HOUSE OF ASSEMBLY

Wednesday 5 March 1997

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Bulk Handling of Grain (Directors) Amendment,

Development (Private Certification) Amendment,

Gas (Appliances) Amendment.

QUESTIONS

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

DISMISSAL LAWS

In reply to **Mr CLARKE (Ross Smith)** 22 October 1996.

The Hon. D.C. KOTZ: The Minister for Industrial Affairs has advised that there are currently approximately 1 200 unfair dismissal claims dealt with by the South Australian Industrial Relations Commission per year. Seventy to eighty per cent of these cases do not proceed to arbitration but are resolved through conciliation by the Industrial Relations Commission and settled 'in conference' rather than through formal proceedings.

As no record or transcript is maintained of conference proceedings and settlements, meaningful figures on the average level of compensation payments are not available.

With respect to the honourable member's question on the number of claims made by trainees over the past 12 months, I am advised that these figures are not kept by the commission's registry.

PROPERTY TRANSACTION

In reply to **Mr CLARKE (Ross Smith)** 12 February.

The Hon. R.G. KERIN: Mr Allan Gray, Manager, Plantation Products (formerly Manager, South East Forests), has no delegated authority to make a binding offer for land on behalf of the Government. The letter of 14 July 1994, indicates that Mr Gray proceeded according to established practice by offering a price to the agent based upon the Valuer-General's determination and the departmental assessment of productivity and net present value; and clearly indicating in the letter that the price was subject to acceptance by the Minister for Primary Industries.

HOUSING TRUST PROPERTIES

In reply to **Mrs GERAGHTY (Torrens)** 27 February.

The Hon. S.J. BAKER: I am advised that approximately one month ago, Mr Gerard Steele, of the member for Torrens' electorate office, contacted the Tenant Services Manager at the trust's Hillcrest office to ascertain whether or not the trust had given permission for Visionstream to enter trust properties and install cabling.

The trust officer had assumed that Mr Steele was referring to dwellings on separate titles which do not share services with other tenancies. Based on this assumption, the officer advised that no such permission had been given by the trust.

It is correct that the trust has agreed that Visionstream may pre-cable group housing sites in anticipation of individual tenant requests for cabling.

I am advised that the Housing Trust was approached by Visionstream (a subsidiary of Telstra Corporation Limited) in late 1995 for approval to install backbone cabling within trust group housing sites (properties which comprise several dwellings built on one allotment).

Visionstream sought approval for these particular developments so that if a tenant decided to purchase access to the cable television service, a short connection could be installed from the backbone cabling to the respective dwelling.

The trust signed an agreement with Visionstream in May 1996. The key principle adopted by the trust in negotiating this agreement was that the installation of the backbone infrastructure for broadband telecommunications is very similar to the provision of the original telephone cables, and that tenants who want to take up the service should not be denied access.

At the time of construction of these group houses, underground conduits were provided for the installation of telephone cables. Visionstream's first option is to use the existing underground telephone conduits.

Since commencement of the agreement with Visionstream, the installation of the backbone cabling within many of the sites has been within the existing underground conduits. Where additional or larger conduits are required, these have been installed underground either by boring or trenching. On a limited number of sites where Visionstream's first option was to install cables overhead, negotiations have achieved an alternative solution such that the service is visually inconspicuous.

At least one day prior to entering group housing sites, Visionstream must place a letter in the letterboxes of all affected tenants, advising them of the intention to undertake survey and installation work.

I am advised that there has been no approach from, and no approval given to, any other company to install backbone cabling within trust group housing sites.

EDS BUILDING

The Hon. J.W. OLSEN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. OLSEN: Recent surveys by the Property Council of Australia have indicated that, while there is a high level of office space vacant in the Adelaide central business district, most of the vacancies are in the lower end of the market. The vacancy rate for premium office space is virtually zero. At the same time, I am advised that there is a growing demand for A grade or premium office accommodation for emerging information technology and telecommunications companies that have been attracted to Adelaide.

In particular, EDS (Australia) indicated a strong preference last year to be located in the CBD because of the proximity to clients, access to training facilities and access to accommodation for visiting IT professionals. Under the terms of the IT services contract with the South Australian Government, EDS has an obligation to occupy office space at Technology Park, unless it could demonstrate sound commercial reasons why it should locate elsewhere. EDS sought expressions of interest for the provision of such office space which resulted in a proposal from a consortium headed by Hansen Yuncken for the construction of a 20 000 square metre building at 102-114 North Terrace.

On 14 October 1996, my predecessor issued a letter of intent advising Hansen Yuncken that subject to a number of conditions the Government would agree to take a head lease for 15 years over the whole of the building. Rent was agreed at a net rate of $198 per square metre plus fit-out estimated to cost $61 per square metre and outgoings of about $70 per square metre, at a total estimated cost of $329 per square metre. Cabinet endorsed the letter on 24 October 1996. I am advised that this net rate compares favourably with existing premium space net rental of between $150 to $200 a square metre. I am advised that Waymouth Street Tax Office has a gross rent of $455 per square metre.

Initial verbal negotiations were based upon EDS occupying, over time, 12 000 square metres. The company now has confirmed a space requirement of 8 000 square metres with further demands contingent upon future growth. It expects to

need another 4 000 square metres by the year 2000. Negotiations have continued with both EDS and Hansen Yuncken, and the Government has now decided, subject to the successful conclusion of negotiation with both EDS and Hansen Yuncken, to proceed to support the development in principle.

The two projects have a combined value of over $100 million. While recognising that there is existing vacant office accommodation available in the CBD, there are a number of other factors to be considered in supporting the development of the site at 102-114 North Terrace. The opening of the new City West campus of the University of South Australia and the beginning of the rejuvenation of the north-west precinct of the city have been accompanied by a call from the management of the Adelaide Convention Centre—on its tenth anniversary—for more conference accommodation in the medium price range. The former News Limited site has remained derelict in a strip of prime real estate which should reflect the emerging activity at this end of town.

I have been advised that there is an opportunity to provide a purpose built building to accommodate the special needs of IT companies, thereby creating an IT precinct to encourage clustering of companies with some synergy. EDS indicated in a letter to Mr Scott (now of the EDA) on 18 November 1996 that some eight organisations have shown some interest in collocating in such a precinct.

It is clearly the Government's preference and intention that private sector tenants with like interests be located in this building. If considerable space is remaining, then Government tenants, where leases are due to expire in other privately leased accommodation, may be required to consider this site.

The construction of the proposed EDS building has important linkages to the proposed Playford Hotel on the adjacent former News Limited site. The Playford Hotel proposal is for the development of 180 room boutique all suites hotel that will rely on car parking, a gymnasium and conference facilities to be provided within the EDS building. Recent newspaper reports have been misleading.

Mr Foley: It's an absolute disgrace!

The SPEAKER: Order!

Mr Foley interjecting:

The Hon. E.S. Ashenden interjecting:

The SPEAKER: Order! If the Minister for Local Government and the member for Hart wish to stay during Question Time, they should cease interjecting or I will give them both an early minute.

The Hon. J.W. OLSEN: The Playford Hotel proposal relies on facilities within the EDS building, and the current proposal could not proceed without it. It is highly unlikely that any modified proposal confined to the new site would have been viable, so the most likely outcome would have been no hotel development. This proposal has not been without its risks and careful negotiations. A range of financial modelling has been undertaken to assess the potential risk and benefits to the State Government, and in order to ensure that the Government's position and the risks are not misrepresented I have decided that as much information as possible will be made available. We have seen what members opposite can do with little information, the way in which they can misrepresent it.

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart is warned.

The Hon. J.W. OLSEN: The proposed lease contains a number of aspects which may lead to additional costs to Government during the term of the lease. There is no rent abatement clause. Therefore, the Government would be required to continue to pay rent in the unlikely event the building is not occupied. The Government would be liable for any upgrading or replacement of parts of the building or the fit-out during the term of the lease. The Government bears the risk of any extraordinary costs which, using the Treasury recommended discount rate of 8 per cent, may range from a total of $5 million to $14 million over the term of 15 years.

Mr Foley interjecting:

The SPEAKER: Order! I warn the member for Hart for the second time.

Mr Foley interjecting:

The SPEAKER: Order! I do not want to hear any further interjections from the honourable member. He knows the consequences. I do not have to tell him again.

The Hon. J.W. OLSEN: Over the past few weeks, Cabinet has considered many options including that of not proceeding with the project. If the project does not proceed, Adelaide will undoubtedly lose some $105 million worth of construction activity including $7 million predicted revenue flow to the Government as a result of the construction. Just take the $7 million off the $5 million exposure that we have talked about. There would be a negative impact on both the local community as well as interstate and international tourists if we left a derelict building in this precinct. This negative impact or sign of lack of confidence cannot be compared with any opportunity to attract new investment and stimulate the South Australian economy and job opportunities for South Australians. This is the primary reason for the Government's decision to proceed.

There are other benefits. This project will complement the proposed $40 million expansion of the Adelaide Convention Centre. Together, these projects will create about $15 million of construction activity in this State. About 1 000 people will be accommodated in the building, and this will provide economic benefits for the area and related small business operators. There is an opportunity to establish a state-of-the-art building that links the built form to technology-based firms and fits with Adelaide's aim of being a smart city.

In summary, the State Government has a commitment to rebuilding confidence in this State, and a symbol of this is building activity in the City of Adelaide. Following considerable analysis of the proposal and weeks of negotiations, Cabinet decided, subject to successful negotiations between the Government, Hansen and Yuncken and EDS, to agree in principle to proceed with the proposal announced last October. The Government's commitment to the project is dependent on outstanding issues being successfully finalised with the developers, EDS and the financiers. For a relatively small Government investment spread over 15 years South Australia will gain a major new CBD building, a boutique hotel, $105 million worth of construction contracts, and rejuvenation of a decaying part of the CBD.

An honourable member interjecting:

The SPEAKER: The Minister is out of order.

The Hon. J.W. OLSEN: The proponents of the Playford Hotel (Provision Suppliers Corporation Ltd) are enthusiastic and committed to the hotel's proceeding. Demolition on the site has commenced. I am confident that construction activity on this site will begin in the next few months. This decision, notwithstanding those risks, is a clear indicator that the State Government has confidence in the rejuvenation of the South Australian economy over the next decade.

ASER DEVELOPMENT

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

Leave granted.

The Hon. S.J. BAKER: I will update the House on the progress this Government has made in resolving the matter of the Adelaide Station and Environs Redevelopment (ASER) complex and the Government's plans for the future of this financially troubled project. Sadly for all South Australians, cost overruns in the construction phase of the ASER project have severely hampered its financial performance. When the previous Labor Government was considering the ASER development it estimated that it would cost $160 million to build. The project ended up costing in excess of $340 million and the ASER group—

Members interjecting:

The SPEAKER: Order!

The Hon. S.J. BAKER: —has been overburdened with debt ever since with the Government forced to make significant writedowns in provisions on its investments. This Government is determined to end this costly commitment to the ASER project and has taken a considerable and sensible approach to extricate the State and, therefore, the taxpayers from what has been yet another sorry chapter in South Australia's recent financial history.

The ASER group consists of several unit trusts arranged in an extremely complex legal and corporate structure, which owes its form largely to taxation considerations and the special requirements of the Casino Act 1983. It is a structure that has led to major financial losses for stakeholders and, therefore, the taxpayers of South Australia—the result of another financial folly by the former Labor Government. For the benefit of members, I table a diagram that outlines the extraordinary web of financial and leasing arrangements that currently underpin the ASER complex. This corporate structure effectively means that the ASER Property Trust (APT) owns the Riverside Centre, while the ASER Investment Unit Trust (AIUT) owns the hotel business, while AITCO owns and operates the Casino business.

Mr Brindal: Sounds like a typical Labor arrangement.

The Hon. S.J. BAKER: It does, indeed. The Adelaide Casino continues to operate in a very competitive market. While the Casino in the past has suffered from the proliferation of Australian casinos and from the introduction—

Members interjecting:

The SPEAKER: Order! There are too many interjections across the Chamber.

The Hon. S.J. BAKER: We have just a bit of bare earth at Marineland—not much to show for Marineland at all.

Mr Foley: I was not in government.

The Hon. S.J. BAKER: I would have thought that the Opposition would be very quiet at this stage. While the Casino in the past has suffered from a proliferation of Australian casinos and from the introduction of gaming machines into hotels and clubs, its financial position appears to have stabilised as a result of a number of management initiatives. Earnings from the hotel were disappointing in the beginning but are increasing at a steady rate.

As stated on previous occasions, the stakeholders wish to quit their investment. However, options for sale have been seriously limited by ASER's complex corporate financial and leasing structure, which a purchaser would not be expected to find attractive. A further disadvantage is that the interdependence of the arrangements currently prohibit a sale of the individual components of the complex.

On the basis that the current structure of the ASER group would be a continuing impediment to improved performance and eventual sale, the Asset Management Task Force, Treasury, the Superannuation Funds Management Corporation and Kumagai have worked together on a restructure plan. A steering committee has been formed to oversee the restructure and sale preparation. On completion of the restructure the ASER assets will be placed on the market for sale. The assets intended to be sold are the leasehold to the Riverside Centre and the hotel and Casino businesses. The State Government, through TransAdelaide, will continue to own the land.

The Casino legislation that I will be introducing later today satisfies the most stringent demands for the protection of the State. This is achieved through a rigorous yet practical regulatory regime which also satisfies the need for the Casino to be a commercially viable proposition for a purchaser. Once this legislation has been passed, the Government, in conjunction with the other shareholder of the ASER complex, will have the major plank in place to facilitate a sale of the Casino. Further legislation is required to restructure the leases on the ASER site to enable the sale of ASER to be completed and to finally put this costly saga behind us.

It is expected that the sale process will begin in June. Once the sale process commences, expressions of interest will be called for, and parties which satisfy certain strict conditions will be provided with a copy of the information memorandum. A marketing program will be conducted in connection with the call for expressions of interest to maximise the results from the tender process. It is intended that an assessment committee will be established to evaluate the financial parameters of the tenders received once the final stage of the sale process is under way. The assessment committee, which is proposed to be chaired by a senior member of the legal profession, will also consist of representatives of the respective stakeholders, namely, Treasury, SFMC and Kumagai.

The Governor may grant a new licence to the purchaser of the Casino on the recommendation of the Gaming Supervisory Authority. The ASER sale process will use the proven procedures developed by the AMTF to maximise returns to all stakeholders. It will also ensure the best possible outcome for the State by attracting private investment and economic development and, at the same time, ending another chapter of Labor's financial misadventure.

SCHOOL COMPUTERS

The Hon. DEAN BROWN (Minister for Information and Contract Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DEAN BROWN: Yesterday in reply to a question from the Leader of the Opposition about school computers, I indicated that the Government had secured a three year 24 hour a day warranty service agreement. I clarify that reply and indicate it is a three year on site warranty with response times as follows: four working hours response time for metropolitan clients, not 24 hours; eight hours response time for country clients within 100 kilometres radius of the service depot; and eight hours shipment of loan equipment further than 100 kilometres from the service depot. The warranty service requests can be lodged 24 hours a day.

LEGISLATIVE REVIEW COMMITTEE

Mr CUMMINS (Norwood): I bring up the fourteenth report, fourth session, of the committee and move:

That the report be received and read.

Motion carried.

Mr CUMMINS: I bring up the fifteenth report, fourth session, of the committee and move:

That the report be received.

Motion carried.

Mr CUMMINS: I bring up the report of the committee on regulations under the Electricity Act 1996 and move:

That the report be received.

Motion carried.

QUESTION TIME

SUBMARINE *WALLER*

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Premier. Given the vital importance for South Australia of winning the go-ahead for the construction of another two submarines, and achieving exports from the Australian Submarine Corporation, will the Premier ask the Prime Minister, Mr Howard, and the Defence Minister, Mr McLachlan, to reconsider their latest decision to pull out of the launch of submarine *Waller* next week?

The Hon. Bjorn von Sydow (Minister for Defence in Sweden), Admiral Johnson (Chief of Naval Operations of the United States Navy), General Percurt Green (Deputy Supreme Commander of the Swedish Armed Forces) and a large contingent of overseas military, diplomatic and trade representatives have accepted invitations to come to Adelaide, given the high profile nature of the launch of submarine *Waller*, which both the Premier and I will be attending next Friday. Canberra sources said it was hoped that either the Prime Minister or the Defence Minister would be speaking at the launch about the future of the submarine project, which we all support, and that the Navy is embarrassed by the withdrawal and that even the associate Minister for Defence, Bronwyn Bishop, is now not available.

The Hon. J.W. OLSEN: It is a wellknown fact that Federal Parliament is sitting this week. I do not know what the arrangements are—

The Hon. M.D. Rann: This Friday. One is in Rockhampton and the other is in Sydney—

The SPEAKER: Order! The Premier has the call.

The Hon. J.W. OLSEN: The level and standard of question coming from this Opposition really strikes new low records of quality and quantity in this Parliament. I do not know what the Prime Minister and the Minister for Defence are doing on Friday, but I tell the Leader of the Opposition that I do not need his prodding to take up the issue of the submarine and its future.

The Hon. M.D. Rann interjecting:

The Hon. J.W. OLSEN: I have already done that.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The Leader.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I want the Leader to come to order.

The Hon. J.W. OLSEN: We are delivering jobs, which is more than you did in South Australia.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: We did not bankrupt this State. We accept responsibility for cleaning up the legacy which you left to every South Australian and which is impacting on health and education services in this State.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: All your work.

Members interjecting:

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

Mr Foley interjecting:

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

The Hon. J.W. OLSEN: I am glad the member for Hart interjects. The member for Hart and the Leader of the Opposition are two people involved very closely with the Bannon Labor Government: one a Minister and one the Premier's adviser. Look at the Remm site, which involved almost $1 billion worth of capital expenditure but which was sold for $150 million, and they are trying to compare that with an exposure of $5 million to $14 million, of which $7 million will come back in dividends and revenue to the Government through construction. And we end up with a hotel, a building, accommodation for 1 000 people in the CBD—rebuilding and rejuvenating the CBD of Adelaide—after a decade of neglect and disregard by the former Administration in South Australia. They should hang their head in shame as to what they delivered to South Australians. We will clean up the mess; have no fear, we will accept responsibility for cleaning up the mess they left for us, but do not let them stand in this House and criticise.

Members interjecting:

The Hon. J.W. OLSEN: We well remember the member for Hart's involvement with Marineland and the $10 million to $12 million cost. What have we got to show for it? Absolutely nothing. We are talking about a possible exposure for 15 years—

Members interjecting:

The SPEAKER: Order!

Mr Foley interjecting:

MEMBER, NAMING

The SPEAKER: Order! I name the member for Hart.

Members interjecting:

The SPEAKER: Order! If I find out who made the interjection on my right, I will name that member, too. I do not want any assistance from my right. The House has erupted into unnecessary bad behaviour this afternoon. The Chair has no desire to raise the temperature in this Chamber this afternoon. I invite the member for Hart to apologise and explain his conduct.

Mr FOLEY: Mr Speaker, I certainly apologise if I have brought this House into disrepute. My conduct is explained because we have a Government—

The SPEAKER: You cannot comment: the member can only explain why he transgressed Standing Orders, not go into a speech.

Mr FOLEY: I transgressed Standing Orders, Sir, because, on the day they blame the former Government, they are recreating the same mistakes. The former Premier has cost this State up to $14 million.

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: It is a financial scandal for which the Government members at whom I am looking are responsible.

The SPEAKER: Order! The member for Hart has given me no alternative. The Chair was willing to be very conciliatory, but the member for Hart obviously wants to take this course of action. The Chair cannot accept the explanation. The honourable Deputy Premier.

The Hon. G.A. INGERSON (Deputy Premier): The Government does not accept the explanation of the member for Hart. One of the most fundamental issues as far as this Parliament is concerned is that the Chair's ruling has to be obeyed: unless that occurs we have absolute chaos as far as this House is concerned. Mr Speaker, your rulings and the way in which you manage the House is fundamental to the workings of this Parliament. Except to apologise, the member for Hart did not attempt in any way whatsoever to put on the public record his reasons for breaching the fundamental rules of this House. It has nothing to do with whether the Government or any person on this side may be causing concern for the honourable member. What it is all about is that the honourable member is expected to uphold the rulings of the Chair and to participate within the fundamental workings of this House. The Government does not accept the honourable member's apology. I move:

That the explanation not be accepted.

The Hon. M.D. RANN (Leader of the Opposition): Mr Speaker, you asked the member for Hart to apologise and explain his actions. He stood up, immediately apologised for bringing the House into disrepute and then began to explain his actions. The member for Hart was at the time being subjected to extraordinary abuse not only by the Premier but also by a number of backbenchers who continued to defy your rulings. We then had this bizarre situation where, earlier in this session of Parliament, I produced evidence of both the Premier and the former Premier grossly misleading this House but not apologising. The member for Hart apologised for a minor transgression, but neither the present Premier nor the former Premier was prepared to do one thing jointly; that is, apologise for grossly misleading this Parliament.

