this debate tonight many of my colleagues from both sides of the Chamber have tried to be a little bit hot and a little bit cold. You are either for gambling or against it. I thought that the previous vote on the $1 000 fine was ridiculous. I voted for the $1 000 fine because I have a strong opinion about that. What sort of incentive is $200? I know it is on the seller—the small business man. If you are going to place a disincentive in the legislation, you have to make it worthwhile. Members are trying to be hot and cold on this issue tonight.

I agree with several members who have spoken about consistency. What is the age at which you become an adult? We all know what it is. For most things it is 18 years, so why in this instance do members want to change it to 16 years—just to confuse. I am upset about that. Two years ago I voted against the poker machine legislation and I am still very much opposed to it. Look what time has shown us. Those who voted for poker machines should look at what we have on our hands now. How much has South Australia spent on poker machines and who is picking up the bill? Is this Government looking after the charitable organisations who are paying the bill? Some $17 million has been spent in South Australia on poker machines. Who is benefiting from it? The hotels and small businesses saw this as their way to success. Now that they have bought these poker machines at a tremendous expense and with all the hassle, they are no further down the path to euphoria, as they thought they would be.

Time proves many things. I am on the record as opposing poker machines. I am on the record tonight saying that the limit should be 18 years of age. If you are caught selling tickets to minors, you should pay a maximum penalty of $1 000, but that did not pass. I think gambling is an insidious cancer. The worst thing is that it is escalating out of control. What does it lead to? What does young people buying scratch tickets lead to? What will it be next? Poker machines? Where do they go from there? Is it into the Casino and high rolling gambling? Where does that end up? It ends up in broken homes and criminal activity. We all know what it involves.

I have always opposed gambling and always will. I will never promote it or accept it and will not be voting for it tonight. Gambling leads to personal destruction: it destroys moral fibre. The worst thing is that it is a grossly addictive and insidious disease. This is the level of gambling that the young person first sees and in which they first become involved. I am not worrying about the chook, turkey or chicken raffles: the money raffles strike home with young people. I am lucky that we did not have these things around when I was 16 or 18 years, given the problems we see today; they were not heard of then.

I was annoyed when I heard some of the speeches tonight that trivialised a very serious issue. I have much pleasure in supporting the member for Playford. He wrote to me earlier on the issue. I do not care from what Party you come if you are on the right track and have the heart and soul of the issue, as I believed the member for Playford had until he voted with members on the $200 fine. I have much pleasure in supporting the amendment to limit the buying of scratch tickets to persons over 18 years of age.

Mr FOLEY: Let us be consistent. You are either voting tonight to make buying scratch tickets illegal or you are not. If you are voting to make it illegal, you make it 18 years, as it is 18 years for the TAB, the Casino, the pokies and cigarettes. The Liberal Party and the Government have been very much about consistency within regulations and business. Are we to say to shop owners that they have to have a sliding scale: if it is cigarettes, it is 18 years but, if it is a scratch ticket, it is 16 years? It will put an unnecessary burden on shopkeepers. If we make a decision tonight that we as a Parliament want to make a law whereby buying scratch tickets is illegal, we must be consistent. If you are of the contrary view that it should not be illegal, it does not matter but, if you are to vote for these amendments, you must

support the 18 year age limit so that we make our statutes consistent. We have heard enough across the Chamber from the Government about consistency within regulation. Those supporting these amendments should practise what they preach and make it 18 years.

Mr CAUDELL: I have listened to the debate. Earlier this evening I said that the proposed amendments were poor amendments and made a good Bill a bad Bill, but obviously by the indications of members we are intent on making change. So be it: there shall be change. It is my intention to ensure that that change is correct change. I am opposing the amendment and supporting 18 years of age for the indulgence in any form of gambling, for a number of reasons.

First, I refer to identification. In the instance of employers having to ensure that their staff have reasonable precautions in place for ensuring identification, I point out that more people have a driver's licence at 18 years than at 16 years, so there is more chance of the staff of the employer being able to ensure the correct age of that person. Most 16 year olds are in year 10, whereas at 18 years people are out in the workplace or at university and would have more mental capability with regard to making a decision on whether to purchase a gambling ticket. For the sake of consistency, when buying cigarettes, drinking, entering the Casino or going to the races, the Grand Prix, rugby league, the AFL or the netball for a bet, the age limit is 18 years. Let us draw a line in the sand, make it consistent and end up with something worthwhile in this legislation. I have circulated an amendment which I will move later and which inserts new clause 4A.

Mr WADE: We have had lawyers commenting on the psychological aspects. The member for Florey must remember the old psychological diagram called the normal distribution curve. There is 1 per cent at one end and they are the ones with whom the member for Florey spent 20 years of his police life; there is another 1 per cent at the other end who are the quiet people in the church; and the remaining 98 per cent fall into the normal distribution—they are young adults between 16 and 17 years. They are no longer children; we expect them to act like young adults, and 98 per cent will do the right thing anyway. I support the amendment on the basis that a 16 year old is a young adult who knows what they are doing and will do the right thing.

The Committee divided on the amendment:

AYES (18)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Becker, H.
Blevins, F. T.	Brindal, M. K.
Brokenshire, R. L.	Clarke, R. D.
Hall, J. L.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G. (teller)
Penfold, E. M.	Rann, M. D.
Such, R. B.	Wade, D. E.

NOES (19)

Bass, R. P.	Buckby, M. R.
Caudell, C. J.	Condous, S. G.
Cummins, J. G.	De Laine, M. R.
Evans, I. F.	Foley, K. O.
Geraghty, R. K.	Greig, J. M.
Gunn, G. M.	Kotz, D. C.
Leggett, S. R.	Meier, E. J.
Quirke, J. A. (teller)	Rossi, J. P.
Scalzi, G.	Stevens, L.
Venning, I. H.	

Majority of 1 for the Noes.

Amendment thus negatived.

The CHAIRMAN: Since there are other members who intend to amend this subsection, should the member for Elizabeth's amendment fail, the debate will be slightly wider and then obviously the subsequent amendments can continue.

Ms STEVENS: I move:

Proposed section 17B—Leave out subsection (3).

Unlike the member for Giles I do not think we can leave all matters up to the innate goodness of people to do the right thing. Therefore, in some cases we need to have rules and laws that restrict certain sorts of behaviour, and I therefore support the age limit. However, this amendment removes any penalties from the minor and places the penalty on the person operating in the official capacity as the vendor. I will use that consistency argument again in two instances and leave members to judge whether or not they think that use of the consistency argument merits support.

Last year, this Parliament passed the Young Offenders Act. Members may recall that that Act was quite a milestone in the way we treat young offenders or minors in relation to breaches of the law. Members will know that, generally speaking, that Act has been hailed as a positive move in dealing with offences by minors. In reading that Act today anyone would have to agree that buying a scratch ticket would certainly come under the category of a minor offence, and the nature of the penalty in this amendment is entirely inconsistent with the way the Young Offenders Act deals with those sorts of offences. That is the first inconsistency. The penalty in the principle amendment is inconsistent with the approach as outlined in the Young Offenders Act 1993.

My second point is that scratch tickets are sold in delicatessens, newsagents, chemists and some hotels. I would like to use the consistency argument in terms of other commodities like cigarettes that are sold in those and other sorts of places as well. There are no penalties for minors in relation to the purchase of cigarettes and I think that that also should apply if a minor transgresses this law. On those two grounds there should be no penalties for minors.

Progress reported; Committee to sit again.

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

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

Motion carried.

EASTER (REPEAL) BILL

Returned from the Legislative Council without amendment.

STATE LOTTERIES (SCRATCH TICKETS) AMENDMENT BILL

In Committee (resumed on motion).

Mr BRINDAL: There have been some good and bad parts to this debate. I find the amendment of the member for Elizabeth quite extraordinary. We have been talking all night—and I accept the genuine contributions of all members—about something which may or may not be very serious for our children, and yet the member for Elizabeth is now basically arguing that it is the fault of everybody else except minors who, unaccompanied by an adult, might choose of their own volition to go into a newsagency, pharmacy or some other place that sells scratch tickets and pay their

money at the counter, with the entire penalty having to be worn by the vendor.

I would remind the member for Elizabeth that I believe most members in this House consider an aspect of one of our laws to be inherently wrong; that is, the law dealing with prostitution, in which the only criminal in the whole act is the person who supplies the service and who accepts the money, and the customer walks free, without blame.

Ms Stevens: There is a difference.

Mr BRINDAL: The honourable member says that there is a difference. I would like to know what difference.

Ms Stevens: Adult and child.

Mr BRINDAL: This Committee has just passed an amendment which provides that that child may be 17 years and 364 days old, but they are without blame and responsibility. At 17 years and 364 days I could walk into a news-agency and purchase a ticket, and the only person to be held responsible, according to this amendment, is the vendor. I repeat: this amendment smacks of all that is wrong with our prostitution law, in which we turn the person who supplies the service, whether rightly or wrongly, into the criminal and let the other party go free. It makes no sense. This Committee has been arguing for consistency. Well, let it have consistency and reject this ridiculous amendment.

Mr ROSSI: I oppose the amendment, because I believe that a person who is a minor in relation to traffic convictions is liable to pay a penalty, liable to lose his or her licence and so on. I find this Bill no different and, therefore, a minor should be able to be fined. If he is not able to pay, naturally the responsibility goes to the parents. It will indicate to the parents what the child has been up to.