At least the Deputy Premier—admittedly, after a great deal of negotiations and tick-tacking—came into this Parliament and apologised for misleading it at the end of last session, a day or two after he became Deputy Premier. But you invited the member for Hart to apologise and explain his actions. He stood up, and his first words were, 'I apologise.' He then went on to explain his statements. I do not understand why the honourable member's explanation and apology are not being accepted by this Government. Different standards are applied by this Government, because the Premier and the former Premier did not have the decency or the courage to come in here and apologise for misleading this Parliament.

Mr CLARKE (Deputy Leader of the Opposition): I oppose the Government's motion. Not only has the member for Hart been subjected to almost daily abuse by the Premier—

Members interjecting:

The SPEAKER: Order! The Deputy Leader has the call.

Mr CLARKE: —the Deputy Premier and the Minister for Local Government, in particular, but on every occasion that this House sits, whenever he rises to his feet, he constantly receives abuse from just about every Government backbencher in this House. There is always a torrent—

Members interjecting:

The SPEAKER: Order! The member for Unley is out of order.

Mr CLARKE: —of abuse whenever the member for Hart rises to his feet.

Members interjecting:

The SPEAKER: Order! The Minister is out of order.

Mr CLARKE: I well understand that, because he points out the absolute hypocrisy of this Government. The Deputy Premier said—

Members interjecting:

The SPEAKER: The Minister for Local Government is warned.

Mr CLARKE: —that your rulings must be obeyed, your rulings must be upheld. Constantly those rulings are flouted by Government members—and by Ministers, in particular, in terms of their interjections and abuse during Question Time, when they refuse to answer questions and refuse to answer the substance, as required of them under Standing Order No 98. They talk about anything they like; they never answer a question; and they have never answered a question that has been bowled up to them on a straight bat, because they cannot answer them. Instead, they turn the matter around and hurl abuse back at the Opposition, expecting members on this side to cop it sweet, sit back and just roll along with the punches. We are not prepared to do that.

Mr Speaker, you expect, as apparently does the Deputy Premier, that your rulings must be obeyed. Let us see that happen across the board, particularly with respect to Government members, one of whom has been named in three and a half years and who got off with an explanation. You, Sir, invited the member for Hart to apologise and explain his actions, and that is what he did.

Members interjecting:

The SPEAKER: Order!

Mr CLARKE: If you open yourself to get bowled over, that is tough luck, because the member for Hart did no more, and no less, than what was requested of him.

The House divided on the motion:

AYES (30)

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

NOES (9)

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

Majority of 21 for the Ayes.

Motion thus carried.

The honourable member for Hart having withdrawn from the Chamber:

The Hon. G.A. INGERSON (Deputy Premier): I move:

That the honourable member be suspended from the service of the House.

Motion carried.

OVERSEAS SALES OPPORTUNITIES

Mrs ROSENBERG (Kaurna): Will the Premier explain how the Government is actively pursuing overseas sales opportunities for South Australian companies?

The Hon. J.W. OLSEN: The member for Kaurna's question is a fundamentally important question for South Australia in this respect: as I have mentioned in the House previously, with a population base of only 1.5 million people, we must develop export markets for our future. There is no alternative. We cannot be a New South Wales or Victoria. We cannot duplicate what they do. We have to strike out into new markets of our own.

An honourable member interjecting:

The Hon. J.W. OLSEN: Yes, indeed, niche markets—I agree with that—in terms of picking up areas such as aquaculture. We have the cleanest green environment and gulf waters within the Asia-Pacific region which provides a great opportunity for aquaculture. Our wine industry, our defence and electronics industries are other strengths that we have, and we must build on those strengths and, in doing so, look at export markets to achieve that.

I am delighted that the Governor, Sir Eric Neal, has kindly agreed to participate in the next trade mission overseas. He will assist a range of almost 60 companies that will be seeking out opportunities for their future and for South Australia. Those companies are covering areas such as food, health, education, water, building and construction, and the hospitality and manufacturing industries. This is the largest trade initiative undertaken by South Australia into Malaysia—a market with great opportunities.

Last April, I had the opportunity to visit Sarawak and was received by the Chief Minister, who was educated in Adelaide and who not only has a close and great affinity with the University of Adelaide and is a benefactor of that university but also is very keen to develop trade links. As these countries and industry sectors develop, having an educative background involving South Australia, those linkages will be developed, providing in that region a land bridge for this State in the future.

The mission that will be departing the week after next builds on the success of the Sarawak mission. I am particularly delighted with the involvement of the Governor, whose business background will be of great benefit to the participants, and I thank him for his involvement and assistance to these companies and to South Australia in reaching out into the international marketplace.

In the past 3½ years we have taken something like 400 companies into the overseas market: hotels and food into Asia, with infrastructure forums in Jakarta, Hong Kong and Singapore, and also opening our trade offices in China and soon in Tokyo, all developing a push of South Australia into the Asia marketplace. Those 400 small to medium businesses that have gone into the markets to date have scored contracts worth $60 million. That more than covers the cost of the air fare to get into the markets and open up those opportunities.

If we are fair dinkum about building trade linkages, export and culture, we must go into the market to do it: there is no alternative. I make no apology for backing trade missions and the expenditure of financial resources of this State to help those companies, which do not have export marketing managers on staff and which, with only their own resources, would not get into the market. We have provided a land bridge to those opportunities in Asia. Every contract that they win in the region means more jobs in South Australia for South Australians.

TEXTILES, CLOTHING AND FOOTWEAR INDUSTRY

The Hon. M.D. RANN (Leader of the Opposition): Does the Premier still oppose Government support for Australia's textiles, clothing and footwear industry, and does he believe that South Australia can afford to lose major parts of this industry? The Industry Commission is inquiring into Government assistance to the TCF industries as well as the automotive industry. The TCF (textiles, clothing and footwear) industry employs 5 400 workers in South Australia. An Australian Chamber of Manufacturers survey of the industry warns that if assistance is reduced beyond the year 2000 Australia would lose 40 000 jobs and imports would rise by $4.4 billion. On 14 March 1991, when he was a Federal Senator, the Premier said—

Mr Brokenshire interjecting:

The SPEAKER: Order! I warn the member for Mawson for the second time.

The Hon. M.D. RANN: On 14 March 1991, when he was a Federal Senator, the Premier said:

The textiles, clothing and footwear sector is an excellent example of exactly what is wrong with Australia.

He continued:

In areas where we cannot be internationally competitive we should not waste the time and effort by manufacturing locally.

The Hon. J.W. OLSEN: Let actions speak louder than any words from the Leader of the Opposition. The Government of South Australia and I as Premier signed off a submission to the TCF inquiry on tariffs only yesterday to clearly indicate—

Members interjecting:

The Hon. J.W. OLSEN: We talk about the Leader of the Opposition: you might recall that C.S. Brooks did a refinancing of Actil. Who was out in the media criticising the way in which the Government handled the Actil matter? No less than this Leader of the Opposition. What did we do as a result of that: we saved the jobs at Actil. We put in place a refinancing package through C.S. Brooks of Canada that underpinned the financial viability. We unscrambled the myriad of financing arrangements that had been put in place in the past—not dissimilar to what we are trying to do with ASER and Casino development. We are trying to unscramble the financial mess that we have inherited and to put it on a sound financial footing so that the State can prosper in the future.

Whilst there was some restructuring in jobs, we saved 650 jobs at the Actil plant but, no, the Leader of the Opposition and the Labor Party, did not laud us for that. They criticised in other sections where there was some change. We have the distribution system for Actil coming out of New South Wales back into Adelaide, transferring jobs out of New South Wales in Adelaide, preserving the 650 jobs currently there and

looking at trying to get the hemming plant out of Tasmania into Adelaide.

So, what have we done with TCF industries in South Australia? We have backed them, put down a solid financial foundation, preserved jobs and, importantly, had jobs transferred from New South Wales and Tasmania to Adelaide. That is the track record of this Government.

HARNESS RACING

Mr BASS (Florey): Will the Minister for Racing inform the House of any specific incentive schemes for owners and breeders within the harness racing code? Specific incentive schemes for owners and breeders of thoroughbreds and greyhounds introduced into South Australia several months ago have been favourably received by the industry.

The Hon. G.A. INGERSON: I am pleased to announce today that, following extensive consultation with the harness racing community, the SA Harness Racing Authority has developed an incentive scheme for South Australian based owners and breeders, which is to be introduced today. This scheme, which is worth $200 000 a year, will begin from the start of the 1997-98 racing season. The injection of additional funds will encourage more locally based breeding and improve the quality of South Australian bred horses.

This scheme is in addition to the increase of $240 000 recently allocated for harness racing stake money by the South Australian Government through RIDA. The scheme will apply to about 100 metropolitan and country races for two, three and four-year-olds. Horses can qualify for the scheme if the stallion is registered in South Australia or the mare is at least 50 per cent owned by people resident in South Australia at the time the foal is conceived. The additional money will be allocated in the following ways: restricted races, $800; country races, $1 600; and metropolitan races, $2 400.

Funding for the scheme will come from: stallion registration fees, foal notification fees, nomination fees, contributions from the breeding incentive fund, and contributions from RIDA. Over the next three years, RIDA will make a commitment of $300 000 to the harness racing industry. We now have in this State breeding schemes for harness racing, thoroughbreds and greyhounds, which will enable the breeding industry generally in South Australia to develop and rekindle some of its old growth.

EDS BUILDING

Mr ATKINSON (Spence): In the light of the Premier's announcement today that the Government had considered not proceeding with the EDS North Terrace building but had now decided to go ahead with the project, will the Premier tell the House the amount for which the Government was legally liable by pulling out of the deal negotiated by the previous Premier?

The Hon. J.W. OLSEN: The member for Spence knows full well that that is not a tested matter. No-one can determine what that might or might not be—if there is anything at all in relation to that matter. I made reference to that in my ministerial statement. What members opposite cannot seem to accept or get into their mind is that, according to Treasury, with an 8 per cent discount of the net present value, the exposure over 15 years is between $5 million and $14 million, less $7 million worth of revenue flow to the Government through $105 million worth of construction. That is what the exposure is over 15 years. What do we get for that investment? We get a rejuvenation of the CBD in North Terrace, office accommodation for 1 000 people in an IT precinct, and a 180 suite hotel built in Adelaide to meet the convention market, which is growing and expanding and creating a demand for beds in South Australia. That is what we will get out of it.

Mr Atkinson interjecting:

The Hon. J.W. OLSEN: No, but you do not want to look at the plus side. If you make a decision in Government—and I know that the honourable member has had no experience in these matters and no previous commercial experience—you look at the ledger, at the pluses and minuses, you weigh them up, and you make a commercial decision at the end of the day. Just contrast that—

Mr Clarke interjecting:

The Hon. J.W. OLSEN: That is saving us $30 000 a week, every week for 15 years. It is creating jobs and giving us an export market that would otherwise not be there. Look at what Trevor Sykes says in the *Financial Review*. He has analysed this contract. An economic writer of some note in Australia gives it a big tick. I will take Trevor Sykes' assessment and judgment well before the Deputy Leader of the Opposition's on those matters.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: This is about our having confidence in rebuilding the economy of South Australia—and rebuild it we will. We are prepared to back the rebuilding of the economy. We are prepared to do something about the CBD of Adelaide, something that the former Administration did not do anything about. A State such as South Australia must have a vibrant CBD. We are prepared to do something about building up the CBD of Adelaide, and we are prepared to back it with dollars. It is a very good investment. I contrast our minor investment to the $10 million to $12 million spent at Marineland. What do we have to show for that? Absolutely nothing! I contrast this investment with one of the other great developments—the Myer-Remm Centre. It cost almost $1 billion, but what did we get when it was sold—$150 million. That is the track record of the previous Administration.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: Members opposite have the absolute hide—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: —to come in here and criticise an investment that will give us $100 million worth of construction. There might be exposure over 15 years, but it is quite small, with a revenue flow of $7 million. I will take the Deputy Leader to visit the construction site workers when we start to build. I am prepared to tell them that it was a Liberal Government that got them their job and that the Labor Party in Opposition did not want them to have a job in South Australia. That is what I will say to them. Over the next five to eight years as the IT 2000 strategy comes to fruition—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: —and, as we go ahead of the other States of Australia, we will be able to say that our policy delivered something tangible to expand the economy of South Australia in stark contrast to the former Labor Administration, which ran South Australia down and

bankrupted the State. That is not good enough for us. We will rebuild the State, and we will do it solidly.

SCRIMBER

The Hon. H. ALLISON (Gordon): Will the Treasurer advise the House of recent developments regarding the former Scrimber operation in Mount Gambier?

Members interjecting:

The SPEAKER: Order!

The Hon. H. ALLISON: I recall that last year Treasury announced that the Scrimber operation (that is, the plant, equipment, land and buildings) was being prepared for sale.

The Hon. S.J. BAKER: This is another $56 million loss thanks to Labor.

Members interjecting:

The SPEAKER: Order! I ask members not to be provocative.

Members interjecting:

The SPEAKER: Order!

The Hon. S.J. BAKER: I was going to tell the House that the final chapter had closed on Scrimber but, given the response by members opposite to matters raised in this House, I think they need to be reminded of their record: a State Bank that lost over $3 billion; a State Government Insurance Commission that lost over $400 million; Scrimber, which lost over $56 million; Myer/REMM, which lost $1 billion (it was tied up with the State Bank); and 333 Collins Street, which lost over $500 million (and that was tied up with the SGIC loss). There is a long list. We have Marineland with a loss of well over $10 million, and the ASER development, which I mentioned earlier, which should have cost $160 million but which cost $340 million. That is the record of the former Government, the current Opposition. Let no South Australian forget that.

Mr Clarke interjecting:

The Hon. S.J. BAKER: No, we will not let you. We will not forget 11 November: we will remember. The remainder of the Scrimber operation (land, plant, equipment and buildings) was sold by AMTF for $1.65 million. This is an 11 hectare site at Mount Gambier. We are pleased to report that Van Schaik's Bio-Gro bought this property and equipment. Bio-Gro is involved in the production of organic by-products in the timber and paper industries and currently employs over 50 people in Mount Gambier. As a result of this purchase and upgrading of the business, the company expects to employ a further 20 people over the next 12 months.

We are delighted with the result of that sale as it conforms to a number of imperatives the Government has had in the sale of an asset. We should attempt as far as possible to build the economy, and we are pleased that that is the situation as it relates to Van Schaik as the successful purchaser of the property. Mr Van Schaik says that the company has developed export markets in Asia, which will improve its production capabilities to service that market.

The sad history of Scrimber has been well known to this Parliament over a long period. The total bill was some $56 million, including some $12 million of development costs from 1985 to 1991. As to the issue of whether there is anything left of the licence, in 1993 a consortium comprising SATCO, SGIC, CSIRO and Repco entered an agreement with the US company Georgia-Pacific Corporation to look at the Scrimber process and develop it at Mount Gambier. That program was completed in May 1996 without a successful conclusion but with the licence rights still remaining should there be some accumulated value or should it be taken up in future by that company. The US Georgia-Pacific Corporation was invited to buy the land and plant but declined to do so. From the Government's viewpoint and from everybody's viewpoint in Mount Gambier the slate is now clean and they can start again knowing that this episode is behind them, but it is again another reminder of what the Labor Government did to this State.

EDS BUILDING

Mr ATKINSON (Spence): Given that the Premier has confirmed that the Government's decision to proceed with the EDS building exposes South Australian taxpayers to a risk of up to $14 million—

Mr Matthew interjecting:

The SPEAKER: Order!

Mr ATKINSON: —why did the former Premier tell the House on 24 October last year, 'There is no exposure to the Government whatsoever'?

The Hon. J.W. OLSEN: The ministerial statement covers all these matters.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. OLSEN: I know that the ministerial statement covered it all and laid it all out. I know that members opposite do not like the comparison between the commercial arrangements we are putting in place with their track record, which has been exposed to the public of South Australia. However, whilst they may not like it, they are the details and we are more than happy to stand four square behind the decisions of this Government.

HOSPITALS, COUNTRY

Mrs PENFOLD (Flinders): Will the Minister for Health advise the House of any steps being taken to address the capital needs of country hospitals?

The Hon. M.H. ARMITAGE: I thank the member for Flinders for her very pertinent question because it is with great pleasure that I inform the House that the Government has made a decision to complete the $16.5 million Port Lincoln Hospital redevelopment. This is a terrific announcement for Port Lincoln, the electorate of Flinders and for all people who live on Eyre Peninsula. I was pleased last weekend to be at Port Lincoln to open stage 2 of the redevelopment and to announce that the formal approval for $7.4 million of expenditure on the final stage was passed last week by Cabinet. This is another example of this Government's commitment to rebuild the infrastructure of South Australia's rural hospitals, which received scant regard—other than the compilation of a list of hospitals which the Government could then close—by the previous Labor Government.

Stage 2, which was opened on the weekend, provides the people of Port Lincoln with a new accident and emergency department, a maternity delivery area, a medical imaging section and an upgrade of the north wing to establish 28 beds in twin accommodation. The third very important and long awaited final stage, which is now going ahead, will involve a new operating theatre, day surgery and a recovery area, a new 26 bed ward for medical, surgical, paediatric and palliative care patients, new facilities for community health teams, refurbishment of existing space for pathology and admission areas and a new main entrance and drop off area. It will cost $7.4 million. Construction is expected to start in

the near future, certainly during the first half of 1997, and it will be finished by the end of 1998. The people of Port Lincoln and Eyre Peninsula were crying out for these sorts of improvements in their hospital long before the Liberal Government came to office in 1993, but previously they were always ignored. Not only were the—

Members interjecting:

The SPEAKER: Order! The member for Davenport.

The Hon. M.H. ARMITAGE: —people of Port Lincoln and Eyre Peninsula ignored but also other people in country areas were ignored, particularly people who live in the catchment areas of Blyth, Laura, Tailem Bend and Minlaton. The previous Government closed the hospitals in each of those towns, despite its commitment to so-called better health care.

I acknowledge the work of the member for Flinders on this project. She has been a driving force in ensuring that this important project has been on the Government's agenda. As I have said on a couple of occasions, Labor ignored the needs of rural South Australia in respect of health care, and we have announced the completion of the Port Lincoln Hospital. The Labor Party ignored the people of the south, and on Monday we announced the construction of a new $60 million joint public and private facility at the Flinders Medical Centre. Whilst the Labor Party may continually forget the people of South Australia, I do not believe that the people of South Australia will ever forget what the Labor Party did for the State's finances and for the health system overall.

SCHOOL COMPUTERS

Mr ATKINSON (Spence): Will the Minister for Information and Contract Services advise what industry development benefits will be delivered to South Australia by the school computer contract, and did the Government take into account job losses in local industry when it decided to exclude local computer suppliers from bidding for the contract? The Minister for Education and Children's Services said yesterday that the computer contract would create 40 jobs and was awarded after an evaluation of development benefits by the Department of Information Industries. Local computer suppliers have said that the Government's contract will cost its industry 160 jobs.

The Hon. DEAN BROWN: The sort of claim made by the honourable member opposite is absolutely outrageous. I will get a detailed response from the Minister for Education and Children's Services. I point out that one of the key criterion used in the selection of the tender was economic development. That is why it went to three local companies and why computers are being assembled here in South Australia. If we bought an imported computer, the honourable member's question may be entirely valid, but three local companies will assemble the computers in South Australia, and that will create 40 jobs. I would have thought that the Opposition would be out there celebrating. Cannot it see a deal that benefits this State when it is sitting there? Apparently not, because the Leader of the Opposition yesterday—

Members interjecting:

The SPEAKER: Order! The member for Davenport, for the second time today.

The Hon. DEAN BROWN: —raised the point about what was apparently an earlier assessment where there was no economic development component in the assessment on the computers. Therefore, the computers were not going to benefit South Australia but another State. The Minister for Education and Children's Services issued a tender RFP which required economic development here in South Australia to be included, and the Minister will give the details to the House when he comes back with a very considered reply.

WORKCOVER

Mr CUMMINS (Norwood): Will the Minister for Industrial Affairs advise the House whether workers compensation claims by injured workers are being managed more efficiently now that private insurance companies are involved in the WorkCover scheme, and whether better management claims can assist job protection and jobs growth in South Australia? Since August 1995 WorkCover has contracted to approved private insurance companies the management of most compensation claims by injured workers. I have been asked by constituents whether the old or new system was better at getting workers back to work.

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader has had a fair go today. The Chair has shown a great deal of tolerance despite considerable provocation. I do not want to take the rest of Question Time.

The Hon. DEAN BROWN: The facts are that, almost two years ago, the Government outsourced the claims management of WorkCover. Let us look at the result of that, because we know the extent to which the Opposition opposed that move.

Mr Clarke: Absolutely!

The Hon. DEAN BROWN: Members opposite even acknowledge the fact that they opposed it. Last year WorkCover did a survey of employers and found that employers, particularly small businesses, were in fact very happy with the claims management, and far happier than they were when it was a government monopoly controlled by WorkCover. I am glad the Deputy Leader of the Opposition has thrown in that interjection and come right in on the bait that I threw to him, because WorkCover has now gone out and surveyed 250 seriously injured workers—workers who have been off work for seven to eight months. WorkCover found the following facts, from the injured workers themselves. It found that claims are being determined more quickly by the claims management of private insurance companies than they had been by WorkCover. A total of 85 per cent of the claims—

Mr Clarke interjecting:

The Hon. DEAN BROWN: Just listen to the facts.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: A total of 85 per cent of the claims are decided within 10 days compared with only 60 per cent when it was being managed by WorkCover. Secondly, it found that WorkCover benefits were being paid to injured workers more quickly. A total of 93 per cent of the payments are made by the due date. Thirdly, it found that doctors and rehabilitation accounts are paid more quickly—98 per cent are paid within 30 days. Even more importantly, it found that more workers are returning to work more quickly, and that is the fundamental issue we should be about. Finally, it found that four out of five workers who were seriously injured were back to work within eight months.

In this survey, injured workers told WorkCover that their employers help them return to work more quickly. In other words, employers are saying that the outsourcing of claims management to insurance companies has been a great step,

and we also find, as a result of a survey of 250 seriously injured workers, that the management of WorkCover is far better than it was when it was being done by WorkCover itself.

Let me give the honourable member more information about this survey. It indicates that on every criteria—that is, attitude to the claim, responding to inquiries, helpfulness, providing accurate information, communication with workers, understanding the situation, giving advice about the claim, and advising of rights—the insurers have improved their rating the longer the insurance companies have been involved. Not even the injured workers believe the exaggeration and fear campaign which the Labor Party has been putting out.

There is the hard proof, which shows quite clearly that, by contracting out the claims management to the insurance companies under this Government, which was opposed by the Labor Party, it is the injured workers who on all of the criteria are now getting a better service, as well as the employers themselves, particularly small businesses.

UNIVERSITY OF SOUTH AUSTRALIA

Ms WHITE (Taylor): Does the Minister for Employment, Training and Further Education still believe that there is no danger of the University of South Australia's Underdale and Whyalla campuses closing as indicated in her ministerial statement last Wednesday? On Monday, the Council of the University of South Australia endorsed a corporate planning document which contains the options of closing the Underdale and Whyalla campuses. An article in this morning's press says that, according to the University's Vice-Chancellor, a review committee '. . . would look at every option for the future of Whyalla and Underdale campuses, from no change to complete closure'.

The Hon. D.C. KOTZ: I am pleased that the honourable member remembered that a ministerial statement was made in this place on the issue. I am also aware that the member for Taylor was advised, as I was advised, by the Vice-Chancellor of the University that it was considered there would not be any closures of campuses because of immediate budget cuts. At this time I have not heard, or had any other indication, that that situation has changed. I remind the member for Taylor—

Members interjecting:

The Hon. D.C. KOTZ: I would also advise the member for Taylor that the noise levels she emits do not necessarily equate to intelligence levels, either.

Members interjecting:

The SPEAKER: Order! I suggest to the Minister that it is not wise to go down the track of making personal imputations towards the honourable member.

The Hon. D.C. KOTZ: Thank you, Mr Speaker, for your protection, I believe. Again, I advise this House and the member for Taylor that the comments made in the ministerial statement last week still stand, and that is ratified by the fact that the Vice-Chancellor of the university has said exactly the same things to the member for Taylor, and there is quite a difference between the words 'options' and 'plans'. The member for Taylor continues to mention the word 'plans', when in fact there are options, which all business interests in any area need to consider.

I would also like to advise the member for Taylor that, in continuing to create mischief by asking this question, she has considerably distressed the residents of Whyalla and the students of the Whyalla campus to the point that the University Council had to send officers of the university to Whyalla to subdue the immediate distress that was caused by this mischievous comment. I reiterate that the comments in the ministerial statement still stand.

TORRENS LAKE

Mr CONDOUS (Colton): Will the Minister for the Environment and Natural Resources outline to the House the Government's plans to clean up the Torrens Lake? I was privileged to attend a meeting yesterday for the release of the Torrens comprehensive catchment water management plan for 1997-2001. Having had the opportunity of discussing it in detail with Jay Hogan and Alan Ockenden, I applaud the Minister and all those involved in its production.

Mr CLARKE: Mr Speaker, I rise on a point of order. You have to stretch a pretty long bow on comment on this question, Sir.

The SPEAKER: Order! If members opposite and on my right want me to enforce Standing Orders rigidly, no explanations will be made. That will suit the Chair.

The Hon. D.C. WOTTON: I am pleased that the member for Colton has raised this issue and I appreciate the comments he has made, because it is an excellent plan. It is very comprehensive in regard to future action for the Torrens River. I am also pleased that the member for Colton and other members were able to attend the briefing that was provided yesterday in regard to the implementation of this plan. A major component of the plan is the long awaited dredging of the Torrens Lake, which we all realise is a key focal point for Adelaide and an asset that has been allowed to deteriorate for far too long under previous Labor Governments.

I have continued to receive strong representation from the member for Adelaide on this issue. I am pleased to be able to advise the House that dredging of the lake is set to begin within 10 weeks, ending years of criticism over the condition of this key tourism area, which has suffered considerably—as I said earlier—as a result of debris flowing unchecked into the lake from upstream areas as a consequence of the lack of action by previous Governments.

This dredging program will at last give Adelaide a showcase central waterway, which we can be proud to use and to show our visitors, and that should be the case. The $1.7 million program will be funded equally through a unique partnership struck between the State Government, the Torrens Catchment Board and Adelaide City Council to remove some 40 000 cubic metres of silt. This will be the biggest ever dredging of the lake and the most comprehensive for over 60 years. The dredged area will extend from near the zoo through to the weir, and that is great news for the whole of Adelaide.

I am also pleased to inform the House that dredging will be undertaken with a minimum of inconvenience to the public and that there will be no need to drain the lake for the project. In addition, a program of habitat restoration will also be undertaken, including the establishment of a series of islands within the lake itself. The dredging will also be accompanied by the acceleration of upstream work, including wetlands, stream bank rehabilitation, pollution prevention programs and additional trash racks to stop some 2 400 tonnes of debris entering the lake each year, as well as major urban and rural water management projects and expanded community education.

Again, we see yet another visible example of this Liberal Government getting on with the job and yet another example

of catchment management for which South Australia under this Government has become the national leader. That is recognised—

Mr Clarke interjecting:

The SPEAKER: Order!

The Hon. D.C. WOTTON: They are probably the truest words that the Deputy Leader of the Opposition has spoken for a long time: we probably are leading the world in water catchment management. I would not be at all surprised about that. More importantly, the project by the Government, the catchment board and the city council will give back to the people of the City of Adelaide the waterway they deserve. We all know the long history of the Torrens and the Torrens Lake and how they suffered from inactivity and buck passing under the previous Government. This is the main waterway in the middle of a capital city and all Labor could do was walk away and allow it to degrade. This Government continues to clean up Labor's mess, its legacy, its inactivity and its sludge to give South Australia and the environment a healthier future.

Members interjecting:

The SPEAKER: Order! On other occasions, if the Minister has a lengthy statement, it would be better for him to make a ministerial statement.

GRIEVANCE DEBATE

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

Mrs HALL (Coles): Last Thursday, I raised the issue of false allegations made by the Hon. Mike Elliott about the payment of my travel expenses during my study tour to Denver in January 1995. The following day, Friday 28 February, I received a fax with an apology from Mr Elliott and I now wish to record that apology, as follows:

> Dear Joan,
>
> This short note is to unreservedly apologise for my comments in the Council last Wednesday in relation to your United States trip. As a matter of course I check information carefully. I was badly let down by a person I trusted, always dangerous in politics. I accept full responsibility. I will also place my apology on the record in Parliament next week.
>
> Your sincerely,
>
> Mike Elliott, State Parliamentary Leader, Australian Democrats.

After receiving this response, I replied to the Hon. Mr Elliott in the following terms:

> Dear Mike,
>
> I write to thank you for your letter of apology regarding your comments in the Legislative Council as they related to my visit to Denver in January 1995. I am sure you now understand how angry I was about the inferences of impropriety and I am pleased to accept your apology.
>
> Yours faithfully.

It is my hope that after this rather tacky episode the pedlar of this vindictive rumour, whom I described at the time as a disaffected zealot, crawls back into his hole.

Ms WHITE (Taylor): Today in Question Time the Minister for Employment, Training and Further Education gave quite an extraordinary response to a question I had asked her. Obviously, she thought it sounded very smart to abuse me and question my intelligence on an issue that I feel very strongly about, and so I would like to let it be known in this House that I do not resile from standing up for the rights of students in this State. I suggest to the Minister that she might address the issue and take a closer interest in her portfolio responsibilities in higher education.

Last Tuesday I expressed concern about a document which was to go to the University of South Australia Council for endorsement and which contained options for the closure of Underdale and Whyalla campuses. This is something that I would have thought all members of this Chamber would have some concern about, but not the Minister responsible for higher education. Her response was a smart alec, ill advised ministerial statement which implied that Labor's concern in the light of the university's considerations of these options was 'scurrilous misinformation'. The Minister has now been embarrassed: she has egg on her face because, on Monday, the university council voted to endorse that document without amendment as a university document.

Today, in the press, we read that the Vice-Chancellor has confirmed that the option of closure of Whyalla and Underdale campuses is being looked at by the university, yet the Minister led with her chin last week when she stood in the House and claimed there was not anything in all this. Foolishly, she rested her case by saying that the corporate planning document was 'not a formal position paper'. It is more than that now: it has been endorsed by the university.

However, that was not the Minister's only mistake in the statement. She stood up in this House and claimed that only she and the member for Peake had contacted the university about these concerns. That was wrong. Not only had I spoken to a number senior university staff about the corporate planning document at the City West campus opening the previous day but—and more damning for the Minister—at the time of her statement to the House I had already spent three-quarters of an hour on the telephone to the Vice-Chancellor. Had the Minister bothered to do her homework and find out about that, she would not have made the ridiculous statement saying otherwise in this House. I note today—and I assume she knows that she was wrong—that she did not make a ministerial statement to correct any of the misinformation in her statement. So, I think the lesson in all this is that it is very easy for Ministers to get up, bash the Opposition over the head as they do day in, day out—

An honourable member interjecting:

The SPEAKER: Order!

Ms WHITE: —with very clever usage of words, but what it all comes down to is what you do: actions count, not words. This Minister's actions have been nil; and her concern for the students has not been there. She has not taken any action about what is now a clear threat—and she must, because that is her duty.

As someone who has worked as a former senior Federal public servant, I know how easy it is to snow junior Ministers, and I can only say that a good piece of advice for this Minister is that she check her facts, not lead with her chin and, above all, do the work that she is paid to do, that is, look after the interests of South Australian students.

Mr CONDOUS (Colton): I was privileged to attend a meeting yesterday for the release of a document entitled 'The Torrens Comprehensive Catchment Water Management Plan 1997 2001' by the Minister for the Environment. Having had the opportunity yesterday of discussing that management plan, I applaud the Minister for the Environment and all who have been involved in its production, as it is a plan that identifies not only all the major problems associated with the

Torrens River catchment but actions that will eventually return the Torrens to its pristine condition. It will be especially applauded by every constituent of the electorate of Colton who has put up with the outlet at Henley South for the last 20 years, because the plan creates one of the largest man-made wetlands from Thebarton to Henley through Breakout Creek.

The emphasis in the electorate at present is the clean-up of the Patawalonga. However, equally important and dangerous is the outlet of the Torrens River, about which the former Labor Government did absolutely nothing for some 25 years. Former people in the electorate identified the material that was going through, yet there was no pressure put on the then Labor Government to do something about addressing it. The figures that have been released indicate that, in an average year of 32 gigalitres a year, 4.5 tonnes of phosphorous a year has passed out into Gulf St Vincent through the Torrens River; nitrogen, 83 tonnes a year; and suspended solids, 800 tonnes a year. If we relate that to a truck holding 10 tonnes, we are talking about approximately 90 trucks on Seaview Road about to put that weight of solids into Gulf St Vincent, and then we wonder why the sea grasses, which were once only some 200 metres from the shore, are now more than a kilometre out from the line of the beach.

It is important, and the constituents in Colton will realise that they should have been protesting just as hard for some action to be taken in terms of the clean-up of the Torrens River as they did, and as they are doing, in terms of the clean-up of the Patawalonga. I support them in relation to both clean-ups, because it is important for the future of all young South Australians that we address the environmental disasters that are taking place in that area at present.

I was delighted at the briefing yesterday to note that one of the largest man-made wetlands is to be created from Mile End right through to the Henley South outlet. There will be settlement basins in those wetlands so that the 800 tonnes of suspended solids is taken out of the water system before it gets to Henley and is not allowed to destroy the breeding grounds of aquaculture in South Australia. This document—and I have not been through it thoroughly, but I did go through it over a couple of hours—has to be applauded, because it has identified, from First Creek to Sixth Creek, exactly where the pollution is coming from. There is an air of cooperation from every property owner and farmer, especially in the dairy areas in the Adelaide Hills, to do something about comprehensively changing the methods by which water flows into those creeks and to eventually play a responsible part in ensuring that what passes through the outlet at Henley South is pristine water.

I applaud the Minister once again; and I applaud the Government for having taken on something that was never going to be easy but at least having the gumption to address the issue. I am sure that the winners in the end will be all South Australians and the people of Colton.

Mr ROSSI (Lee): Mr Acting Speaker, I would like to—

The ACTING SPEAKER (Mr Becker): Order! If the member for Spence wants to speak, he will get the opportunity.

An honourable member interjecting:

The ACTING SPEAKER: Order! I warn the member for Spence.

Mr ROSSI: Yesterday, I requested that the Department of Public Transport look into the matter of signs in no-through roads. It is really for local councils to consider such signs. I wrote to the Local Government Association and to the Mayor of Charles Sturt council suggesting that signs be erected at the entry to no-through road so that drivers experience less frustration and there is less danger in entering. There are quite a lot of no-through roads in the Seaton and Unley areas, and I find it very disturbing that you notice that a road is a dead end only when you have entered the street.

I draw to the attention of the House, the media and the general public as a whole a press release regarding the volunteers of the Fort Glanville Historical Society at 359 Military Road, Semaphore Park, which is in my electorate. It states:

> A piece of South Australia's heritage has been reconstructed as a result of the efforts of 116 volunteers. A replica 12 tonne carriage for one of Fort Glanville's 10 inch 20 tonne nineteenth century cannon is to be installed to replace the original, cut up for scrap on orders from Canberra in 1937. The original 20 ton barrel which was spared from the scrap merchant's cutter will be mounted on top of the carriage to make it Australia's largest nineteenth century artillery piece (3 metres high and 8 metres long).
>
> Fort Glanville was built in 1880 as a defence against possible Russian attack. It has been undergoing progressive restoration since the late 1970s. Funds for the cannon project have been raised by the volunteers donating monies totalling over $93 000, earned over 11 years at the Australian Formula 1 Grand Prix in Adelaide. Project organiser and Vice President of the Fort Glanville Historical Association, Mike Lockley, said that it was a world first for such restoration in that, despite a worldwide search, no original plans or working drawings had been discovered.
>
> Colonial Defence Historian, Franklin Garie, spent many hundreds of hours producing working drawings from information gleaned from photographic archives, literature and a trip to view similar cannon in North Africa. South Australia engineering firm, Citydel Engineering, has undertaken the construction work. Mr Garie has also acted as project manager. The replica carriage is to leave Citydel Engineering, Grand Junction Road, Gepps Cross, for installation at Fort Glanville this Friday, 7 March. Its installation at Fort Glanville will be a difficult operation but will provide good photographic opportunities rarely available.

I totally support the efforts of all volunteers at Fort Glanville and commend them for their dedication in showing tourists through the fort practically every Sunday.

Mr Brokenshire interjecting:

Mr ROSSI: Yes, I have been there on a number of occasions. Wonderful naturalisation ceremonies, which are held there every Australia Day, are totally supported by the local council. Bill Haycock, who is caretaker at the fort, spends many voluntary hours as a guide showing tourists and school groups through the fort. I recommend that all members visit the fort to see the many interesting features it offers.

Mr CLARKE (Deputy Leader of the Opposition): I rise this afternoon on an issue of some importance with respect to Question Time and the increasing tendency by Ministers to go over the top with respect to their answers to Dorothy Dix questions from their backbench. All Governments, of whatever political persuasion, have dorothy dixers bowled up by their backbenchers, but the questions being asked are getting to the stage of being absolute tripe and so self-congratulatory that it almost makes one want to be physically ill as a consequence.

I might say that that was never the case with respect to the member for MacKillop because, when he was a Minister, he would give due credit where necessary to the actions of the previous Labor Government when he believed it had carried them out correctly, and he never claimed on any occasion that he was the greatest Minister for his particular portfolios that ever graced this Chamber.

Mr D.S. Baker interjecting:

Mr CLARKE: The member for MacKillop interjects to say that I knew that he was. I always knew that he was a fairly competent Minister from time to time. However, on a daily basis we are witnessing the situation of dorothy dixer questions being asked and the answers given, and the Minister for the Environment and Natural Resources is one of the worst offenders. If he picked up a strangled swan from the Torrens River it would be the greatest act of kindness and compassion performed by any human being since St Francis of Assisi. I find it a little revolting that Ministers of this Government find themselves so insecure that they have to constantly preach how wonderful they are, not only in the nation, not only in the world, but throughout the entire universe with respect to their particular actions.

I also point out the length of their answers. The Speaker, quite correctly in my view, pulled up the Minister for the Environment and Natural Resources this afternoon by saying that his answers would be better placed in a ministerial statement. That is very true. Indeed, virtually every Minister who gets up to answer a dorothy dixer could have made it a ministerial statement. It does not inform the House one iota about affairs of State. Indeed, the television cameras switch off on every occasion, but still the Ministers get up and wax lyrical in actions of self-aggrandisement and, quite frankly, their achievements and accomplishments are so small that I would have thought they would be embarrassed even to refer to them.

The Hon. E.S. Ashenden interjecting:

Mr CLARKE: The Minister for Local Government is another one of the worst offenders. Like the Minister for the Environment and Natural Resources, the Minister for Local Government loves putting out his chest and saying what a wonderful Minister he has been, conveniently overlooking other Ministers, including members of his Party who have occupied his ministerial positions previously, and seeking to glorify himself entirely. Of course, we know why the Minister for Local Government wants to do this: he is exceptionally worried about holding onto his seat of Wright.

The member for Fisher, when he was Minister for Employment, Training and Further Education, was a true gentleman. He did not extol his virtues: he hid his light under a bushel and went away quietly. He was a quiet achiever until he was cruelly struck down because of the internecine warfare within the Liberal Party and the election of the current Premier. Of course, in the process the current Deputy Premier also played a major role in knifing the member for Fisher from the Cabinet, even though they were once very close factional allies.

The trouble is that the Ministers are getting so long-winded in their answers that they are using up Question Time and, ever since this Government reneged on its deal at the beginning of February this year to guarantee the Opposition 10 questions per Question Time, their answers are getting longer and more irrelevant.

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

Mr Brokenshire: Thank goodness.

The ACTING SPEAKER: The member for Mawson will restrain himself. The member for Ridley.

Mr LEWIS (Ridley): I rise this afternoon to give further information about the theme that I have been pursuing recently in the debate on the Supply Bill and in grievance debates subsequently about the necessity for us in South Australia to expand our employment base by increasing our exports. I have detailed the kinds of exports we can increase and the three obvious categories in which this can occur: primary industries and value added industries, tourism, and education.

Every student who comes to South Australia to study—and we have been losing our share of the national numbers of students over recent years to the point where we are now less than half what we were 10 years ago as a proportion of the national numbers—spends over $20 000. You only need 50 students to make it $1 million.

Mr Brokenshire interjecting:

Mr LEWIS: Indeed, they can be from anywhere and, in particular, east Asia. Australia is missing out in relation to the rest of the world. The universities, colleges and schools of Europe and North America are beating us hollow. More disturbing to me is the fact that we in South Australia are even worse off than the rest of Australia even though Australia's performance is abysmal. Lifting the numbers of students coming into South Australia by 5 000 is not a very big ask, in my opinion, when we know that the statistics which I have incorporated into *Hansard* show there is something around 90 000. I point out that 5 000 students at $20 000 a shot for a year is an additional $100 million. I believe that is worth pursuing. If we cannot see our way clear to do that, then we are not capable of marketing this State.