Mrs KOTZ: I support the member for Elizabeth's amendment. As I indicated in this place earlier this evening that I believed that provision for no penalty would be far more suitable, I cannot now deny that I said that, nor can I oppose this amendment moved by the member for Elizabeth.

I would just like to remind people like the previous speakers that we are not talking about felonies; we are not talking about theft or about anything even closely related to the realm of the top penalties, such as murder. We are talking about a matter of morality and ethics. One of the reasons we have a conscience vote in this Parliament is that there are areas of law that come down to questionable issues dealing with the values of individuals, involving the area of morality and ethics.

We are talking about adults taking responsibility. To hear the argument that the young person will get away with some criminal act if we do not penalise both sides of the transgression involved is absolute and utter nonsense. We are not talking about traffic offences or any of the other relevant areas that go across the criminal line into felonies or theft. Again, we are talking about morality and ethics.

In this case adults are being penalised as being the vendors or sellers, just as in the licensing legislation involving hotels we do not charge the under-age drinkers: we charge the licensees, the owners—those who have the responsibility to look after young people because we have decided that these are the values that society appreciates.

In the case of someone who is selling a scratch ticket, in the case of anyone who is allowing or encouraging young people to participate in gambling, the responsibility is on the adult. It is the adult who has the responsibility. If an adult in this instance accepts that responsibility and does not sell a scratch ticket or a lottery item to a minor, that minor has not committed an offence.

So, in those circumstances it is very simple to look at the whole perspective of where the onus of responsibility lies. In this case, as in other provisions in our laws, it is the adult who is deemed to take the responsibility. If the adult takes that responsibility there is no offence: the minor cannot commit an offence if the adult does not participate in the selling or does not contribute to the offence of the minor. In this case, this is exactly what vendors or sellers are doing: they are contributing to an offence being committed by a minor.

I concur completely with the member for Elizabeth and this amendment because, as I said earlier, I most certainly agree that there must be penalties for the seller, the vendor, but in this instance I certainly do not believe that it is necessary to provide penalties for the minor.

Mr EVANS: I do not support member for Elizabeth's amendment, purely on the basis that I believe that a minor could quite easily go into a store to purchase a scratch ticket and deliberately set out to deceive the seller, whether the seller be an adult or a minor. So, I believe that the minor, the person purchasing in that instance, should suffer some penalty. I do not agree with the suggestion of a $500 fine, and I note that other amendments are to be moved later. However, I believe that someone who deliberately sets out to deceive should incur some penalty. I accept that those who make a genuine mistake, forget about their age and ask for a scratch ticket also get caught in this, but I think the incidence of that would be very minor. I therefore oppose the member for Elizabeth's amendment on that basis.

Mr FOLEY: I concur with the comments of the member for Davenport. I think some members are forgetting what it was like in our youth. The reality is that if we make this a penalty or an illegal activity it is not sufficient simply to fine the shopkeeper. Given the point that a minor may well be behind the counter, it is not sufficient simply to put the fine on the shopkeeper or a person acting on behalf of the shopkeeper. There must be a deterrent for the minor.

Those of us who can think back to when we were minors, as I can—it was not that long ago—will remember that occasionally one was tempted to attempt to stretch the law just a little—not that I personally would have done that, of course, but others may well have. I do not support the $500 fine. I think that is an excessive amount, and I will address that issue later. The reality is that there should be a deterrent. I foreshadow that perhaps the member for Frome's amendment reducing the fine to $100 is more appropriate. However, I would argue that we should have at least a small deterrent.

Mr CUMMINS: I want to address a comment made by the member for Davenport in relation to proposed section 17B(2), which clearly provides that it is a defence if the vendor believes on reasonable grounds that the person to whom the ticket was sold was of or above the age of 18 years. It is patently obvious that if the legislation uses the words 'he or she believes' it is subjective. Therefore, if someone comes into the shop and actively and deliberately deceives and the shopkeeper believes the deception, then on reasonable grounds that shopkeeper has a defence.

I do not see how the member for Davenport can put forward that argument. I do not support a penalty for young people who buy a ticket. There is a juvenile courts Act, and we know what will happen, so in a sense this penalty will be irrelevant. They will come before the court, at that age normally as a first offender, and the matter will be dismissed under the Offenders Probation Act. It would not have any effect at all.

The Hon. FRANK BLEVINS: I support this amendment because I do not think the activity ought to be an offence. Therefore, I believe there ought not be a penalty.

Mr SCALZI: I oppose the amendment of the member for Elizabeth, again on the basis of consistency. If it is an illegal activity, if it is to do with gambling and if you want to send a message to the community, you must be consistent and you must have a penalty for both parties involved in the illegal activity. To deal with one and not the other is to turn the matter into a farce. A little while back members argued that at 15 and 16 young people knew what they were doing, that they had come of age. Now we have moved to 18, suddenly they have lost that reasoning. They do not want to be consistent and allow these young people to have some responsibility for committing an offence. For those reasons I believe there should be some sort of a penalty, so that they know—

Mrs Geraghty: They can't pay the penalty.

Mr SCALZI: If they can't pay, their parents will pay.

Mrs Geraghty: Their parents won't pay.

Mr SCALZI: Again, because you cannot police something, you move away from the principle. If you move away from the principle, you might as well not have it in the first place. Either you have it or you do not. If you have it, you must be consistent and deal with both offenders, not one, otherwise there is no point in having it.

Mr KERIN: Obviously, I do not favour a fine of $500 in the light of an amendment that I will move. I believe in a level playing field. If we are going to fine the seller, it is also important to fine the buyer in order to stop the sort of thing that would happen if we did not have under age drinking laws. This is the first time I have ever known the member for Newland to be wrong about anything. Youngsters who drink under age are fined. If they were not fined, they would go from hotel to hotel to find someone who will serve them—a barman somewhere along the line would take a risk. The same thing applies here. We must discourage it otherwise they will just be testing people and putting the lottery ticket seller at risk all the time. Therefore, I oppose the amendment.

Mr EVANS: I wish to pick up on a theme that was introduced by the member for Frome. As I understand this debate, the original Bill and amendments were brought in to try to stop minors from gambling. That is the way in which I understand the debate began earlier today. If you remove any penalty for the buyer, where is the disincentive in this Bill for a minor not to attempt to gamble? If you take out the penalty for the minor, they will simply go to every delicatessen until they find someone who believes on reasonable grounds that they look 18. That is what will happen. It does not matter if the law stipulates 16. All that will happen is that if you delete the penalty the minor will simply say to the delicatessen owner, 'All you have to say under this law is that I look 18 and that on reasonable grounds you believe that I am 18 and you can sell me as many tickets as you want.' The law cannot touch them. There is no penalty for the buyer or the seller because the seller believed on reasonable grounds—

Mr Cummins interjecting:

Mr EVANS: The member for Norwood wanted to know how I could argue against this amendment, and now he will not listen. The Bill contains no disincentive for the buyer. If you take out any penalty for the buyer there is no disincentive for the buyer not to gamble on scratch tickets because under the law the seller simply claims that he or she believed the buyer to be of the required age—whether it is 16 or 18 does not matter. Therefore, there is no disincentive for the seller to sell to the minor because they can just say, 'Your Honour, it was on reasonable grounds'. Further, there is no disincentive for the buyer. I believe that if the Parliament is dinkum there must be a disincentive for the buyer. Therefore, I disagree with the amendment.

Mr ROSSI: Regarding penalties for minors, during the next couple of months I hope we will enact legislation in respect of people who are involved with graffiti, and there will have to be a fine for minors. At present there is a fine for people of all ages who ride a pushbike on a roadway without a helmet. I believe the penalty is equivalent to the price of a helmet, which is about $40 to $50. If this amendment is defeated because $100 is too much, at least there should be some fine equivalent to what is current for minors of all ages who ride a bike, and that is $50. If the $100 fine is not successful, I will move that it be amended to $50.

Mr BASS: We have been speaking tonight about the impost on small business by the introduction of this offence. If we take up the member for Elizabeth's amendment, we will make it even harder. No-one in this place would support there being no penalty for a juvenile or a minor aged 16 to 18 who commits a driving offence. No-one would support there being no penalty for a minor for any offence. The member for Newland stated that under the Liquor Licensing Act it is always the licensee who is charged. I refer to section 121 of the Liquor Licensing Act entitled 'Offences relating to minors', which provides:

> (1) A minor who obtains or consumes liquor in prescribed premises is guilty of an offence.
>
> (2) A person who supplies liquor to a minor in prescribed premises is guilty of an offence.

I thought that would be enough to support my argument, but I read on. As the Minister for Primary Industries would say, 'There's more.' Section 121(4) provides:

> A minor who participates in the game of chance known as 'keno' while on licensed premises is guilty of an offence.

So, under the Liquor Licensing Act, a minor is guilty of an offence, and the licensee who permits a minor to participate in the game of chance known as keno while on licensed premises is guilty of an offence. We have been talking about consistency. We agree that 18 is the correct age for a person to buy a scratch ticket. The Licensing Act also provides that a person must be 18 before they can drink or play keno on licensed premises. So for the sake of consistency—

Mr Caudell: What are the penalties?

Mr BASS: It does not say, but it states that it is an offence. It would be a division one or a division two penalty.

Mrs Kotz interjecting:

Mr BASS: The penalties are provided further on, but clearly it is an offence under the Liquor Licensing Act and clearly it should be an offence under the State Lotteries (Scratch Tickets) Amendment Bill. I do not support the member for Elizabeth on this occasion.