I commend the efforts of an organisation, the Centre for International Education and Training, of which Bob Wilson (whom I have never met) is the General Manager, and I also commend the efforts of Christine James of the Department for Education and Children's Services (DECS). The Centre for International Education and Training, which is entirely independent of Government, is operating profitably and producing brochures, which are circulated in marketplaces in South Australia and overseas, encouraging people to come here. That organisation is doing its bit, and we need to encourage it. It is big business. Indeed, it is far more important to us than the Grand Prix or any type of arts festival. We are kidding ourselves if we believe that those events have anything like the job creation capacity of this type of marketing.

Christine James of the Department for Education and Children's Services is an excellent example of someone who is more than self-funding but to whom we give no additional resources even though the income generated from her efforts has expanded. I believe that her position was established by the former Deputy Director of the department. We need to put more seeding money alongside what is being spent at present until such time as those additional dollars do not increase the incremental amount of dollars being spent on education in South Australia. Clearly, organisations such as the Centre for International Education and Training need to be encouraged further, as do the efforts of our departmental officers where they are self-funding.

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

CASINO BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to regulate the licensing and control of the Casino at Adelaide; to repeal the Casino Act 1983; and for other purposes. 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 part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*). The opportunity is taken to introduce a number of amendments recommended by the Gaming Supervisory Authority (the Authority).

It is proposed that the Adelaide Casino, the Hyatt Regency Hotel, and the Riverside Centre be prepared for sale. In order to achieve that course, it will be necessary for the existing property arrangements relating to these assets and the existing licensing arrangements relating to the casino to be simplified and re-arranged.

As the amendments required in relation to the casino are quite substantial, Parliamentary Counsel has taken the opportunity to prepare a Bill for a new Act rather than make extensive amendments to the Act of 1983.

The existing licence is held by the Lotteries Commission. This licence will be surrendered and replaced by a new licence in favour of the operator of the casino, granted by the Governor on the recommendation of the Authority. The new arrangement will take place on the sale of the casino to an intended buyer. Until the Authority is satisfied with the proposed new licensee it will make no recommendation to the Governor, and the present licence and arrangements will remain in force.

There will continue to be only one casino licence on issue at any one time.

The existing premises in the Railway Station Building will continue to be licensed. There is power, however, to remove the licence to another address if the Authority so recommends after holding a public inquiry on the issue.

The conditions of the licence, including its term, will be contained in an agreement made between the Minister and the licensee and approved by the Authority ('the approved licensing agreement'). The licence itself is granted by the Governor. Thus there is a dual approval in that any licensee would have to be approved by both the Governor and the Authority.

Any variation in the terms and conditions of licence may be made by the Governor on the recommendation of the Authority but the power of variation is subject to any limitations contained in the approved licensing agreement. There are certain terms and conditions of licence contained in the Bill itself. These cannot be amended except by statute.

The licence is transferable if approved by the Governor on the recommendation of the Authority. The renewal of the licence on the expiry of the term will be approved by the Governor on the recommendation of the Authority. The licensee will be required to apply for renewal and has no entitlement to or legitimate expectation of renewal.

Provisions have been included requiring the approval of the Authority to any dealing with the licence or casino business or which effects a change of control or significant influence.

Under the Bill, the Minister is authorised to enter into an agreement with the licensee under which the licensee can be assured of an exclusive licence within the State for a period of years on such terms and conditions as the Minister thinks fit.

Comprehensive provisions are included in the Bill to enable the Authority to check on the suitability of an applicant for a licence and its close associates. The Authority is charged with the task of carrying out an investigation into the application and is given wide powers for that purpose. The cost of any investigation is to be borne by the applicant.

It is proposed that the title of the Liquor Licensing Commissioner will be redesignated as the Liquor and Gaming Commissioner. A provision to enable this to be done will be included in each of the Bills in the package.

The Bill contains provisions enabling staff to be approved by the Liquor and Gaming Commissioner.

Gambling on credit is prohibited except under conditions approved by the Authority. Children are not to be admitted to the casino.

The Bill contains provisions enabling the licensee or the Liquor and Gaming Commissioner to bar persons from the casino on any reasonable ground including the ground that a person is placing his or her own welfare, or the welfare of dependants, at risk through gambling. Rights of appeal are included.

A provision similar to section 23 of the existing Casino Act is included in the Bill enabling the Authority to give written directions about the management, supervision and control of any aspect of the operation of the casino.

The Bill enables casino duty to be fixed in an agreement between the Treasurer and the licensee and levied on the licensee. Any agreement as to casino duty must be tabled in Parliament.

There are a number of mechanisms in the Bill dealing with defaults on the part of the licensee. There is a statutory default if the licensee contravenes or fails to comply with a provision of the Act or a condition of the licence. Where a default can be remedied, a compliance notice can be issued. If the default is remedied in due time, that is the end of the matter and no other disciplinary action can be taken in relation to the default. Failure to comply with a compliance notice is an offence. Also disciplinary action could be taken in the event of a failure to comply.

For small breaches of the Act or licence, an expiation notice can be issued by the Authority, and a fine of up to $10 000 may be levied. If the expiation notice is complied with, no further action can be taken either under the disciplinary action provisions or the criminal law. If the notice is not complied with, disciplinary action can be taken.

Finally, there is disciplinary action under which the Authority can cancel or suspend a licence, censure the licensee, impose a fine up to $100 000 or vary the conditions of the licence without the consent of the licensee. These powers may be exercised where a statutory default occurs.

There is a right of appeal to the Supreme Court on a decision by the Authority to take disciplinary action. There is also a right of appeal on any issue where a question of law is involved.

Injunctive remedies are provided for in appropriate cases.

As to disciplinary action, compliance notices and injunctive remedies, the Bill follows closely similar provisions in casino legislation in force in New South Wales.

Where a licence is suspended or cancelled, a manager can be appointed by the Minister to continue the running of the casino business. Where that occurs, the manager is treated as the licensee.

The Authority is required to provide an annual report to the Minister which must be tabled in Parliament.

There has been consultation with the Asset Management Task Force, the Department of Treasury and Finance, Kumagai Australia, Superannuation Funds Management Corporation, the Gaming Supervisory Authority, the Liquor Licensing Commissioner, and Crown Law.

I commend this Bill to the House.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

This clause defines terms for the purposes of the Bill. In particular, the Authority is the Gaming Supervisory Authority and the Commissioner is the Liquor and Gaming Commissioner under the *Liquor Licensing Act 1985*.

Clause 4: Close associates

This clause sets out the circumstances in which persons will be regarded as close associates. This is relevant to the provisions regulating the body that may hold the casino licence.

PART 2

LICENSING OF CASINO

Division 1—Grant of licence

Clause 5: Grant of licence

This clause provides that it is the Governor who is to issue the licence.

Clause 6: Casino premises

This clause restricts granting of the first casino licence to the current premises but contemplates that a subsequent licence may be granted over premises recommended by the Authority after public inquiry.

The clause contemplates extension or contraction of the premises without public inquiry.

Clause 7: Restriction on number of licences

There can be only one casino licence.

Division 2—Authority conferred by licence

Clause 8: Authority conferred by licence

This clause makes operation of the casino and gambling at the casino lawful.

Division 3—Term and renewal of licence

Clause 9: Term and renewal of licence

The approved licensing agreement (see clause 16) is to govern the term of the licence. There is to be no entitlement to renewal of the licence but the Governor may renew the licence if the parties renegotiate the agreement and the Authority approves the renegotiated agreement.

Division 4—Conditions of licence

Clause 10: Conditions of licence

Conditions of licence may be imposed by the Act or regulations or by or in accordance with the approved licensing agreement.

Division 5—Transfer of licence

Clause 11: Transfer of licence

The licence may be transferred by the Governor on the recommendation of the Authority.

Division 6—Dealings affecting casino licence

Clause 12: Dealing with licence

The approval of the Authority is required to any proposed mortgage, charge or encumbrance relating to the casino licence or other assets of the business conducted by the licensee within the casino.

Clause 13: Dealings affecting casino business

The approval of the Authority is also required to any proposed disposition or grant of an interest in the casino licence.

Clause 14: Transactions affecting control of the licensee

A transaction under which a person or a group of persons who are close associates of each other attains a position of control or significant influence over a licensee must be approved by the Authority. If approval is not obtained, the licensee is subject to disciplinary proceedings.

Division 7—Surrender of licence

Clause 15: Surrender of licence

The approval of the Authority is required for surrender of the casino licence.

Division 8—Agreement with licensee

Clause 16: Approved licensing agreement

This clause sets out the matters that must be covered by an agreement between the licensee and the Minister. The agreement must be approved by the Authority (except in relation to terms or conditions about the exclusiveness of the licensee's right to operate a casino in this State).

Clause 17: Casino duty agreement

This clause sets out the matters relating to the payment of casino duty that must be covered by an agreement between the licensee and the Treasurer. It also provides that the agreement does not attract stamp duty.

Clause 18: Agreements to be tabled in Parliament

The agreements must be laid before both Houses of Parliament.

PART 3

APPLICATIONS FOR GRANT OR TRANSFER OF LICENCE

Division 1—Eligibility to apply

Clause 19: Eligibility of applicants

An applicant must be a body corporate.

Division 2—Making of applications

Clause 20: Applications

This clause governs the procedure for making an application for the casino licence. Special provisions apply for the first grant of a licence after the commencement of the Bill.

Division 3—The Authority's recommendation

Clause 21: Suitability of applicant for grant, renewal or transfer of the casino licence

The Authority is required to assess the suitability of the prospective licensee and this clause specifies the factors that must be taken into account in doing so.

Division 4—Investigations by the Authority

Clause 22: Investigation of application

The Authority is required to obtain a police report on each person concerned in or associated with the management or operation of the casino and must otherwise investigate relevant matters.

Clause 23: Investigative powers

The Authority is given powers to require persons to provide information or documents or to attend before it for the purposes of an investigation into an application. The powers extend to requiring relevant persons to submit to the taking of photographs, finger prints or palm prints.

Division 5—Costs of investigation

Clause 24: Costs of investigation

The applicant is to bear the costs of an investigation.

Division 6—Governor not bound by Authority's recommendation

Clause 25: Governor not bound

The Governor is not bound by the Authority's recommendation.

PART 4

OPERATION OF CASINO

Division 1—Opening hours

Clause 26: Opening hours

The conditions of licence are to fix the opening hours of the casino except that the casino is to be closed on Christmas Day and Good Friday. Conditions of licence may be fixed by the approved licensing agreement.

Division 2—Approval of management and staff

Clause 27: Classification of offices and positions

This clauses establishes a classification of positions for the purposes of requiring persons holding the positions to be approved by the Commissioner under this Division.

Clause 28: Obligations of the licensee

Each director, secretary, officer or employee of the licensee and each casino staff member must be approved by the Commissioner as a suitable person to work in sensitive positions (unless the person holds a position classified as non-sensitive by the Authority).

Each person holding any other position associated with the operation of the casino that is designated by the Authority as a sensitive position must be approved by the Commissioner as a suitable person to work in sensitive positions.

In addition if the sensitive position is classified by the Authority as a position of responsibility the person must be approved by the Commissioner as a suitable person to work in a position of responsibility of the relevant class.

The obligation to obtain relevant approvals is placed on the licensee. The clause contemplates the Authority exempting the licensee from compliance with the clause to an extent specified by the Authority.

Approvals are not required in respect of persons who occupy relevant positions at the commencement of the Bill.

Clause 29: Applications for approval

The Commissioner is to provide the relevant approval. The Commissioner of Police is to be consulted and the Commissioner has the power to require the person to submit to the taking of photographs or finger prints or palm prints.

Clause 30: Decision on applications

The Commissioner has discretion to grant or revoke approval.

Division 3—Casino staff

Clause 31: Identity cards

Staff members must wear identity cards.

Clause 32: Staff not to gamble

This clause makes it an offence for staff members to gamble.

Clause 33: Staff not to accept gratuities

Staff members are not permitted to accept gratuities in the course of work except gratuities paid by the licensee or another employer with the approval of the Authority.

Division 4—Approval and use of systems and equipment

Clause 34: Approval of systems and equipment

This clause makes it a condition of the casino licence that all gambling and surveillance or security systems or equipment be approved by the Commissioner. The Commissioner may issue directions or seize control of systems and equipment where appropriate.

Division 5—Operations involving movement of money etc.

Clause 35: Operations involving movement of money etc.

This clause authorises the Commissioner or an authorised officer to issue directions about the movement or counting of money or gambling chips in the casino (as a condition of the licence).

It also authorises the Commissioner to give instructions to facilitate the scrutiny by authorised officers of operations involving the movement or counting of money or gambling chips in the casino (as a condition of the licence).

Division 6—Gambling on credit

Clause 36: Gambling on credit prohibited

This clause imposes, as a condition of licence, a prohibition on allowing gambling with deferred payment except as authorised by the Authority.

Division 7—Exclusion of children

Clause 37: Exclusion of children

The Authority may determine procedures to be followed to ensure that children are excluded from the casino. It is an offence for children to be in the casino but it is a defence if it is shown that the procedures for exclusion were followed. Any money won by a child at the casino is forfeited to the Crown.

Division 8—General power of exclusion

Clause 38: Licensee's power to bar

This clause governs the licensee's power to exclude persons from the casino and to prevent entry by or remove excluded persons.

Clause 39: Commissioner's power to bar

This clause governs the Commissioner's power to exclude persons from the casino-

- on the application of the person against whom the order is to be made; or
- on the application of a dependant or other person who appears to have a legitimate interest in the welfare of the person against whom the order is to be made; or
- on review of an order made by the licensee barring the person against whom the order is to be made from the casino; or
- on the Commissioner's own initiative.

Division 9—General power of direction

Clause 40: Directions to licensee

The licensee is required to follow any directions of the Authority as to the management, supervision and control of any aspect of the operation of the casino.

PART 5
FINANCIAL MATTERS

Division 1—Accounts and audit

Clause 41: Accounts and audit

The licensee is required to keep proper accounts of the operations of the casino, separately from accounts for any other business of the licensee.

Auditing is to take place by a registered company auditor in accordance with the conditions of licence.

Clause 42: Licensee to supply authority with copy of audited accounts

The licensee is required to give the Authority copies of accounts kept under this Act and accounts kept under the Corporations Law.

Clause 43: Duty of auditor

This clause places an obligation on the auditor to report suspected irregularities to the Authority.

Division 2—Casino duty

Clause 44: Liability to casino duty

The licensee is required to pay casino duty in accordance with an agreement with the Treasurer (for payment into the Consolidated Account).

Clause 45: Evasion of casino duty

This clause creates offences in relation to evasion of casino duty and provides for the Treasurer, within 4 years after the liability for duty arose, to make an estimate of the duty that should have been paid and make a reassessment of duty on the basis of the estimate.

PART 6
SUPERVISION

Division 1—Commissioner's supervisory responsibility

Clause 46: Responsibility of the Commissioner

The Commissioner is responsible to the Authority to ensure that the operations of the casino are subject to constant scrutiny.

Division 2—Power to obtain information

Clause 47: Power to obtain information

The Commissioner or the Authority may require the licensee to provide relevant information.

Division 3—Powers of authorised officers

Clause 48: Powers of inspection

Authorised officers are given power to enter and remain in the casino to ascertain whether the operation of the casino is being properly supervised and managed or the provisions of the Act and regulations and the conditions of the licence are being complied with.

An authorised officer may require a casino staff member to facilitate an examination by the officer of equipment used for gambling and of accounts and records relating to the operation of the casino.

An authorised officer is required to report to the Commissioner and the Authority any irregularity or deficiency in the supervision or management of the casino or in the accounts or records relating to the casino of which the officer becomes aware.

PART 7
POWER TO DEAL WITH DEFAULT

Division 1—Statutory default

Clause 49: Statutory default

Under this Part the Authority is given certain powers to deal with a statutory default, *ie*, a contravention of the conditions of the licence or of the provisions of the Act or the regulations.

Clause 50: Effect of criminal proceedings

The powers given to the Authority are in addition to the imposition of other penalties.

Division 2—Compliance notices

Clause 51: Compliance notice

The Authority may issue a notice to the licensee specifying the default and requiring the licensee to take specified action, within a period specified in the notice, to remedy the default or to ensure against repetition of the default.

Division 3—Expiation notices

Clause 52: Expiation notice

The Authority may issue an expiation notice with an expiation fee determined by the Authority but not exceeding $10 000. If paid, no disciplinary action may be taken under Division 5 and no criminal proceedings instituted.

Division 4—Injunctive remedies

Clause 53: Injunctive remedies

The Minister or the Authority may apply to the Supreme Court for an injunction to prevent the statutory default or to prevent recurrence of the statutory default.

Division 5—Disciplinary action

Clause 54: Disciplinary action

The Authority may—

- censure the licensee;
- impose a fine of up to $100 000 on the licensee;
- vary the conditions of the licence (irrespective of any provision of the approved licensing agreement excluding or limiting the power of variation of the conditions of the licence);
- suspend the licence for a specified or unlimited period;
  cancel the licence.

The clause establishes the procedures to be followed in taking such disciplinary action.

Clause 55: Alternative remedy

The Authority may, instead of taking disciplinary action, issue a compliance notice.

Division 6—Official management

Clause 56: Power to appoint manager

The Minister may, on the recommendation of the Authority, appoint an official manager of the casino business if the casino licence is suspended, cancelled or surrendered or expires and is not renewed.

Clause 57: Powers of manager

This clause sets out the process to be followed by an official manager and the powers of the manager.

PART 8
REVIEW AND APPEAL

Clause 58: Review of Commissioner's decision

The Commissioner's decisions are subject to review by the Authority.

Clause 59: Finality of Authority's decisions

A decision of the Authority is final except that a decision to take disciplinary action against a licensee may be taken on appeal to the Supreme Court and a question of law may be taken on appeal by leave of the Supreme Court.

Clause 60: Finality of Governor's decisions

A decision of the Governor is not subject to review or appeal.

PART 9
MISCELLANEOUS

Clause 61: Reasons for decision

This clause provides that in general terms reasons need not be given for decisions under the Bill. Various exceptions are spelt out.

Clause 62: Confidentiality of information provided by Commissioner of Police

The Commissioner of Police may require information to be kept confidential on the basis that it might prejudice present or future police investigations or legal proceedings or create a risk of loss, harm or undue distress.

Clause 63: Prohibition of gambling by the Commissioner and authorised officers

This clause makes it an offence for the Commissioner or an authorised officer to gamble at the casino.

Clause 64: Annual report

The Commissioner must report to the Authority before 30 September. The Authority must report to the Minister before 31 October. The Minister must lay the Authority's report before both Houses of Parliament.

Clause 65: Regulations

This clause provides general regulation making power.

SCHEDULE

Repeal and Transitional Provisions

The Schedule repeals the *Casino Act 1983* and contains transitional provisions providing for the continuation of the current licence until the date on which a licence is first granted under the Bill.

Mr CLARKE secured the adjournment of the debate.

GAMING SUPERVISORY AUTHORITY (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to amend the Gaming Supervisory Authority Act 1995. 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 part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

Section 5 of the Act is amended to enable a member of the Gaming Supervisory Authority with appropriate qualifications to be appointed as deputy presiding member and to act as chairman in the absence of the presiding member.

A new section 16 is included to prohibit members of the Authority from using gaming machines in hotels and clubs under their jurisdiction or from participating in gaming in the casino.

A new section is included to require members and employees of the Authority from disclosing confidential information. However, confidential information may be disclosed to similar bodies in other States and Territories and in New Zealand. This clause is intended to be part of reciprocal legislation.

The *Freedom of Information Act* is not to apply to the Authority; nor is it to be under the jurisdiction of the Ombudsman.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

This amendment is consequential to the amendments to the *Liquor Licensing Act 1985* and reflects the change in title of the Commissioner.

Clause 4: Amendment of s. 5—Constitution of the Authority

The amendment allows, but does not require, a member of the Authority to be appointed as the deputy of the presiding member (if he or she holds the necessary qualifications as a legal practitioner or former judicial officer).

Clause 5: Insertion of ss. 16, 17 and 18

New section 16 makes it an offence for a member or employee of the Authority to engage in a gambling activity to which the Authority's statutory responsibilities extend.

New section 17 makes it an offence for a member or employee (or a former member or employee) of the Authority to disclose confidential information obtained in the course of carrying out official functions except in specified circumstances. It also provides that the *Freedom of Information Act 1991* does not apply in relation to the Authority.