Amendment negatived.

The Hon. S.J. BAKER: I move:

> Leave out from subsection (3) 'an instant lottery' wherever it occurs and insert in each case 'a lottery promoted or conducted by the commission'.

I do not think any member needs to debate this. Three subsections are affected by the previous amendment which was successful, and this is just one of them.

Amendment carried.

Mr KERIN: I move:

> Leave out from subsection (3) '$500' and insert '$100'.

This amendment is to reduce the penalty for a minor from $500 to $100. We have already reduced the penalty for a seller from $1000 to $200, so it is in line with that. While I realise it is desirable to have a penalty, I do not believe that a fine of $500 for a minor is in line with that, given that the fine for the seller is only $200. We are all aware that with minors the fine would normally come straight out of mum and dad's pocket anyway. If they have to ask for $100 to pay a fine, they should get disciplined properly.

Mr ROSSI: I move:

Leave out from subsection (3) '$500' and insert '$50'.

The Hon. FRANK BLEVINS: I support the amendment on the basis that I do not believe that it ought to be an offence for a minor to purchase a scratch ticket. However undesirable, I do not think it ought to be an offence. Therefore, given that it will be an offence, I support the minimum possible penalty.

Mr Rossi's amendment carried; Mr Kerin's amendment negatived.

The Hon. S.J. BAKER: I move:

Leave out from subsection (4) 'an instant lottery' wherever it occurs and insert in each case 'a lottery promoted or conducted by the commission'.

This defines the boundary lines as all Lottery Commission products rather than only Instant Money tickets.

Amendment carried.

Mr KERIN: I move:

Leave out from subsection (4) '$1 000' and insert '200'.

This is consequential on my earlier amendment.

The Hon. FRANK BLEVINS: As I have said about six or eight times, $200 is less objectionable than $1 000. We ought to support neither. Nevertheless, if that is the best that is on the table, I support $200 and urge all members to do the same.

Amendment carried.

Mr KERIN: I move:

Leave out from subsection (4) '$500' and insert '$50'.

Amendment carried.

Mr CAUDELL: I move:

That the amendment moved by Mr Quirke be amended as follows:

Proposed section 17B

After subsection (4) insert new subsection as follows:

(4a) A minor cannot hold a ticket or otherwise participate in a lottery promoted or conducted by the commission.

My amendment is self explanatory. If members are serious about the ramifications of those people using a scratch lotto or Keno ticket, it should also cover the situation where a person is forwarded one as a gift or obtains one from someone, other than acting at the request of a minor. We should tighten up these amendments. This fills that bill.

Mr KERIN: I support the honourable member on this and congratulate him on his about turn.

Mr ROSSI: I oppose the amendment, because it says that a minor cannot hold a ticket. If a child who cleans up the school yard or picks up litter in front of his place and has in his possession a ticket that happens to be a scratchie, he is committing an offence. This is totally wrong and I hope it is not what the member for Mitchell intends.

The Hon. S.J. BAKER: There is an element of sense to what the honourable member says but, more importantly, the Bill is to stop people buying a ticket, and we actually have amendments to suggest there will be a penalty for buying a ticket if you are under age. Holding a ticket, however, is a different matter altogether and I am sure that everyone would recognise that the holding of a ticket has a number of ramifications, including parents or grandparents saying, 'Here, would you like a scratch ticket?' It happens. I know that when the grandmother of my children went shopping she always used to buy them a couple of scratchies. They are not gamblers, they have nothing to do with gambling, but they have been scratching since about the age of five. If we are consistent with what we started with and say, 'We do not want people buying the tickets', holding the tickets is a different circumstance and a different principle.

Mr EVANS: Is the intention of this amendment to cover situations where a retailer gives away a scratchie on the basis of a purchase over a certain value? For instance, if a minor or any individual buys $10 worth of groceries from a store, they might get a free scratchie. They have not purchased the scratchie, it is given to them, and I wonder whether the intention of the member for Mitchell is to try to cover that or to cover the situation where the purchase is much less than $10, even $2 or $3, and the minor is given a scratchie. For those who are taking the anti-gambling argument here tonight, even if you are given the scratchie the damage done to the individual is as great as if they have purchased it. I want that point clarified, because that is an interesting interpretation of this amendment.

Mr CAUDELL: The honourable member is very perceptive in his enunciation of the amendment, but it is not only to cover that situation. This whole thing seems to fall apart at different stages, but it does not cover the situation where a person, having been given a ticket, at this stage can take it back to the shop or any commission office where it was bought and actually cash in that ticket. The way the Bill stands, a person is not allowed to buy one but they can take that scratch ticket along and collect the money. Therefore, this amendment overcomes that problem and states that a person cannot participate in a particular operation.

Mr SCALZI: I must oppose the member for Mitchell: this is a ridiculous suggestion. We are dealing with demand and supply. We have a penalty for the supplier and a penalty for the purchaser. Who holds the ticket is another question; that comes into the realm of parental responsibility. We are dealing with the provision—

Members interjecting:

Mr SCALZI: No. The member for Mitchell is really being very simplistic.

Members interjecting:

Mr SCALZI: No, I did not say that. I think he is an honourable member, but his argument at this stage is simplistic. You cannot possibly go around checking who is holding a ticket and who is not. That would put a new line to Shakespeare: who is holding the ticket and who is not holding the ticket. It is ridiculous. You cannot legislate for those situations. It is the same principle of going to the house of someone who has given their son or daughter a glass of wine. It is illegal to purchase wine under 18, but if you are drinking wine under 18 at home, obviously, it is not an illegal offence. It is the same principle, and it is consistent with what we have just passed and would really turn it into a farce if we moved down the road of the member for Mitchell, to go to the point of checking who is holding the scratchie tickets. For those reasons, I oppose the amendment.

The Hon. FRANK BLEVINS: I oppose the amendment: it has absolutely no merit. I thought that the original intent of the amendment was bad enough. If I thought that this amendment was serious or that it had any chance of being

carried it would provoke me to make many speeches before the Bill was finally put to the vote.

Amendment negatived.

The Hon. S.J. BAKER: I move:

To amend Mr Quirke's amendment to page 2, after clause 3, as follows:

Leave out from subsection (5) the definition of 'instant lottery'.

I am asking the Committee to replace the words 'instant lottery' with a wider definition of lottery products.

Amendment carried.

The Hon. S.J. BAKER: I have not made my position clear on the final disposition of this Bill. The member for Playford's amendment was not an issue about which I felt sufficiently strong enough to bring forward an amendment and test it. This matter was canvassed in broad terms before the Liberal parliamentary Party. The parliamentary Party did not feel strongly about it but I did feel that it was appropriate to test it, so I facilitated the member for Playford in allowing the debate to continue.

Whilst I did not feel strongly about the amendment, I think it is now in a workable form. The penalties we have inserted are maximum penalties, and nobody will apply the maximum. Nobody will prosecute under this law, which suits me fine. Importantly, the power is in the Act for those retailers who wish to provide some restraint. Let us be quite clear. We have already heard about what happens under the tobacco legislation. It is quite true: that law is breached every day of the week. The penalties are not great. It is there as a guideline. I am comfortable with the final outcome of this Bill. I support the amendment of the member for Playford.

Mr BRINDAL: As I have said all night, I oppose this amendment and for the reasons that have been eloquently stated by members earlier. Just now the Deputy Premier said that he is comfortable with this amendment because it will not be enforced in law. All it will do is provide fodder for those members who think they can run out to their electorates and say that they took a strong stance on gambling in defence of the children of this State; they will make themselves look good when they make this cheap point. If this Committee thinks it has done anything other than that, I am afraid it is deluding itself.

The member of Davenport gave every member of this House who thinks that gambling is the insidious road to eternal damnation the opportunity to give teeth to this legislation. Time and again members in this place who are so opposed to gambling in all its insidious forms took the simple way out and the cheap option—reduced the penalty and watered down the legislation on every occasion.

This House has given the people of South Australia a load of rubbish disguised as legislation and I, for one, will not be a party to it. I will oppose it and, if the amendment is successful, I will oppose the Bill. However, I am unhappy to do so because I supported the original notion put forward by the Deputy Premier. I will not support a Bill which contains rubbish like this.

The Hon. FRANK BLEVINS: I do not want to canvass the debate again, but I indicate that I will vote against this measure. It is not only unnecessary but undesirable. I have a great deal more confidence in the parents in our community to themselves deal with minor problems of this nature without our having to resort to this kind of legislation. On principle I am not opposed to legislating a different set of rules for minors. Although we do that every day for their protection, and it is quite proper that we do that, I do not believe that this area requires that.

I was disturbed by the Deputy Premier's comment that no-one will be prosecuted under this legislation if it becomes an Act—and I sincerely hope that it does not. For a Minister to state that nobody will be prosecuted is extraordinary. I do not know how he can make that statement. Whether or not anybody is prosecuted has absolutely nothing to do with the Minister: that decision quite properly lies elsewhere.

What we are doing here is setting up circumstances where children will be dragged before the Children's Court and, if found guilty, they will be penalised and have a criminal record for buying a scratchie ticket. To state the proposition is to dismiss it as absurd. To give children a criminal record for buying a scratchie ticket—and that is what we are bothering ourselves with—when the world is in the state it is in is ludicrous. Yesterday in 15 minutes we passed legislation which imposes burdens on employers and others who are in difficult circumstances. Yet, we have spent all this time in an attempt to get children before the courts—in an attempt to get them a criminal record for buying a scratchie ticket. I think that that is absolutely absurd.