New section 18 provides that the Ombudsman's jurisdiction does not extend to acts of the Authority.

Clause 6: Amendment of penalties

This clause converts and rationalises existing divisional penalties in the Act.

Mr CLARKE secured the adjournment of the debate.

LIQUOR LICENSING (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to amend the Liquor Licensing Act 1985. 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 part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 4—Interpretation

This clause substitutes the definition of the Commissioner in recognition of the change in title of the Commissioner.

Clause 4: Substitution of s. 6

The amendment alters the title of the Commissioner to Liquor and Gaming Commissioner in recognition of the responsibilities to be given to the Commissioner relating to gaming.

The Commissioner is to continue to be responsible to the Minister for the administration of the Act and to be an officer of the Public Service.

Mr CLARKE secured the adjournment of the debate.

GAMING MACHINES (ADMINISTRATIVE RESTRUCTURING) AMENDMENT BILL

The Hon. S.J. BAKER (Treasurer) obtained leave and introduced a Bill for an Act to amend the Gaming Machines Act 1992. 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 part of a package of four Bills primarily concerned with matters relating to the casino. (*Casino Bill 1997, Gaming Supervisory Authority (Administrative Restructuring) Amendment Bill 1997, Gaming Machines (Administrative Restructuring) Amendment Bill 1997, Liquor Licensing (Administrative Restructuring) Amendment Bill 1997*).

The Bill contains an amendment to facilitate the redesignation of the title of the Liquor Licensing Commissioner to that of Liquor and Gaming Commissioner.

In section 36, failure to attend a prescribed training session is a ground for disciplinary action in respect of a gaming machine manager.

A new section 36A has been added enabling expiation notices to be given in appropriate cases where there are grounds for disciplinary action against a licensee.

The reporting provisions in section 74 have been amended to

provide for a reporting date which is uniform with that in the *Casino Act*. Other minor amendments to the reporting provisions have been made.

The amendment to Schedule 2 of the Act is merely to correct an error.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment of s. 3—Interpretation

This amendment is consequential to the amendments to the *Liquor Licensing Act 1985* and reflects the change in title of the Commissioner.

Clause 4: Amendment of s. 36—Revocation or suspension of licences

The amendment adds a new ground for the taking of disciplinary action under this section, namely, that an approved gaming machine manager who is responsible for managing operations conducted under the licence fails, without reasonable excuse, to attend a training session that the manager is required to attend under the regulations.

Clause 5: Insertion of ss. 36A and 36B

This clause adds expiation notices to the disciplinary measures that may be taken under the Act.

New section 36A provides for expiation notices to be issued by the Commissioner with expiation fees determined by the Commissioner but not exceeding $10 000. If paid, no disciplinary action may be taken or criminal proceedings instituted.

New section 36B continues the power of the Commissioner to cancel a licence if the licensee ceases to operate gaming machines under the licence for 6 months or more. This power is currently contained in section 36(1)*(k)*.

Clause 6: Amendment of s. 74—Annual reports

The amendment alters the date for the provision of an annual report by the Authority and the Board and sets out details of what is to be included in the reports.

Clause 7: Amendment of Schedule 2

The amendment contemplates directions being given by the Authority or the Commissioner, rather than by the Minister or Commissioner.

Mr CLARKE secured the adjournment of the debate.

LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

The Hon. S.J. Baker, for the Hon. DEAN BROWN (Minister for Industrial Affairs), obtained leave and introduced a Bill for an Act to amend the Long Service Leave Act 1987. 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 measure continues the South Australian Government's industrial relations reform agenda which was commenced in 1994 with the passage of the *Industrial and Employee Relations Act*.

This Bill proposes to permit (by written agreement of employer and employee) the cashing out of accrued long service leave entitlements and provides more flexible arrangements for the taking of leave.

It introduces further choice into workplaces in South Australia within the overriding principle of flexibility with fairness achieved through a framework of minimum standards and employee protection.

The *Long Service Leave Act 1987* provides the legislative basis for long service entitlements in South Australia. The Act has broad coverage to workers in South Australia as it has application where no inconsistent Federal legislation, award or agreement applies. Except in certain specific industry sectors federal regulation of long service leave entitlements has, to date, been minimal. In the South Australian construction industry the *Construction Industry Long Service Leave Act 1987* applies.

The *Long Service Leave Act 1987* has not been amended since 1992.

In May 1996, in a statement on micro-economic reform, the Premier announced the State Government's intention to amend the *Long Service Leave Act 1987* to permit employers and employees to agree to cash out long service leave entitlements. This Bill gives effect to that policy initiative.

Since the 1992 amendments to the *Long Service Leave Act 1987* major changes to the South Australian and the Australian industrial relations systems have taken place. These changes have had the effect of substantially lessening the inflexibility of statutory and award controls over work places, and have enabled employers and employees to negotiate more freely to alter existing arrangements.

The *Long Service Leave Act 1987* has not kept pace with these recent policy changes and newly found workplace flexibilities in State and Federal industrial relations legislation.

Under the *Long Service Leave Act 1987* employees in South Australia are entitled to 13 weeks long service leave after 10 years of continuous service. After 7 years of continuous service an employee is entitled to a pro rata cash entitlement upon the termination of their employment (except in cases of serious and wilful misconduct or unlawful resignation).

The *Long Service Leave Act 1987* deals with three major issues:

(a) firstly, the eligibility to leave and the quantum of leave entitlement;

(b) secondly, rules relating to the taking of leave; and

(c) thirdly, rules relating to the relationship between statutory and award provisions relating to long service leave.

South Australia's long service leave standards are amongst the most favourable to employees of the Australian jurisdictions. This Bill does not propose to amend the *Long Service Leave Act 1987* in relation to eligibility to take leave nor the quantum of leave.

It is proposed, however, that the *Long Service Leave Act 1987* be amended in relation to the taking of leave and the rules relating to the relationship between statutory and award/agreement provisions relating to long service leave.

The current statutory provisions relating to the taking of long service leave do not permit an employer and an employee to agree that an entitlement to leave should be paid out in cash rather than taken as leave. Leave must be taken or paid out on termination of employment only. Nor do they permit an employee to accept employment with the employer during a period when the employee should be on leave. Any alternative practice or agreement is a breach of the *Long Service Leave Act 1987* and renders the parties liable to legal sanction and prosecution.

This Bill proposes that the *Long Service Leave Act 1987* be amended to allow an employer and an employee to mutually agree in writing to the cashing out of the whole or part of the long service leave entitlement, and (where this has been agreed) for the employment of the employee during this period not be an offence.

The right to mutually agree the cashing out of long service leave would have the following benefits:

(a) employees would be given a choice to receive a lump sum service related payment and maintain continuity of paid employment;

(b) employers would have the choice to retain the services of a long standing and experienced employee and, where agreed, avoid the cost of having to substitute an inexperienced or untrained employee to cover the worker's absence; and

(c) employers would have the choice to pay out long service leave entitlements at the rate of pay applying when the entitlement falls due, rather than have leave accrued and paid out at higher rates of pay.

The *Long Service Leave Act 1987* provides that the Industrial Relations Commission may determine that long service leave entitlements of a class of workers be determined by reference to an 'award' or 'industrial agreement' made under State industrial relations legislation, in which case the provisions of the *Long Service Leave Act 1987* cease to apply to that class of persons.

This provision is, however, restrictive (and rarely used) as it relates only to 'leave entitlements', would require a determination by the Industrial Relations Commission and does not recognise enterprise agreements made under the *Industrial and Employee Relations Act 1994*.

It is proposed that the *Long Service Leave Act 1987* be varied to enable statutory provisions regulating the taking of long service leave to be subject to variation by employers and employees through agreements between workers and employers and enterprise agreements made under the *Industrial and Employee Relations Act 1994*. The interests of employees in relation to any variation from statutory provisions would remain protected by the application of the

no disadvantage provisions applicable to enterprise agreements in the *Industrial and Employee Relations Act 1994*.

The Bill also makes consequential amendments to the drafting and language of the *Long Service Leave Act 1987* consequential upon the passage of the *Industrial and Employee Relations Act 1994* and the Federal *Workplace Relations Act 1996*.

The Bill is a response to continuing calls by workers and employers for greater flexibility in the industrial relations system and lump sum payments of long service leave entitlements could be of considerable assistance to workers and their families, as well as the small business community.

I commend this Bill to the House and seek leave to have the explanation of clauses inserted in Hansard without my reading it.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure is to be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Interpretation

The clause replaces the definition of 'agreement' with a definition that reflects the current forms of industrial agreements under the *Industrial and Employee Relations Act 1994* and the *Workplace Relations Act 1996* of the Commonwealth, that is, enterprise agreements under the State Act and certified agreements, enterprise flexibility agreements and Australian workplace agreements under the Commonwealth Act.

The clause makes further amendments to definitions consequential on the enactment of those Acts.

A new definition of 'individual agreement' is proposed under the clause—an agreement (other than an enterprise agreement) individually negotiated between an employer and a worker. This new term is principally required for the amendment proposed by clause 4.

Clause 4: Amendment of s. 5—Long service leave entitlement

Section 5 of the principal Act creates the entitlement to long service leave after 10 years service and payments in lieu of such leave on termination of employment or death after 7 years service.

The clause amends this section to introduce an entitlement after 10 years service to a payment in lieu of long service leave by agreement between an employer and a worker. The agreement must be an individual agreement (see the new definition in clause 3) made and recorded in writing and signed by the parties. Such an agreement may only be made after the entitlement to long service leave accrues, that is, after the completion of 10 years service or after each subsequent year of service.

Clause 5: Amendment of s. 6—Continuity of Service

This clause updates a reference to the Industrial Commission so that is accords with the body's new title—the Industrial Relations Commission.

Clause 6: Amendment of s. 7—Taking of leave

Subsections (1), (2) and (3) of section 7 provide for the taking of leave as soon as practicable after the entitlement accrues, for the leave to be taken in one continuous period and for not less than 60 days notice to be given by an employer as to the taking of leave.

Section 7 its current form goes on to allow an employer and worker to agree on the deferral of long service leave, the taking of leave in separate periods of not less than 2 weeks, the granting and taking of leave on less than 60 days notice by the employer and the taking of leave in anticipation of the entitlement accruing to the worker.

The clause amends the section so that these matters may be dealt with by an enterprise agreement as well as by an individual agreement. The clause removes the requirement for leave to be taken in minimum periods of 2 weeks. Under the clause, an individual agreement as to any of these matters would prevail over an inconsistent provision of an enterprise agreement.

Clause 7: Amendment of s. 8—Payment in respect of long service leave

Section 8(2) of the principal Act requires payment of wages during a period of long service leave to be made—

(a) in advance; or

(b) on the ordinary pay day; or

(c) in some other way agreed between the employer and the worker.

The clause adds a new provision that would allow an enterprise agreement to govern the manner of such payment but subject to any individual agreement between an employer and a worker.

The clause also deals with the quantum of a payment by agreement in lieu of long service leave. This is to be calculated at the worker's ordinary weekly rate of pay (see section 3(2) of the principal Act) but is not to include any amount to represent the value of accommodation provided by the employer. If a worker's wage rates vary during what would have been the leave period after a payment in lieu, a further payment is to be made to reflect that variation.

Clause 8: Insertion of s. 8A

8A. Approval of enterprise agreements dealing with taking of leave, etc.

The proposed new section varies the test to be applied by the Industrial Relations Commission in approving enterprise agreements under the *Industrial and Employees Relations Act 1994* (Chapter 3 Part 2) where the agreements deal with the taking of long service leave or the payment of wages for a period of long service leave as contemplated by the amendments proposed by clauses 6 and 7 of the Bill.

In the case of such an agreement, the Commission must, under the new section, apply the test set out in section 79(1)*(e)*(iii) of that Act as to whether the remuneration and conditions of employment under the agreement (considered as a whole) are not inferior to the remuneration and conditions of employment (considered as a whole) under a current applicable award as if the rules in the *Long Service Leave Act* as to the taking of leave and payment of wages during leave (section 7(1), (2) and (3), section 8(2)*(a)* and *(b)*) were contained in the award.

Clause 9: Amendment of s. 9—Exemptions

This clause updates the title of the Industrial Commission where references appear in section 9.

Clause 10: Amendment of s. 10—Records

Section 10 of the principal Act contains requirements as to the keeping of records and the provision of information to workers in relation to long service leave.

The clause amends the section so that records will be kept as to payments by agreement in lieu of long service leave.

The clause creates a requirement (with a maximum penalty of $1 000 attaching) under which an employer must—

- cause an agreement as to a payment in lieu of leave to be recorded in writing and signed by both parties
- give a copy of the written agreement to the worker
- keep the written agreement for the period for which other leave records are required to be kept.

An employer who makes a payment by agreement in lieu of long service leave must also give the worker a statement setting out the period of leave in lieu of which the payment is made and the number of days (if any) that will remain due to the worker after the payment is made.

Clause 11: Amendment of s. 12—Inspector may direct employer to grant leave or pay amount due

Clause 12: Amendment of s. 13—Failure to grant leave

Clause 13: Amendment of s. 16—Act not to apply to certain workers

These clauses each make consequential amendments updating references to the Industrial Court or otherwise reflecting the enactment of the *Industrial and Employees Relations Act* or the *Workplace Relations Act*.

Mr CLARKE secured the adjournment of the debate.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

LEGAL PRACTITIONERS (MEMBERSHIP OF BOARD AND TRIBUNAL) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. S.J. BAKER (Treasurer): 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 minor amendments to Part 6 Division 3 of the *Legal Practitioners Act 1981*.("The Act")

Part 6 of the Act establishes and regulates the Legal Practitioners Conduct Board ("the Board") and the Legal Practitioners Disciplinary Tribunal ("the Tribunal"). The Board investigates and receives complaints of unprofessional conduct by legal practitioners, and is able to discipline a legal practitioner or initiate proceedings with the Tribunal, while the Tribunal hears charges of unprofessional conduct against legal practitioners. By virtue of section 69(3)*(d)* and 79(1)*(d)* of the Act respectively, all legal practitioners on the Board, and all members of the Tribunal, must have a current practising certificate. Due to section 78(2) of the Act, members of the Tribunal must also be admitted as a barrister or solicitor in the Supreme Court of South Australia.

While it is desirable that legal practitioners on the Board and all members of the Tribunal have been in practice, there is no particular reason why they should have a current practising certificate. This Bill proposes to change the qualifications for members of these bodies accordingly.

The new clauses will provide that members should have practised as a legal practitioner for 5 years (including for this purpose any period that the person has served in judicial office) to be eligible for appointment to the Tribunal.

The requirements imposed on members of the Board and the Tribunal have also been strengthened in other ways. I believe that it is important that the legal practitioners on the Board and all members of the Tribunal are beyond reproach. The amendments provide that a member's position becomes vacant if the member is disciplined under the Act, by the Supreme Court, or under an Act or law of another State or Territory of the Commonwealth for regulating the conduct of persons practising the profession of the law. This will mean that persons who receive an admonishment under the Act, and persons who avoid discipline under the Act or by the Supreme Court by voluntarily requesting that their name be taken off a court's Roll of Barristers and Solicitors, will be disqualified from membership of the Tribunal or the Board.

An example of the benefits associated with these amendments are the ability to appoint retired members of the judiciary to the Board or the Tribunal without needing to renew their practising certificate solely for the purpose of the appointment. Also, persons not fit to judge the propriety of other legal practitioners will no longer be permitted to remain on the Board or the Tribunal.

In 1995, one member of the Tribunal allowed his practising certificate to lapse, which caused his position to become vacant. The member has since obtained a backdated practising certificate for 1996. It may be that this is not sufficient to cure the vacancy. The amendments have therefore been made retrospective.

Section 80(4) is also amended. Under section 80, three members of the panel constitute the Tribunal, and a decision by two members of the Tribunal is a decision of the Tribunal. The Tribunal may continue to hear a matter if one member dies or is unable to continue, provided that the legal practitioner, who is the subject of the proceedings, consents. A decision of the remaining two members will be a decision of the Tribunal if it is unanimous.

Where there have been delays in hearings caused by technical and procedural objections or evidentiary challenges it is not in the public interest for the practitioner to have a veto on whether the Tribunal can complete the matter if the number of members is for some reason reduced to two. Given that, in such a case, the decision must be unanimous, the practitioner is no worse off than if three members had heard the matter in full and had made a majority decision.

This amendment to section 80(4) will ensure that costly rehearings will not be required in future hearings where one member must retire from the panel for any reason.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for varying commencement dates for different provisions of the Bill as follows:

- clauses 1, 2, 3 and 5 are to be taken to have come into operation on the day that the principal Act came into operation;
- clause 6 is made retrospective to the day on which the *Legal Practitioners (Miscellaneous) Amendment Act 1996* came into operation;
- clause 4 is to come into operation on assent.

Clause 3: Amendment of s. 69—Conditions upon which members of the Board hold office

This clause amends section 69 of the principal Act to match up the circumstances that would disqualify a legal practitioner from continuing as a member of the Legal Practitioners Conduct Board with the circumstances that would disqualify a legal practitioner from continuing as a member of the Legal Practitioners Disciplinary Tribunal under section 79 of the principal Act, as proposed to be amended by clause 5 of this Bill.

The amendment would mean that a practitioner whose name is removed from the roll of practitioners maintained by the Supreme Court, or who has been disciplined, either here or interstate, would automatically be disqualified from membership of the Board. This requirement replaces the current requirement that a practitioner who is a member of the Board hold a current practising certificate.

Clause 4: Amendment of s. 78—Establishment of Tribunal

This clause amends section 78 of the principal Act to provide that a person cannot be appointed as a member of the Tribunal unless that person has been enrolled as a practitioner in this State for at least five years.

Clause 5: Amendment of s. 79—Conditions of membership

This clause amends section 79 of the principal Act to provide that a practitioner whose name is removed from the roll of practitioners maintained by the Supreme Court, or who has been disciplined, either here or interstate, would automatically be disqualified from membership of the Tribunal. This requirement replaces the current requirement that a practitioner who is a member of the Tribunal hold a current practising certificate.

Clause 6: Amendment of s. 80—Constitution and proceedings of the Tribunal

This clause amends Section 80 of the principal Act by removing the requirement that the legal practitioner who is the subject of proceedings before the Tribunal consents to two members continuing to hear and determine the proceedings where the third member has died or is otherwise unable to continue acting.

Mr CLARKE secured the adjournment of the debate.

NETHERBY KINDERGARTEN (VARIATION OF WAITE TRUST) BILL

Second reading.

The Hon. D.C. KOTZ (Minister for Employment, Training and Further Education): 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.

The purpose of this Bill is to vary the terms of the Peter Waite Trust to permit the Netherby Kindergarten to continue tenure on land owned by the University of Adelaide.

In 1945 the University of Adelaide permitted the Netherby Kindergarten to be established on land which was granted in 1914 to the University of Adelaide in a Trust Deed by Mr Peter Waite. This was to be a temporary arrangement as the land on which the preschool was located was not intended to be used for the purpose of a community kindergarten.

In 1987 the University negotiated with the preschool management committee and reached a verbal agreement that the kindergarten would be able to stay on the site until the end of 1994. The then Minister (Hon Greg Crafter) wrote in January 1988 to the President of the Netherby Kindergarten Management Committee, stating that there would be no initiative on the part of the University to have the preschool quit its present site, and gave an assurance that if the site had to be vacated, every effort would be made to relocate the kindergarten.

In 1993 the Children's Services Office approached the University to formalise an agreement to allow the preschool to remain on site for a further ten year period. This request was not agreed to by the University of Adelaide Council on legal advice that upon examination of the undertakings given by the University at the time of accepting the land from Peter Waite in 1914 it was clear that the University had no basis for giving permission for the preschool at all.

The essential terms of the Peter Waite Trust Deed on 1914 are that—

- the University hold the designated section of (eastern) land for the purpose of teaching and studying branches of learning associated with agriculture and husbandry; and

· the University hold the remainder (western) section upon trust to preserve it in perpetuity as a park or garden for the recreation and enjoyment of the public.

During 1994 the University of Adelaide offered an alternative location adjacent to the new child care centre at Waite Institute, but the preschool management committee was not prepared to consider this.

The Netherby Kindergarten has been located at the present site, without any lease arrangement, since 1945, in what is described by the committee as a 'temporary building'. Rebuilding is now urgent and the committee wish to obtain a lease to proceed with this.

The University initially proposed a Deed of Indemnity which would allow a lease arrangement to be entered into, conditional upon the Minister for Education and Children's Services protecting the University against any claim for breach of trust. Crown Solicitor advice is that the University of Adelaide has clearly breached the terms of the Trust Deed in allowing the preschool service on its land, and that any proposed lease of any part of land subject to the Waite Trust would continue to be in breach of trust and that it would not be proper to enter into such a lease arrangement or to indemnify the University for such a breach of trust.