It is not as if the children in our community will not have to deal with some of these issues from a very early age. They will have to deal with them in society, both individually and collectively. Parents always have to teach children how to deal with these issues—what is worthwhile and what is not worthwhile. That is what we do every day. We win some and we lose some. The older children get, the more they realise that perhaps mum and dad were not so stupid after all and that perhaps they did know a little bit. From my experience, that usually happens when your children have children themselves and they gain greater wisdom. The Parliament has gone right over the top on this issue, and for it to do that at the behest of probably one of the worst newspapers in Australia I find demeaning. I hope others will reflect on what is occurring prior to this clause being put.

Mr CAUDELL: I oppose the amendment. If the amendment becomes part of the Bill, as I have already told the Deputy Premier, I will also oppose the Bill as a whole. Initially I thought we were debating the rights and wrongs of gambling rather than the rights and wrongs associated with the purchase of scratch tickets or other material from the Lotteries Commission. In hearing that it was insidious and would lead people to a life of depravity associated with gambling, we looked at the net result of everyone's efforts in this regard.

First, we had the fine for the owner of the business and the person serving behind the counter reduced from $1 000 down to $200, so no longer was it a great insidious crime to sell a scratch ticket. Then we saw that the person perpetrating the crime faced a reduced fine of $50, down from $500, because it was no longer such an insidious offence or a matter leading people to crime. The net result of all the changes is that the total Bill is unenforceable. We come down to the stage where members have voted with their voices that it is okay to play the ticket but not okay to buy the ticket. If you need to be consistent you also have to vote for not playing the ticket as well as for not purchasing the ticket.

One wonders why some members have voted the way they have and why some who have not spoken have voted the way they have. One wonders whether it is for political reasons, so that in the marketplace they can be perceived as doing the right thing; doing the right thing by a newspaper that is full of advertisements and otherwise of little merit except to push a particular cause. When it comes down to reporting on this debate it will have people such as myself and the members

for Davenport and Giles (if they do oppose the whole measure) as opposing the Bill but not giving the full explanation as to why we felt that this amendment and the Bill would be unenforceable. I oppose the Bill for those reasons.

Mrs PENFOLD: I oppose the Bill. The amendment will hurt small business but not the big operators. Small business will be doubly hit because the proprietor will have to attend court and often need to pay someone to look after the premises as well as possibly pay a fine. Parents have to be responsible for their young children in matters such as the amount of money they may have and the things on which they spend that money. Older ones with their own money have to make their own decisions. I suspect that many children are smarter than their parents and will work out that there are better and more enjoyable things on which to use their money. With luck, most of them will decide not to waste their money on gambling when they are older, having got it out of their system when they were younger.

With my own children I believed when videos came in that they would become addicted. However, after the initial attraction they can take or leave a video and are less inclined to watch them than are many older people. I suspect it will be the same with gambling. Those inclined to be addicted to gambling will be addicted anyway later in life. Often it appears to be as a result of the need to pay debts in adult life. What their families do will influence children's behaviour far more than will legislation. Parents need to show by example how they feel about gambling and the need to exercise restraint.

Finally, I do not believe the legislation can be policed and will only serve to cause young people to do something illegal and get away with it: very bad training for later life. It will draw attention to this activity and for many make it even more attractive. We cannot legislate against everything that is not good for us or our children. I agree with the member for Lee that all advertising of gambling should be banned and add that the money saved should be put towards rehabilitation of addicted gamblers and the damage caused. It would save us all from having to look at that horrid dog and from promoting gambling to children via television. As for consistency, what about all the other scratch tickets such as Mobil or McDonald's and bingo tickets? It will be confusing to children that some are legal and some are illegal. It will also help to further overload the courts system. I do not like gambling, but I oppose the Bill.

Mr KERIN: After my public counselling by the member for Unley, for which I was grateful as it pulled me back into line, I wondered about his implying frivolous motives to those who have taken part tonight. If he thinks that the Bill is such a load of rubbish, with the seconding of the member for Giles, I look forward to their trying to repeal similar provisions within the TAB, gaming machines and licensing legislation. If we talk of consistency, such legislation is also a load of rubbish, as is any law providing protection for our young people. If this Bill passes tonight it brings us into line with what is available in other States. From the many arguments we have heard tonight, it is as though we are trying to drop the age from 18 to 16 years, whereas we had no limit previously.

The real motive of the legislation is for the Government to show leadership in the community and set the framework for what we expect of lottery agents. I will be disappointed if we lose, for their sake. Those to whom I have spoken support an age limit, as I do. I felt that 16 years was more appropriate, but I have no problem voting for 18 years as it is about time that South Australia came into line with other States and had a framework under which we sell lottery tickets.

Mr EVANS: I place on record that I oppose gambling and tonight I have tried to argue for amendments to get the Bill, if passed, into the least offensive option. Personally I oppose it. We are reacting to one *Sunday Mail* editorial in about July, and we have shadow boxed in reaction to that editorial. We have done a survey, and .86 per cent of users fall into the age group at which this proposal is directed. It is wrong to legislate for every option. We do not need to regulate to such a minor extent. I do not believe in legislation for legislation's sake. The Deputy Premier says that this Bill if passed will not be enforced or policed. That reinforces the fact that we are legislating for the sake of legislating, which is wrong.

I take up the point of the member for Giles about the responsibility of the family, whose role it is to teach children about financial management and how to manage their money. I have problems with how much the State interferes with the role of the family in bringing up children. I have referred to numerous other raffles and gambling available to minors in the public arena—bingo and beer tickets, the Melbourne Cup sweep (which happens at high schools) and football pools. In matriculation I did the roster on Friday afternoon to collect money for football pools. The gambling is there and this measure does nothing to address it. I do not believe there is a true business disincentive to sell the tickets. I would have liked to see a larger fine. Finally, I think it is absolutely impossible to police. I agree with the Treasurer, because there will never be a conviction under this proposal. I oppose the amendment.

Mr SCALZI: I find it a little hard to take when members say that the debate is a farce, because if that is the case they are implying that their contribution to the debate is also a farce. There are two important points involved: one is the age at which we allow scratch tickets to be sold, and the other is the penalties to be imposed. I believe that with the debate and discussion that have occurred we have reached a compromise. To be consistent I would have preferred higher penalties but, given that it is a democratic process and that everybody makes a contribution according to his or her conscience (and I believe that has taken place tonight), I respect the result. Therefore, I believe that we have achieved something. We have said that there is an age limit. We said that there should be some consistency and we have sent out a clear message indicating some values in that we understand that there are difficulties with gambling and that there is an educational value in passing a Bill such as this. For those reasons I support the amendment.

Mr BASS: The amendment as moved by the member for Playford and amended several times is an ideal piece of legislation. I am afraid I disagree with the Deputy Premier. The police have a legal obligation to investigate any offences or allegations of offences reported to them, and if a parent telephones the police and says, 'Johnnie has been stealing money out of my purse and is taking it down to the shop to buy scratch tickets; he's only 11 or 12 years old', the police have a legal obligation to investigate and take action if the offence is proved. I assure members that on the odd occasion—and it may only be the odd occasion—people will find themselves charged with this offence. If it is only two or three times in the next 10 years and it stops a young person from gambling then the measure has achieved its object. I support the amendment.

The Committee divided on the new clause as amended:

AYES (27

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, S. J.
Bass, R. P.	Buckby, M. R.
Clarke, R. D.	Condous, S. G.
Cummins, J. G.	De Laine, M. R.
Foley, K. O.	Geraghty, R. K.
Greig, J. M.	Gunn, G. M.
Hall, J. L.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Leggett, S. R.
Meier, E. J.	Quirke, J. A. (teller)
Rann, M. D.	Rossi, J. P.
Scalzi, G.	Stevens, L.
Venning, I. H.	

NOES (10)

Becker, H.	Blevins, F. T. (teller)
Brindal, M. K.	Brokenshire, R. L.
Caudell, C. J.	Evans, I. F.
Lewis, I. P.	Penfold, E. M.
Such, R. B.	Wade, D. E.

Majority of 17 for the Ayes.

New clause as amended thus carried.

Clause 2—'Commencement'—reconsidered.

Mr QUIRKE: I move:

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Line 13—Leave out 'section 4' and insert 'sections 3A and 4'.

Line 15—Leave out 'section 4' and insert 'sections 3A and 4'.

The amendments are a consequence of the successful passage of earlier amendments tonight. If clause 2 remains as it is now, it will be retrospective legislation in respect of tickets already purchased.

The Hon. S.J. BAKER: We might have a slight problem with this. My understanding is that the issue of what should be the status of winning scratch tickets was virtually dated well back so that we do not have a continuing problem. I do not think the amendments achieve what the honourable member is attempting to achieve. Clause 2 provides:

> This Act (except for section 4) will be taken to come into operation on the day on which the principal Act came into operation.

If we leave out section 4 and insert sections 3A and 4 it may achieve what the honourable member intends, because subsection (2) provides that that section will come into operation on assent. Presumably the honourable member is saying that sections 3A and 4 come into operation concurrently, whereas the scratch ticket is determined by the previous amendment, which takes it back to the date of operation. In those circumstances, I accept the amendments.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 11.13 p.m. the House adjourned until Thursday 20 October at 10.30 a.m.