The only viable option to allow this important service to young children and their families to proceed, as it has for the past fifty or so years, is to pass a Bill to vary the terms of the Trust.

Consultation has taken place between staff of the Department of Education and Children's Services, the local community management committee of the preschool, the University of Adelaide Council and the nearby Urrbrae Agricultural High School. All are in agreement in principle with the service continuing at this location.

I would emphasise that this preschool, like all DECS preschool services, offers a high quality educational program to children in the twelve months prior to their admission to school. The preschool is community managed with high parent participation in all areas associated with their children's attendance and program. The continued operation of this preschool is of great benefit to the local community and I would therefore urge adoption of this Bill.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Variation of Waite Trust

This clause varies the terms of the Peter Waite Trust so as to empower the University of Adelaide to grant a lease over the relevant piece of land (delineated in the schedule) for preschool and other related purposes. The lease may be granted to the Minister, the Netherby Kindergarten or to the Minister and the Kindergarten jointly. The fetters on the University's general power under its Act to grant leases are waived by subclauses (3) and (4).

Clause 3: Immunity from liability for breach of trust

This clause gives immunity to the University, the Kindergarten and all other relevant persons from liability for breach of trust arising out of anything done pursuant to this Act or the Kindergarten's previous occupation of the land.

Mr CLARKE secured the adjournment of the debate.

STATE RECORDS BILL

Consideration in Committee of the Legislative Council's amendments:

No. 1. Page 2 (clause 3)—After line 30 insert new paragraph as follows:

'(ba) a record received into or made for the collection of a library, museum or art gallery and not otherwise associated with the business of the agency; or'.

No. 2. Page 6, line 16 (clause 7)—After 'State Records' insert 'or official records whose delivery into State Records' custody has been postponed or is subject to an exemption granted by the Manager'.

No. 3. Page 6, line 23 (clause 7)—After 'to issue standards' insert '(following consultation with the Council)'.

No. 4. Page 7, line 5 (clause 9)—Leave out 'seven' and insert 'nine'.

No. 5. Page 7, line 6 (clause 9)—Leave out paragraph (a) and insert new paragraph as follows:

'(a) one will be a historian nominated by the Minister to whom the administration of the History Trust of South Australia Act 1981 is committed after consultation with academic historians from South Australian tertiary education institutions; and'.

No. 6. Page 7, line 17 (clause 9)—Leave out 'legal practitioner' and insert 'person nominated by the Chief Justice of the Supreme Court'.

No. 7. Page 7 (clause 9)—After line 17 insert new paragraphs as follow:

'(h) one will be an Aboriginal person engaged in historical research involving the use of official records nominated by the Chief Executive of the Department of State Aboriginal Affairs; and

(i) one will be a person who, as a member of the public, makes use of official records in the custody of State Records for research purposes.'

No. 8. Page 7 (clause 9)—After line 18 insert subclause as follows:

'(4) At least two members of the Council must be women and at least two must be men.'

No. 9. Page 7 (clause 11)—After line 28 insert subclause as follows:

'(la) A member of the Council is entitled to such remuneration and expenses as may be determined by the Governor.'

No. 10. Page 8, line 13 (clause 12)—Leave out 'Four' and insert 'Five'.

No. 11. Page 11 (clause 19)—After line 3 insert new subclause as follows:

'(6) The preceding provisions of this section do not apply to records of a court, but the Governor may, if satisfied that it is advisable to do so for the proper preservation of the records, direct that specified court records be delivered into the custody of State Records.'

No. 12. Page 11 (clause 20)—After line 7 insert new subclause as follows:

'(2) This section does not apply to records of a court.'

No. 13. Page 13, line 21 (clause 26)—After 'purposes' insert '(but must advise the Council of any such determination)'.

No. 14. Page 13, lines 23 and 24 (clause 26)—Leave out 'fixed by the Manager with the approval of the Minister' and insert 'prescribed by regulation'.

No. 15. Page 14, line 4 (clause 27)—After 'may' insert ', after consultation with the Council,'.

No. 16. Page 15, lines 12 to 17 (clause 32)—Leave out the clause.

No. 17. Page 15, line 19 (clause 33)—Leave out '31 October' and insert '30 September.'

No. 18. Page 15, line 22 (clause 33)—Leave out '12' and insert 'six'.

No. 19. Page 15, lines 26 and 27 (clause 34)—Leave out subclause (2) and insert new subclause as follows:

'(2) The regulations may—

(a) prescribe fees to be paid in respect of services provided by State Records or in respect of any matter under this Act and provide for the waiver or refund of such fees; and

(b) prescribe a fine not exceeding $2 500 for contravention of, or non-compliance with, a regulation.'

No. 20. Page 17, line 12 (Schedule)—Leave out paragraph (c).

The Hon. M.H. ARMITAGE: I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

TOBACCO PRODUCTS REGULATION BILL

In Committee.

(Continued from 4 March. Page 1121.)

Clause 2—'Commencement.'

Mr CLARKE: I move:

That progress be reported.

My reason for so moving is that only this afternoon the Opposition was presented with a number of substantial amendments with respect to the Bill. Members opposite may have had opportunity enough over the past few days of toing-and-froing to ascertain what the amendments mean and their consequences, but it is not good enough for the Opposition. The Bill about which we are currently talking bears no relationship to the amendments being put forward by the Minister for Health and flagged for further debate later this afternoon.

It is utterly ridiculous for this Government to expect the Opposition to wear this type of behaviour. No notice was given to the Opposition of these amendments until they were circulated this afternoon. This issue has been canvassed in the press, but not before members of this Parliament. It has always been the convention that legislation is allowed to lay over for one clear sitting week. We have not had an opportunity to discuss these amendments with the various constituent groups affected by this very important legislation, whether it be the restaurant and hotel industries, the anti-smoking lobby or anyone else. We have not had an opportunity to talk to those interest groups on the Bill and we have not had a chance to determine a position on the amendments placed before us.

The Government may have had internal problems with its toing-and-froing over the past few days with respect to what will or will not happen or whether these amendments would be tacked on to this Bill but, ignoring the amendments before us at the moment, the Bill deals with taxation measures and a toughening up of the fines and regulations with respect to the selling of cigarettes to minors and the like. The Bill, which has passed the first and second reading stages and has been on the table for a number of weeks, has nothing to do with whether or not smoking should be permitted in restaurants, hotels or other public places.

These amendments were dropped only this afternoon for the Parliament to consider. That is not good enough. If the Minister for Health thinks that he can simply appeal to the anti-smoking lobby and that it is enough for the Opposition to give way to the breach of every convention in dealing with important legislation before this House, he has another think coming. He may well be able to use his numbers with respect to this House to try to ram through legislation but, as he found with respect to a health Bill some 18 months ago, he has to get the numbers up the corridor. Members in that Chamber do not necessarily like the way this legislation is being dealt with and the cavalier attitude in which the Opposition has been treated with regard to its being kept informed on the issues to be debated. We will not cop it. We will not cop it at all.

Putting aside the merits of the Minister's argument with respect to this issue, our objection is to the processes followed and the trampling of every convention with respect to prior consultation and allowing sufficient time for the Opposition to deal with this matter in a proper manner and in a way that it can discuss the issues raised in the proposed amendments with the interest groups in the community. It is an absolute outrage. It is more an indictment of the Liberal Party as a whole because it cannot get its act together on this issue. It is seriously divided on the issue, and that is why it is trying to crunch it through now.

The Hon. M.H. ARMITAGE: I reject a number of those accusations. First, the position of the Liberal Party on this matter was determined last week. There have been many media releases about our support for the principle of smoke free restaurants. At issue has been the specific way in which that would be actioned. I have had a number of telephone calls with the shadow Minister identifying that our position was not yet clear on those details. I acknowledge that.

Members interjecting:

The Hon. M.H. ARMITAGE: Our position was not clear on the specific detail. I also indicated that I would be forwarding to the shadow Minister the detail of the position as soon as that was determined—and that was done. I find it interesting that the Labor Party would make this accusation now because one of the things I have done during the past two or three weeks where this has been a matter of intense, overt and open public debate—

Mr Clarke interjecting:

The Hon. M.H. ARMITAGE: Ralph, I listened to you: please listen to me. One of the things I have done is follow every single thing that has been written, said or filmed about this matter in the media. At one stage I identified that the ALP has already taken a public position on the principle.

Members interjecting:

The Hon. M.H. ARMITAGE: The ALP has been reported as taking a public position on this matter. First, I hope that that public position has been accurately reported. I accept that that is what we are here to find out from the ALP—whether that is indeed its view. It was reported as being supportive of the principle of smoke free restaurants. I hope that position has been accurately reported in the first instance.

Secondly, and perhaps more importantly, I sincerely hope for all sorts of reasons, for the health care of South Australians, that if that is publicly reported as its position the ALP will indeed maintain this public position. So, given that it has been a matter of public debate, and that there have been reported positions of the ALP, I put to the Committee that amendments about detail are often presented in this fashion. These amendments do nothing more and nothing less than put into place what has been the Liberal Party's publicly identified position for a week. They do nothing more and nothing less than put into place everything that would be in accord with the ALP's publicly reported position. Accordingly—

Members interjecting:

The Hon. M.H. ARMITAGE: As I say, it is a publicly reported position.

Members interjecting:

The Hon. M.H. ARMITAGE: In the paper. I will get it for you.

Mr Quirke interjecting:

The Hon. M.H. ARMITAGE: I would be interested to know to whom the member for Playford is referring.

Mr Quirke: The hotels, the restaurants, the community and everyone else.

The CHAIRMAN: Thank you, members.

The Hon. M.H. ARMITAGE: Mr Chairman, I am addressing in particular the matter of the Deputy Leader's motion, and I presume that you do not wish me to delve into other details such as the member for Playford is raising, which I am very happy to address at the appropriate stage. I reiterate: these amendments do nothing more and nothing less than put into place what has been the Liberal Party's public position and a position which was reported in the media. I accept that the ALP may have changed its position but, as I acknowledged before, I hope that is not the case. The amendments do nothing more or less than put into place the mechanism for that public position.

If that is the case, I point out that amendments that I have put to the Chamber in the past were often presented with far less notice than has been the case today. Indeed, there are a number of laws which the South Australian public have on the statute book which have been devised on the floor of the House. I well recall in the previous Parliament—and the member for Giles would certainly remember this, as would the member for Playford—that we were presented with an absolute raft of amendments in relation to a certain Bill. In good faith we all voted on those amendments, but errors were found in them, because they had been done on the floor of the House to get the Bill through. That is not unusual in the processes of legislation. So, as I indicated previously, I oppose the motion of the Deputy Leader.

Ms STEVENS: Mr Chairman—

The CHAIRMAN: The motion is not debatable.

The Committee divided on the motion:

AYES (9)

Atkinson, M. J.	Bass, R. P.
Blevins, F. T.	Clarke, R. D. (teller)
De Laine, M. R.	Quirke, J. A.
Rann, M. D.	Stevens, L.
White, P. L.	

NOES (30)

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

PAIRS

Geraghty, R. K.	Caudell, C. J.
Hurley, A. K.	Venning, I. H.

Majority of 21 for the Noes.

Motion thus negatived.

The Hon. M.H. ARMITAGE: I move:

Page 1, line 19—After 'this Act' insert '(other than section 46A)'.

The provision inserts another section into the Act. It addresses the question of smoking bans in restaurants. The Liberal Party is keen to see a smoking ban in restaurants, as defined in later amendments as enclosed public dining or cafe areas, and the *modus operandi* to do that is to insert new clause 46A. I will speak to the substantive elements behind that issue in relation to that proposed new clause.

Mr QUIRKE: We have heard the Minister's statement and a number of other statements were made a minute ago by the Minister, and it is a pity that the other Minister on the front bench is not here. A couple of comments ought to be made. First, every time the AHA takes members opposite to lunch, it winds up with something being shoved straight down its throat. I well remember the consultation over the gaming machine tax; I remember the Caucus meeting that day. The Minister for Health is right: there have been episodes here where things have been legislated in such a way that it is fair to say that no-one was consulted.

What happened over the gaming machines issue was that the Liberal Party Caucus broke for lunch and half of them went for a nice feed at the Hyatt, came back in the afternoon and decided to string up the Hotels Association and the licensed clubs on the gaming machine tax. They subsequently repented on that and I guess they learned a lesson—this time they did not even provide a lunch. This time the Minister came straight in and said, 'We cannot even have a second reading debate on this.'

The Bill was introduced by his colleague and the only time we find we can debate and consider these issues is about an hour or so after we get them. I want to thank the Minister for one thing. I asked him for a copy of the amendments and within five minutes they turned up. That was pretty good, but it was at 2.30 this afternoon. This whole process is no way to run a Government. If this is the way that people out there are to be consulted—by press release, by stories in the media and by unsourced leaks—if that is adequate consultation, then anything passes.

We are now debating the amendment to clause 2, even though the substantive part of the amendment relates to new clause 46A, which is still to be moved. As that is the case, I will direct the rest of my remarks to 'the first Monday in January 1999'. This process this afternoon has a couple of interesting aspects. I am not exactly sure what the Government is doing. I do not think anyone else knows and I suspect many Government members do not know, and other Government members are concerned about the whole process.

I get the drift that cigarette smoking is to be banned in restaurants. But what is happening in hotels depends on how many rooms there are, where the openings are, what time feed is provided or whether a feed is provided. What happens to counter lunches in the front bar? What happens to the cheap feed that many people have taken advantage of, that being the good side to gaming machines? What happens to that? A number of questions are involved. As a non-smoker, I will not have to dash out of the Chamber after my contribution and have a fag, as will some of my colleagues, but I do not think there has been a problem in the past few years in most restaurants, because restaurants have dealt with this problem. I think the pubs and clubs in the community would have liked the opportunity to deal with some of these issues as well and speak with the accusers, or the accuser.

Members of the Liberal Party room ought to be under no illusion that we are going to lie down and have this stuff rolled over the top of us: we are not. I am sure we will go down in here, and we will have a few friends come over with us, but it will be a different story when this issue gets to the other side of the corridor. If the Government wants support on these sorts of measures, it ought to be talking to people. We insist that the Government talks to the industry.

From where did this date come? Why is it here? Will the Minister tell us why the first Monday in January 1999 is nominated? Why not the next year? Why not the second Monday? What is wrong with Tuesday through to Sunday? What is the trigger for this date and what is this inordinate rush to get the Bill through the House and piggyback it on what was basically a Treasury Bill to solve problems that were explained across the Chamber? I will not go into more detail, but the former Deputy Premier and now Treasurer knows exactly what I am talking about, and so do his Treasury officials.

Why the haste and why the rush? Why the legislation in this form? With whom has it been discussed? I emphasise to the Minister that, if he thinks he can walk over the top of us, then he will pay the price on the other side of the corridor. If he thinks that the Democrats will always lie down on these sorts of issues and give them to the Government, perhaps they will, but we will be belling the cat, particularly out in the pubs and clubs and in the front bars where many people cannot afford to go to restaurants, unlike most of his North Adelaide constituents.

Ms STEVENS: I, too, would like to hear from the Minister as to why this Bill will not come into operation until the first Monday in January 1999; and why the rush that has occurred over the past three or four weeks so that we can go through this sham of a democratic process this afternoon whereby we in the Opposition attempt to debate something that we saw for the first time at 2.20 this afternoon?

A few minutes ago the Minister said that he had had a number of conversations with the shadow Minister. I would like everyone to understand the nature of those conversations and for them to know that they had nothing to do with the substance of the Bill. I was concerned last week when I also obtained information through the media, and then I heard from the Hotels association and the Restaurants Association that they had not been consulted. And I also heard from the health groups of their frustration about the nature of this process. I rang the Minister on Tuesday morning to ask him when the Liberal Party would finally make a decision on its position. He told me it would go to the Party meeting that morning, that it was sixth or seventh on the agenda, and that he thought possibly by about 11.30 a.m. on Tuesday morning he would have some amendments. He assured me that he would let me have a copy of those amendments as soon as they were through.

At 1.45 p.m., just before Question Time, I think, on Tuesday I received a phone call from the Minister for Health to tell me that the matter had not yet been settled, that there would be another meeting of the Liberal Party today, Wednesday, at 12 o'clock, but after that there would be only minor changes—to be discussed today at 12 o'clock—and we could have a copy of those amendments straight away, as he said before. He said that the debate on the Bill would be on Thursday and that we could have 24 hours for consideration. Even that was far less than we required to properly consult with groups in the community and obtain their views. However, it was to be on Thursday.

Today at 2.20 p.m. my colleagues on this side of the House and I received the amendments proposed by the Minister for Health and we noted that the Bill was to be debated today. I sent a message to the Minister in the House during Question Time, after I had received a copy of the amendments and seen that the Bill was on the agenda for today, asking him to explain what had happened to the Thursday arrangement. He informed me that the leadership team had decided this morning to change the arrangement for Thursday and bring it back to today.

That is absolutely unacceptable behaviour by the Government. And this Minister had the nerve to say, when he spoke just a few minutes ago, that the Bill had been substantially agreed to last week, when we all know that that was patently false. We all know that the Liberal Party members were arguing and that the interest groups in the community were furiously trying to get their points of view heard. We know that the decision was not finally made until today. So, what he said was patently false.

I know I am a new member to this game, but I am amazed that the Minister for Health believes that what has happened in relation to this Bill was (and I quote his words) 'intense, overt, public debate'. What arrogance! What a misconception about how you consult with people to achieve a positive result. The Minister actually thinks that what he has just done involved intense, overt public debate. He would be the only person in South Australia who could possibly, conceivably ever think that that was a correct assessment of the shambles and the debacle that has just occurred.

I first heard of this initiative through the media, and I noted also that the Minister said that he had kept track of everything that was happening in the media. So, his understanding of a consultation process is something conducted through the media. I believe that the assessment and understanding of consultation of most other people is that you sit down with people, listen to their points of view, test ideas and check them out with a whole range of other people. I believe that this Minister has a lot to learn and has put a lot of people off-side with his methods. When I first heard about it through the media, I contacted the health groups, the AHA, the Restaurants Association and the union, and I was staggered to learn—although, given the performance of the Minister for Health in relation to other Bills before this House, I should not have been surprised—that those people had not been properly consulted. In fact, the AHA and the Restaurants Association had not even received a copy of the survey that the Minister was touting as the basis for the evidence he was citing about his measures. They had not even been given the survey to look at and respond to. And these are the people who have to implement what he was suggesting, who have to implement his legislation directly: they had not been consulted about their concerns and the issues.

What I found when I spoke with the health lobbies, the AHA, the Restaurants Association and the union was a desire to reach a solution that we could all live with. I found that those people were willing to listen; they were willing to consider other points of view; they were interested and keen to come up with something that we could all be proud of in this State, something which we could all feel we had a part of and which we could all feel was a sensible and good way of proceeding. All those groups wanted to do that; all those groups were happy to listen to each other's points of view; but all those people, through the inept handling of this matter by the Minister for Health, were left feeling angry and left out of the process.

The process has been an absolute disgrace. If you examine it, you find that it says a lot about the Minister's skills, his ability and his understanding of the way in which human beings work and of the way in which change is handled effectively—or, in this case, ineffectively—in a community. I still do not know why this provision is to operate from January 1999, and I note that the AMA and others are also wondering why we are to wait until then. We still have not had a clear answer from the Minister. Goodness knows what that will be. I guess it is another thing that he has just thought up on his own.

Mr BASS: It makes me sick to say what I am going to say, but I am in no better a position than is the Opposition. Members opposite might have got their copy of the amendments only today at 2.15: I got mine yesterday at 10.30 and I am a member of the Government. I do not give a damn about what happened previously before I came into this place. I give a damn about the Labor Party and what it did to the State, but as to what happened in this Chamber, I do not give

a damn. But while we are here there are protocols that should be followed and I understand, from speaking to members of this House who have been here longer than I have, that it is the first time they have seen legislation such as this introduced in the form of amendments that are nothing to do with the Bill that was introduced.

It is a tax Bill. Now we have a Bill to ban smoking. As I said, I received my copy of the amendments at 10.30 yesterday morning. I do not know much about the Licensing Act: I do not drink. But I would like to speak to the people who do know. I represent the District of Florey. There are only two hotels in my electorate, but I would like to speak to those two licensees, who are important to me as they employ many people in my area, but I have not had that opportunity.

An honourable member interjecting:

Mr BASS: I have many restaurants and some clubs, but I have not had the opportunity to speak to them.

The Hon. Frank Blevins: You are in big trouble.

Mr BASS: No, I am not in trouble. I will make time to go and speak to them.

The Hon. Frank Blevins: You may be too late.

Mr BASS: I may be, but I will speak to them. I do not understand the licensing laws so I want to speak to people who do. I am probably expected to sit down and shut my mouth and go along with them, but I am not going to do that, because I do not believe that it is fair.

Mr Clarke: Last time you spoke you got the scalp of the Deputy Premier: now it is the Minister.

Mr BASS: Mr Chairman, I really need guidance. This is a strange situation which many members have never experienced. I do not know whether to debate the different parts of the amendments that have been proposed by the Minister for Health.

The CHAIRMAN: For a little guidance from the Chair, the speakers so far have, first of all, debated the issue of the clause, which is the effective date to be fixed by proclamation and, secondly, canvassed the rationale behind the Bill. To canvass the actual substance of the amendments themselves would be best left until debate on the new clause, page 24 after line 10.

Mr BASS: Because we have not had the opportunity to debate this issue in the second reading stage, will we be restricted? The proposed new clause, page 24, goes for nearly two pages. Will we be restricted to three questions or three 15 minute speeches?

The CHAIRMAN: The honourable member would have had only 20 minutes by way of second reading speech. In this case, there are many clauses in the Bill and every member is entitled to speak for 15 minutes three times, so the debate could go on interminably.

Mr BASS: Yes, but will you allow—

The CHAIRMAN: The Chair is speaking, member for Florey. I do not think that either the Chair or the Minister can be accused under those circumstances of restricting debate. However, the subject of debate on each clause should be restricted to the subject of the clause.

Mr BASS: So I am restricted to three 15 minute speeches?

The Hon. M.H. Armitage: On every clause.

Mr BASS: I do not need your advice, Minister. Many clauses in the Bill do not refer to the amendments proposed by the Minister, do they?

The CHAIRMAN: No, the Chair is simply pointing out that a second reading address could have occupied at maximum only 20 minutes, however much the honourable member had to say. By speaking three times to the relevant amendment, the honourable member has the opportunity to speak for 45 minutes, which is hardly a restriction of time.

Mr BASS: I will leave it at this: I am in sympathy with the Opposition. In common with members opposite, I have not had the opportunity to do what I believe is the correct thing as a member of Parliament in representing my constituents. I have not had the opportunity to speak to the Hotels Association, the restaurants, the catering industry association or the clubs, and I believe that this is the wrong way to put through legislation.

The Hon. FRANK BLEVINS: I am in a little bit of a dilemma, because it may be that I might have wanted to support the principle of the Bill. In fact, I spoke and supported the second reading. I had some reservations about the increase in taxes, only on the basis that this Government has said that it would not increase taxes, yet now it has. On that basis, I was opposing the tax increase under the Bill. Apart from that, the Opposition was happy to support the Bill and I was happy to be part of that.

But the nature of the Bill has changed totally and that is unfortunate. After a proper program of consultation with the industry, it might have been that we could all have supported this proposition that the Minister for Health has brought in. It is quite wrong for the Minister for Health, or any other Minister, to suggest that what they are doing is proper. The Minister for Health is introducing into a fairly innocuous Bill a measure that has absolutely nothing to do with the principle in the original Bill. The principle in the original Bill was to increase taxes on a sliding scale.

Whilst it is allowed under Standing Orders—the Act is open so you can do anything you like—that is all very well. If they are the rules, if that is the way Governments want to behave by saying, 'The Act is open so we can do anything we like', those who get hurt in trying to enforce that law of the jungle cannot complain. Some people will get hurt and they will not be on this side. The people who will get hurt are on the other side. I can tell you now that many of the people in the clubs and hotels, not so much in the restaurants, will go absolutely bananas when they realise what they will be up for.

My experience with the AHA and the Licensed Clubs Association is that they are the two most responsible lobby groups with which I have ever had to deal. I have never met a group of people who were so accommodating of the Government. When I was in Government, I welcomed that: in Opposition, I am not so happy with them. In relation to poker machines, I have noted that after a few flurries in the paper they get into bed with the Government and sort out something. My guess is that they would have done the same in this case. If the tobacco industry, for example, thought that the AHA was going to carry the tobacco industry's banner for it, it was dead wrong. The AHA would be in there with the Government working out something that suited the AHA and the Government. If the tobacco industry got hurt, that would not have bothered the AHA one iota.

The point is that the AHA and Licensed Clubs Association are very good friends to Governments. They will be very bad enemies to some local members. They would not want that role, but that role will be thrust upon them because of the behaviour of the Government. They will not take this. There is not one person opposite, including the Minister, who knows what this legislation means.

Not one member opposite knows what the effect of this legislation will be, especially on clubs and hotels. It will be easy in restaurants, but no-one has a clue about what will or

will not happen in clubs and hotels. The Minister does not know. I ask myself: 'Why the hurry?' The Minister says that this Act will not come in until 1999, which is a fair way off. Why not leave it for a fortnight? We are coming back the week after next.

Mr Quirke: Or are we?

The Hon. FRANK BLEVINS: Well, I think we are, but if we are not it will just not go through the Upper House, and it will be a different problem for a different day. Why is the protocol of substantial issues not being debated until a clear week has been given by the Government to the Opposition—not just to the Opposition but to other people who may have an interest in the legislation? Why this has been broken on this issue we can only speculate. I will tell members opposite what I think is the reason. It is because the Minister managed, I do not know by what means, in the snake pit that is the Government Caucus to get the numbers today. He may not have the numbers this time next week or the week after when we sit—and I think that is probably correct—because there will be a horrible dawning on members opposite of just what they will be up for.

I want all hotels and clubs to knock on the door of members opposite and say, 'Hang on! What are you doing here? When this is not supposed to be put in place until 1999, why won't you give us a week or a fortnight to talk about it? That is all we want to do—talk about it.' Everyone in hotels, clubs and restaurants and every member of this Parliament knows the inevitability of every workplace becoming smoke free. There will be no exceptions: that will happen. So, let us work our way through it. There is no need to upset the hotels and licensed clubs in our electorate, particularly at this somewhat sensitive time, I would have thought, for at least a dozen members opposite. I would have thought that this would not be the time to upset those people, even if they think passionately about the issue of having no smoking in these areas. Had they thought it through a little, they would see that, because of the way in which 'no smoking in the workplace' has rolled on, the problem will be solved by those who believe in that. They would not have to do a thing for the next six months, and the problem would have solved itself.

So, whoever of these backbenchers bought the line from the Minister for Health, who is sitting on about 65 per cent in a relatively affluent area, that this had to be done this afternoon or before the election, must have come down in the last shower. I cannot understand their mentality. I can understand the Minister for Health doing this. He is sitting pretty. I can understand the Treasurer doing this, although he is probably a bit annoyed because there will be a delay in his revenue measure. It is a pity that he is not still the Deputy Premier, because he would have had a bit of clout and been able to say, 'If you want to do this nonsense before the election, get your own Bill; don't interfere with my revenue raising measure. If you want the rows, if you want to give a lot of grief to a dozen backbenchers, do it yourself; don't have me sitting next to you; don't involve me in your stupidity.'

The timing of this is silly. I am sure that I will debate at great length the substance of these amendments. Let us not forget the Treasurer and the original Bill. Many of the clauses involve a tax increase, even though this Government promised no tax increases. The Bill contains 84 clauses, so there is plenty of scope for debate on the Treasurer's side of it not just on this folly of the Minister for Health. I think the Minister for Health has an obligation to tell us why this must be done today. When the shadow Minister for Health informed the Committee of a deal that had been offered by the Minister for Health of 'Amendments today, debate tomorrow', the Minister for Health said that was a private conversation.

I am extremely keen on keeping private conversations private, but when a Minister discusses with a shadow Minister a parliamentary timetable for debate, that is not private—it involves us all. There are no new rules. If the Minister says, 'Amendments today, debate tomorrow', one ought to be able to rely on the Minister having thought it through and discussed it with the Leader of the House or whoever. The Minister ought not keep from his colleagues the fact that he said, 'Amendments today, debate tomorrow'. There is nothing confidential about that. If the Minister thought that there was some reason why that should have been kept confidential, I have no idea what he was thinking. If, as happens constantly, Ministers and shadow Ministers discuss the timetable for various pieces of legislation, we are all entitled to know. It has never been a secret. That is the way we disseminate the information about what is to be discussed and when.

So, I think the Minister is rather harsh in suggesting that a private conversation has been brought into the public arena. In any event, I think tomorrow is a disgrace. The fact that the Government through the Minister has not discussed its position with the industry is disgraceful, particularly given the fact that the industry eventually complied with the Government's wishes. They then say that the Parliament must deal with it, so that we cannot have a Caucus meeting about it. The Government has had Caucus meetings *ad nauseam* to try to sort out its position, but we are not allowed to have a Caucus meeting about it. The Minister may well have got support for it, but I have no idea, because we have not had the opportunity to debate it.

I have never seen a substantial issue brought into the Parliament which, never mind the public at large, the Opposition has not had an opportunity to discuss. This is not a trivial, relatively meaningless amendment about which we could have had a quick meeting. This is a substantial issue. That is demonstrated by the difficulty that the Government is having in the Party room regarding this issue—and, I have no doubt, subsequently in the Parliament. I am not sure what the member for Playford and the member for Elizabeth have decided to do. I do not have a clue about whether they will formally oppose it, because we have not had a chance to discuss it.

Whatever the decision is, as members know, I will be going along with it. Everybody on this side may oppose it, but not because we are necessarily against it. It is inevitable that every workplace will be smoke free—end of story. You can lose a few seats over it if you like—go ahead! You can listen to the member for Adelaide with 64 per cent, but go ahead—that is up to members opposite.

If members on this side oppose it, and I am sure some members opposite will also oppose it, when it inevitably happens and the licensees and club owners come knocking on the door you can say, 'I'm sorry, I opposed it; go and see someone else.' There may be difficulty in getting it through. It may well be that some Liberals in the Upper House will also oppose it. If we are all opposing it up there, I do not know what the outcome will be. The safest thing we can do is oppose it, but not because we are all necessarily against it. It will happen, so why get yourselves tied in a knot?

The CHAIRMAN: The honourable member has been speaking for some 17 or 18 minutes on this call.

The Hon. Frank Blevins: It only seems like two or three minutes, Sir.

The CHAIRMAN: Not to the Chair. I propose to call the member for Kaurna. The honourable member has two further calls if he so wishes.

Mrs ROSENBERG: I rise because, unlike some other members, I have had an opportunity to speak to my businesses. In the electorate of Kaurna I have 37 businesses that fall into the categories of food stalls, hotels, clubs, restaurants and pizza bars. I faxed them a request to be faxed back to me on their attitude towards a 50 per cent and 100 per cent ban and asked them to make a comment on how either would affect their business. Four only of those responses I received back are in favour of either a 50 per cent or a 100 per cent ban. So, I have a clear idea of what businesses in my electorate are saying. I have also heard, from lots of surveys that have been presented to us, that the general public—perhaps 75 per cent of the people who use those services—are in favour of a 100 per cent ban. That leaves me in a difficult situation.

The CHAIRMAN: The honourable member is placing the Chair in a difficult situation because she is canvassing the substance of new clause 46A at page 24, whereas we have suggested that members stick to clause 2 amendments, which simply relate to the date of operation.

Mrs ROSENBERG: I will do that by saying that I do not believe that this is a health measure. If it were a health measure it would be introduced immediately. It is not a health measure for other reasons, on which I will expand later. If it is a health measure you simply ban smoking and do not make exemptions for smoking bans. As I have been restricted by the Chairman, I will expand on those other matters later, but at this stage I question in clause 2(2) the time of operation, merely because if this is a health measure it ought to be introduced immediately.

Mr WADE: In referring to clause 2, I find myself in a situation where I agree with the comments made by the members for Playford and Giles on the amendments. I was disappointed that the opportunity was not given for these amendments to sink or swim on their own merits. These amendments were tacked onto a money Bill that would have gained credence and favour throughout the House because the money Bill was persuading people via their hip pockets to smoke cigarettes of a lesser tar content, purportedly involving a lesser risk to their health. Yet this tacked on measure has nothing to do with tar content and smokers' health. This amendment is an extension of the Bill and is concerned with the health of non-smokers in public places.

I know of no ground swell of public discontent that led to this amendment. I know of no demonstrations through the streets. I have not seen one placard or chanting mob outside restaurants that allow smoking. I have not seen any threats by any group to blackban restaurants, taverns, hotels, clubs or cafes that allow smoking. Why not? Because the clubs, hotels, taverns and cafes belong to a customer orientated industry: that is their focus. If people do not like it, people will not go there. If people do not like the fact that something is happening, they will not frequent the place. Over the years, because more people are smoking less, the clubs, restaurants and cafes have made non-smoking areas larger, until we get to the point where the new Cafe Buongiorno opens at Mitcham and one quarter is for smokers and three quarters is for non-smokers, which is fine. However, the question I ask on clause 2 is—

The CHAIRMAN: The honourable member, as with the previous member, is canvassing the substance of the later amendment rather than the commencement—the subject of the amendment to clause 2.

Mr WADE: If you, Sir, will bear with me for another 10 seconds I will lead up to my major question. If society is changing, if the industry recognises that change, if by the year 2000, as I am certain will be the case and as the member for Giles says, we have a smoke free working environment (and restaurants and cafes are working environments), why are we putting January 1999 as a starting date for this measure? By the time this amendment comes into effect there will be no effect for it to come into. If this is a threat to get the hotels, taverns and cafes moving now, why not make it the year 2000—a good round number? By the year 2000 there will be no need for it.

If it is really a health issue, why are we waiting through 1997 and 1998—two more years during which people can, through passive smoking, contract cancer, emphysema and all the other things that people get from being near smokers? Why not do it right now, get it out of the way and recognise it for what it is? I can see no rationale or logic at all behind the commencement date of January 1999.

Mr MATTHEW: I, too, am concerned about the commencement date of January 1999, but perhaps for somewhat different reasons than those already expounded upon. I would very much like to see these amendments go through and come into effect much earlier: perhaps 1 June of this year or earlier would be a much more suitable time. I respect the fact that politics is the art of compromise. It may be that in another forum some of that compromise has already come into play and that is how 1 January 1999 has come into effect in these amendments. The Minister may wish to speak to that further.

I would like to see an earlier date. In conforming to the art of compromise, I could accept 1 January 1999, if necessary, simply to have all these amendments pass through for what is a very necessary and overdue change and one supported strongly by the great majority of the South Australian public. I will address that and some of the survey results I have in hand a little more as we move through the analysis of various clauses to the insertion of clause 46A at a later time in Committee. I would put to the Minister that he consider moving an earlier date than January 1999 but, in his wisdom and following through the art of compromise, if he believes that that is necessary to get all the clauses accepted, I can stand that.

Mr BECKER: To be consistent over the years, I have always criticised the Government of the day when it brings in legislation at this late hour in the legislative program without giving members the opportunity to consult, research and prepare an informed debate on the subject. When I first came in here, legislation was brought in one day and you were required to debate it the next day. That is how Dunstan ran the Government at the time. We know the Opposition was treated with contempt, but so were the people. Here we are in the 1990s, and we are still paying for some of those terrible mistakes. We will take a long time to pay for some of the stupid folly and errors of the Dunstan era in Government.

Also, to be consistent, I must rebut the argument of the member for Bright in respect of this legislation, which I do not support in any way, shape or form, because I believe the industry needs more than at least 18 months to prepare for it. While I think 18 months is fair and reasonable, I am still not happy, because it will involve a huge capital cost for some people, some companies and some organisations. It may well mean the difference between viability and going out of

business. As a member of Parliament I am not here to put people out of business.

We should be honest about this: the best debates occur in the Party room or the Caucus room and not in this Chamber. What goes on in this Chamber is only part of the deal. The real debate is in the Party room where the principles behind an issue are looked at and considered. I take umbrage at remarks by people like Duffy in the *Sunday Mail* when he takes a swipe at the backbench of the present Government. The best legislation is coming before Parliament in most circumstances thanks to the Government's very observant and diligent backbench.

For the first time in many years, we have a backbench that is prepared to question, query, work and look at every piece of legislation brought into the Parliament. That is how it should be. If the backbench defeats the Ministry, if it can correct anything the Ministry wants to put forward, that to me is a true democracy, and that is how it should operate. There are many of us in the Government who feel that this legislation may not be in our best interests and that the commencing date of the first week of January 1999 may not be in the best interests of the most vital industry that we have left (and we hope that it is viable in South Australia)—the hospitality industry, which plays such an important role in the tourist industry, let alone the role of the licensed clubs in this State.

I am bitterly disappointed at the attitude of the licensed clubs in laying down once again and letting the Government walk all over them. The licensed clubs have as much to lose in this as anybody else. I can only relate my argument to the Lockleys Lawn Bowls Club, where I am a member. The committee has decided that cigarette smoking will be banned in the premises as of 1 May. The clubroom consists of a room similar to this Chamber, and it has a bar at one end and tables to seat about 180 people at the other. You can sit at a table and have a drink, and on occasion meals are served from about 5.30 p.m. until 9 p.m. That club has decided to ban cigarette smoking as from 1 May, and already about one third of the members have said, 'We will go somewhere else.'

That is the attitude of people today. They are transient. They are not loyal to any one particular establishment. If you think you will achieve something by doing this, I am damned if I know what it is, apart from making people move around. They will go to the Adelaide Airport Bowling Club, which perhaps will not bring in this legislation, because it does not have to, as it is on Commonwealth land. If it is half smart, it will take no notice of this legislation whatsoever. No thought has been given to Commonwealth land at all.

Mr Clarke interjecting:

Mr BECKER: They could well do. I am surprised that they do not have pokies there, either. There might be something there for me in my retirement. I am bitterly disappointed that we have been given such short notice. We do not have the opportunity to consult on the legislation with the industry. I have lost count of the number of hotels in my electorate in Thebarton and Hindmarsh, and there are quite a number of licensed clubs as well. They are all entitled to have a say and put their point of view to their committee. You just do not call a committee meeting within a couple of days. You have to give notice to the committee members, and give them an opportunity to talk to their friends in the organisation. It does take quite some time. I cannot understand the rush. I cannot understand the stampede to get this legislation into South Australia, let alone other States, unless someone is trying a little one upmanship to be the first State in the Commonwealth to enact it.

I sympathise with those in small business and with all retail traders in this State. It is hard enough to make a quid as it is, yet we seem to be putting obstacles in their way all the time. By banning cigarette smoking in a particular area between certain hours, and banning cigarette smoking here, there and everywhere else, it defeats the whole purpose of what my Party stands for—a private enterprise Party, a free enterprise Party, and a Party against regulation. We believe in deregulation. The debate has relied on shonky statistics, which I proved last night during the second reading debate. In fact, the main ring leader in the debate over the years, Simon Chapman, who is now an Associate Professor of health at Sydney University, has admitted that the statistics that have been used for almost 40 years are flawed. When somebody passes away, they use a small percentage of the cause of the death which may be associated with cigarette smoking as a vital factor.

If you go to a doctor and say, 'I have a terrible pain in my leg', he will diagnose it as smoker's leg. I have not smoked a cigarette for 15 years, and I am told that, after a couple of years, once you have stopped smoking, it does not have that impact. That is how farcical the statistical data has become over the past 30 years or so. It just gets worse and worse. It has built up like a cyclone and it is getting stronger and stronger in respect of the damage it is causing, yet nobody sits down and assesses the effects of cigarette smoking and its impact in the community. By jingo, if I owned a hotel or a restaurant, or if I were the secretary manager or president of a licensed club in this State, I would be furious to think that, while they are slowly getting back on their feet, slowly providing the service the patrons in the community or the members of the club want, bang, in comes another belt by the Government.

I think we need to take a bit of time off from this legislation, take a deep breath and consider our situation. That is why, in principle, I oppose the rush to pass this legislation. More importantly, we ought to step back a little and do a lot more consultation before we give any more thought to it.

The Hon. M.H. ARMITAGE: It is important to rebut a number of the things said for political reasons because even members of the Labor Party would acknowledge that legislation which decreases smoking is not only popular but good legislation. I emphasise that this legislation is not about whether one smokes—it is about where one smokes. The member for Elizabeth identified, incorrectly quoting me, that I had had 'intense and overt' public debate. That is not what I said: I said there had been intense and overt public debate. In the past three or four weeks, most radio stations—if not every radio station—have discussed this matter. Certainly, there have been talk-back sessions on this subject, and a large number of polls have been done. Two of the results of those polls are interesting. On 11 February, Julia Lester asked whether smoking should be banned in all enclosed places, and 93 per cent of callers said 'Yes'. I believe SAFM on the same day also asked whether smoking should be banned in eating premises, and 77 per cent of callers supported that proposition.

As well as nearly every radio station, as identified, I think nearly every television station has covered this matter in some way. Certainly, on a number of occasions the *Advertiser* has canvassed different view points, as has the Messenger Press. I suggest that that constitutes intense and overt public debate. I will come to my consultative process in a minute, because that has been the subject of a question. On 22 February the *Advertiser* carried an article in its Insight

section. It is only fair to identify to people who look to the shadow Minister for Health's vote on this matter that on 22 February the shadow Minister said in relation to this ban:

> It's a step in the right direction. . . We know the danger of tobacco smoking. It's undeniable.

I look forward to seeing the way the member for Elizabeth votes on this issue. She has identified publicly that it is a step in the right direction. She has identified that smoking causes harm—undeniably—and she is the shadow spokesperson for health for a Party with a proud history of representing people for over 100 years. It will be fascinating to see the way the member for Elizabeth votes on the substance of these issues. We will see whether, as spokesperson for the Labor Party, she is prepared to say that it is undeniable that smoking causes disease and that this is a step in the right direction.

The Hon. Frank Blevins: Read it all.

The Hon. M.H. ARMITAGE: I have no need to read it all, because that is the quotation.

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: I will address the matter. The member for Giles is talking about—

The CHAIRMAN: The member for Giles has the right to two further calls if he is so dogmatic to insult the Minister.

The Hon. M.H. ARMITAGE: There is absolutely no question that in the article the member for Elizabeth talks about the process which the Opposition will have to go through in considering its perspective. I do not deny that, but equally I am concerned about how the member for Elizabeth—I am not concerned about the member for Giles or the Leader of the Opposition—votes on this issue when she is quoted as saying:

> It's a step in the right direction. . . We know the danger of tobacco smoking. It's undeniable.

I look forward to seeing how she votes on this matter. A number of speakers have indicated that perhaps the consultative process left a little to be desired. Perhaps those members do not know the facts. I have consulted with the Tobacco Institute, the President and Chief Executive Officer of the Licensed Clubs Association of South Australia, the Australian Medical Association, Living Health and the National Heart Foundation and, just so that the member for Giles can take particular note of this fact, I have consulted with the Australian Hotels Association on three occasions. I have consulted with the South Australian Catering and Restaurants Association and the Anti-Cancer Foundation; and, through intermediaries, I have consulted with a number of major restaurants directly and a number of others have phoned me to give me their opinion.

I have consulted with the head of the Reception Centre Association in South Australia and, again through intermediaries, I have consulted with the Italian Club and the Veneto Club. I have consulted at length with people in the community because I have had large numbers of letters to my electorate, and I have had endless discussions with people in the street, because it is not possible to bring in legislation such as this and not consult with people, because everyone has a view about it. It is fair to say that, other than the Tobacco Institute, the licensed clubs in one area, which I believe the amendments cover, the Australian Hotels Association and the executive of the Restaurants Association, but not large members of the association—and the Catering and Restaurants Association indicated to me that it represented only 35 per cent of restaurants—99.9 per cent of the people to whom I have spoken have said that this legislation is well overdue.

Mr Clarke: Do they smoke?

The Hon. M.H. ARMITAGE: The Deputy Leader asks, 'Do they smoke?' A survey done in the past two weeks in doctors' surgeries where people are ill shows that 55 per cent of smokers who returned the survey say it is a damn good idea, and that is not to talk about the 80 per cent of people in general who think it is a good idea. The answer to the Deputy Leader's question is 'Yes'. It is fair to say there has been one negative, but the overwhelming majority of people to whom I have spoken have said that this legislation is long overdue.

Obviously, the member for Giles has forgotten that he was once the Minister for Health and was charged with the responsibility of the health of people in South Australia. He has clearly discarded that for political advantage. That is the sort of benchmark that the people in South Australia have come to expect from the Labor Party. However, the member for Giles went into great detail to talk about the voluntary code and how restaurants would follow that because this was going to happen anyway.

A voluntary code of practice was introduced in February 1991 and it was used by only 15 per cent of the restaurants with a policy, and only half of those with a policy were adhering to it as prescribed. It is simply incorrect to say that the voluntary code of practice is working, because it is not. This concurs with a study in New South Wales, which indicates that a voluntary code is ineffective in encouraging restaurants to introduce non-smoking policies.

The member for Kaurna identified that a number of small businesses in her electorate expected problems. That is a given. I have identified in the Party room that people's expectations are of problems. However, the surveys indicate that those expectations are not fulfilled; it is as simple as that. The surveys indicate that 70 per cent of restaurants that bring in non-smoking areas experience no effect on their trade and 21 per cent experience an increase. That is exactly in line with experience around the world, which indicates that there are some smokers who stop going to restaurants, but that is more than made up by the number of non-smokers who choose to go to restaurants more often. This will not affect trade. I have stressed that to all the restaurants and to the AHA. It is simply not logically correct to say that this measure will affect trade. I acknowledge what the member for Kaurna says—that the restaurants in her electorate fear that. However, all the surveys indicate that that fear is not fulfilled. If at this stage members wish me to address the second amendment, that is, why this section—

The Hon. Frank Blevins: No.

The Hon. M.H. ARMITAGE: Very well, I will address that later.

The CHAIRMAN: The Minister indicated that he would move only the amendment to clause 2, page 1, line 19. I accept the Minister's statement.

The Hon. FRANK BLEVINS: I rise on a point of order and seeking clarification. My understanding was that the Minister was speaking only to the first amendment and that I had three opportunities to speak to that. I hope that, by allowing the Minister to take the two of them together, you are not preventing me from speaking three times on the second amendment, which refers to the date.

The CHAIRMAN: By accepting only the first amendment as moved by the Minister, to clause 2, page 1, line 19, the Chair is actually giving the honourable member the opportunity to speak five times—

The Hon. FRANK BLEVINS: That is sufficient clarification.

The CHAIRMAN: —rather than three times. The honourable member is having his opportunity to speak widened by the Chair's decision and by the Minister's moving—

The Hon. FRANK BLEVINS: I am still not clear. As to the amendment to clause 2, page 1, after line 19, 'Insert subclause as follows', I want to speak for approximately three-quarters of an hour on that provision alone. I have restrained myself to speaking to the amendment to clause 2, page 1, line 19, 'After "This Act" insert "(other than section 46A)".' I have two more contributions to make on that amendment.

The CHAIRMAN: The honourable member is simply echoing what the Chair said, and the honourable member was not restrained at all: the honourable member had 18 minutes instead of 15. The Chair was generous on the first call.

Ms STEVENS: I wish to take up some of the points made by the Minister and ask for further clarification from him. I accept that he did say that 'there has been intense, overt public debate', but I would now like to pursue that. The Minister justified the process for introduction of this legislation on that basis. He cited as examples of that the talk-backs, the newspaper articles, the Julia Lester 5AN breakfast show survey, which is listened to—

Mr Brindal interjecting:

Ms STEVENS: I also listen to Julie Lester and I enjoy that segment, but I know that it is not a high rater.

The Hon. M.H. Armitage: She will be thrilled with that.

Ms STEVENS: She would know that this is the case. I enjoy that show, but I know that it is not a high rater. The Minister also mentioned SAFM radio station. The Minister's use of those examples as justification for his statement that there has been intense, overt public debate is absolute rubbish. The people who were debating, ringing talk-back shows and participating in the surveys were never really sure of what the Minister would be doing. In fact, he said at one stage that he would not deal with this through the media. He said very early on in one of his first statements that he would not conduct this debate through the media. Now he is using the media, listing them all and using them as evidence that there had been an intense, overt public debate. This is rubbish. If the Minister was serious about a public debate, he would have set parameters around what he was aiming to do. He would not—

The Hon. M.H. Armitage interjecting:

Ms STEVENS: I will get to that, but first things first. If he was serious about an intense, overt public debate, this Minister would have planned to consult widely, planned to have some structure in the debate and given the community some information about what he was looking at doing, enabling the debate to be a constructive one that went somewhere. He did none of this. We had snippets of information from various sources; and we had people running around feeling extremely angry because they really did not know what on earth he was getting at. The Minister listed, very proudly, all the people with whom he had consulted. But what does the Minister mean when he says 'consult'? The people I spoke to said that they were very confused about what the Minister meant by consultation, because in many cases it meant the Minister's just saying, 'We are doing this', or, 'What do you think about that?' and, 'I cannot tell you any more about it because it is to be discussed in the Party room.' This is what this Minister calls consultation. Consultation is taking people seriously, talking about people's views, listening to what they have to say and working it through. This did not happen: everyone knows it did not happen.

Concerning the quoting of my comments in the *Advertiser*, I did say what the Minister said I said, except there was another sentence or two which he did not want to read out. I said something along the lines of—

The Hon. M.H. ARMITAGE: I rise on a point of order. The member for Elizabeth says that I did not quote other sentences. There are no other sentences in the article.

Ms STEVENS: Is there a point of order, or may I continue?

The CHAIRMAN: There was no point of order, but the Minister made his point.

Ms STEVENS: The article states:

> Opposition health spokeswoman, Ms Lea Stevens, says Caucus will discuss the proposal after she has obtained the information the Minister distributed within the party room and she has gathered opinions from affected parties. 'But it's a step in the right direction,' Ms Stevens says.

Actually, those things were said before, not after: you are quite right on that tiny point. The article continues:

> 'We know the danger of tobacco smoking. It's undeniable.'

I personally take that position. I am a non-smoker and the shadow Minister for Health. I am very much aware of the dangers of tobacco smoking.

Members interjecting:

Ms STEVENS: Mr Chairman, I wonder whether I could have some protection?

The CHAIRMAN: Members are unduly rude to their own speaker. I find that unusual. The member for Elizabeth.

Ms STEVENS: In dealing with an issue such as this, there is more than one way to skin a cat. When you want to bring in something such as this, the way to proceed is certainly to hold your own view, but you need to listen to the other players, you need to hear what their issues are, you need to hear what they perceive as problems for them in going where you want to go. That is what consultation is about: it is about getting people on side with you by trying to find where the different parties' views coincide, and it is about moving people in those directions together. Certainly, my view, as a non-smoker and the shadow Minister for Health, was that it is a step in the right direction. However, as a policy maker and a member of Parliament whose job is to gather all the information and points and then put them into something that our community as a whole can live with, I must also listen to other people, to try to work with them, to see the issues from their point of view and their perspective, and to work a way through this to achieve the end point.

I do not believe that this Minister has any idea of that process. He has demonstrated it here and he demonstrated it with the health Bill earlier, when he exhibited the same arrogance and the same lack of understanding about the way things are done and about the way you explain and work with people towards outcomes. I stand absolutely by what I said in the *Advertiser*. It is what I think, but the way I would proceed is very different from the way the Minister for Health has proceeded.

As I said earlier, I believe that amongst the stakeholders there was a willingness to work through a process but, because of the way in which this Bill was handled from the top, that opportunity was denied. Instead, all the people who could have worked together on this and other issues were not given that opportunity: they were kept in the dark while this Minister dithered and played his own games for his own ego

so he can beat himself on the chest and say, 'Look what I have done.'

When the Minister for Health was on television after the first meeting, I was told that the Minister was actually salivating. I had not thought of that myself but, when I heard those words and remembered the way you came across, I recognised that it was true. The making of public policy and changes such as this involves people working together, and I stand by what I said. There are many ways to reach an outcome, but the way in which this Minister has gone about it has simply served to put off side large numbers of people who would have liked to be on side.

Mr CLARKE: I give the Minister some credit for tackling this important issue. However, had it been handled differently, as the shadow Minister has pointed out, I for one might have had a great deal more sympathy with respect to the legislation. I am a non-smoker and an asthmatic, and my daughter is an asthmatic. I cannot go into some hotels or some restaurants if the smoking is too heavy. The restaurateurs association and the Hotels Association have said that they have a voluntarily code with respect to provision for non-smokers. Unfortunately, on a number of occasions when I have gone into restaurants and hotels with my daughter and asked to be shown the non-smoking area, they have looked blankly at me and said, 'I'm sorry, we do not make provision for it.' There are a number that do, but there are still too many hotels and restaurants that do not make sufficient provision for non-smokers. To a certain degree, they have brought this measure upon their own head by lack of action on their part.

In one sense, I could have commended the Minister for bringing forward this legislation. Like the shadow Minister for Health, the member for Elizabeth, I would have preferred a much more open process. To a degree, I think I know what the Minister's strategy might have been: if it is out in the public arena for too long, various interest groups have more time to organise themselves to thwart the overall legislation. However, in this case, the brevity of the debate and the way in which the measure has been introduced has resulted in getting the Opposition off side when the Minister could have had the Opposition very much on side had he gone about it a different way.

The Minister shakes his head and indicates 'No.' On some issues, the Minister might have been right: it would not have mattered what process the Minister followed, the Opposition would have opposed him on philosophical grounds. However, on this health issue, the Minister might have had a far greater chance of success, because we on this side of the House are not dogmatic in opposing the Government's position for the sake of it. Quite frankly, we are dealing with health.

It is a little hypocritical. I was watching the five o'clock news a few moments ago, and the Treasurer was interviewed in response to an attack mounted on the Government by the Anti-Cancer Foundation because of the paltry amount of money being spent by the State Government on anti-smoking advertising, particularly that directed at young people. A paltry amount of money is allocated to constantly reinforce to young people, through the power of advertising, that smoking is bad so that increasingly they will be turned away from cigarette smoking.

All the Treasurer was able to say was, 'We need every cent we have to spend on the running of the State and we will not allocate one zac extra to an advertising campaign designed to eliminate cigarette smoking in our community.' It is a bit rich for this Government to say that the Opposition is in the hands of the smoking lobby because it will oppose the legislation when the Government will not spend a zac extra in committing resources to eradicate smoking amongst young people, not only at schools but also in a whole range of areas. The Government is prepared to have Living Health spend $100 000 on Skyshow rather than committing $100 000 to positive promotion of material amongst young people to eradicate smoking. Minister, you cannot have it both ways with respect to this matter. That is an absolute waste of money.

The Hon. M.H. Armitage interjecting:

Mr CLARKE: But all they see at Skyshow is the sign 'Living Health'. Most people only know 'Living Health' as a slogan for, perhaps, a community health insurance scheme or something of that nature. You would be better off spending it on advertising in areas where young people congregate, and constantly reinforcing the theme. Also, whilst I am a non-smoker and prefer to dine in non-smoking areas—I resent being seated alongside tables of 10 people who are all smoking and who put their cigarette up in the air so that the smoke drifts over my table, and I proceed to choke—the fact of the matter is that these business people are entitled to some consideration in terms of how they can adjust for the future. They employ large numbers of people, and I do not understand why people cannot smoke in the front bar of a hotel and still get a $3 counter meal.

The Hon. M.H. Armitage interjecting:

Mr CLARKE: I will deal with that in more detail. The Minister could have had our support—a significant number of us are non-smokers, and even the smokers among us recognise the health aspects—and still been the first Minister in Australia to achieve significant reform in this area, had he gone about it in a different manner. The Opposition cannot be treated with contempt or in this cavalier fashion by dropping this piece of legislation on us at 2.30 this afternoon, expecting us to click our heels and agree to it. We also have our constituencies. As the member for Kaurna pointed out, we have in our electorate large numbers of hotels, licensed clubs and, particularly, sporting clubs which survive on their bar trade. A number of their members smoke, and they fear the loss of income as a result of the banning of smoking, especially in sporting clubs where eating is provided.

The Hon. M.H. Armitage: That's covered.

Mr CLARKE: The Minister says that that is covered. I am glad that he can give us such an assurance, because the hotel industry, licensed clubs and a number of stakeholders in this industry tell us differently. They have grave concerns about the financial viability of their organisation.

The Minister will probably come to grief on this legislation. That is unfortunate, because had it been handled differently it could have proceeded with bipartisan support and he would still have been the first Minister in Australia to achieve this, and the Opposition would have been happy to applaud him for it. Unfortunately, he has bungled this attempt.

Mr QUIRKE: I find this somewhat curious. Last week, we were told in various ways that restaurants were happy with the proposal. We first read about this in Greg Kelton's column in the newspaper. He is the one bloke in South Australia who appears to have been consulted, even before the Liberal members of Parliament in this place. When I read that article, I thought that Greg must have had a short day of news, because I did not think anyone would be stupid enough to do this. I have been proved wrong once again, because someone has been stupid enough to do this. I want to put on the record an open letter dated 5 March 1997 to members of

the South Australian Liberal Party. Headed in big black letters 'Restaurants oppose smoking bans', it states:

> Having heard the references by the Hon. Dr Michael Armitage, MP, to the 20 prominent South Australian restaurateurs who have pledged support to the proposed smoking ban legislation in enclosed restaurants and dining areas, the South Australian Restaurant Association would like to offer for your consideration the names of the following prominent restaurateurs who are opposed to the legislation for the following reasons:
>
> 1. The industry has been afforded no consultation in formulating policy.
> 2. The restaurant and cafe industry has been unfairly discriminated against in allowing the continuation of smoking in bars, designated areas and gaming rooms and goes little way to achieving an otherwise welcome smoke free environment.
> 3. The policing of such a proposal is unworkable in the environment in which we operate.
> 4. The industry believes that changes in attitude in the wider community are already occurring and greater outcomes can be achieved through the voluntary process.
>
> Examples are available. For further information on the comments of these or other prominent South Australian restaurateurs, please contact the Executive Director, Jenny Ellenbroek. . .

The letter provides a telephone number. It is written under the hand of the Executive Director of this organisation on the letterhead of the South Australian Restaurant and Catering Industry Association.

So, I suggest that this Minister has not done his work very well and that his assertion that the restaurants want this is not correct. In fact, this association makes it quite clear. I want to reinforce the comment that the Deputy Leader made a minute ago. He said there was a possibility that quite a number of allies in this process had been alienated by the way in which this whole thing has been handled—or mishandled. I think there is nothing truer than those words. Frankly, I suspect that this is a way of unnecessarily making many enemies.

It will be a long night tonight. A number of issues are to be dealt with. Hopefully, when we go through the legislation the Minister will receive a bit of an education about this. He seemed to think that for some reason or another we would go along with this and that restaurants and many other people would also go along with it. About the only thing that he has got right is the Liberal Party backbench—and not even all of them. He tried his own version of Pearl Harbor, and it looks as though it has been reasonably successful. I wonder where those members will be next Friday morning, because as we all know that is fun time in the electorate office. I suspect a few doors will be knocked on. I do not think that pubs or restaurants will be calling, but I reckon that some football and soccer clubs will be. I hope that you have all handed out your gaming machine cheques and that you do not have any appointments this weekend with sporting clubs, because they will use you as the ashtray.

The Hon. FRANK BLEVINS: I was disappointed with the Minister's contribution to the debate on this amendment. The Minister did not quote the full text of the extract from the *Advertiser*, which shows quite clearly that the member for Elizabeth stated that we had to go through a process which included the Caucus. The Minister avoided saying that, and I think that is a great pity. It indicates to me at least deviousness, if not dishonesty. There is no need whatsoever for that. The Minister would have commanded far more respect if he had cited the full extract from the *Advertiser* rather than just a few words that he thought suited his argument.

The Minister will have another opportunity to speak on this clause, but the question still has not been answered: why now? Why today? Why can we not have a Caucus meeting to decide this major issue? Those questions have not been answered by the Minister, because there is no decent answer. The Minister is typical of a number of people who love to play God. They think they know and can do everything, that people must fall into line with their wishes. I have met an awful lot of people who are like that, especially when I was Minister for Health for a brief time. That part of the industry was infested with people who wanted to tell us and everyone else exactly what to do. If we did not go along with it, we were a disgrace to the human race. They knew everything, and they knew what was best for everyone.

I am one whose tolerance for cigarette smoke is almost zero. I might have been the Minister's biggest ally together with the shadow Minister for Health. There is only one person on this side, if I remember rightly, who actually smokes, and I am sure that that person would not have objected to the principle of this legislation. As far as I know, everyone else on this side is bitterly opposed to smoking. The Minister would not operate in that way. He chose to operate by saying, 'You will all do as I say. I am a noble doctor who knows what is right for everyone. Get out of my way, or let me walk all over you', when the problem will be solved through the occupational health and safety legislation. Every worker who demands a smoke free workplace will, without question, get it. That is the way to solve this problem.

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

The Hon. FRANK BLEVINS: We have had a break and maybe the Minister has forgotten the questions that I asked on this clause the first time I spoke. He did not answer the principal question when he did speak. I hope that he will speak again on this clause and deal with the question. I know that the member for Elizabeth also has a question, so perhaps if she has something to say—

The Hon. M.H. Armitage: Which question?

The Hon. FRANK BLEVINS: Exactly. It is clear that the Minister has forgotten the questions I asked. That is understandable, but it means that I will have to strain my voice in going through the issue again to refresh the Minister's memory. My essential question at the start of the series of amendments before us is, given that we have a starting date of 1999: why are we not allowed a Caucus meeting on this huge issue? The Liberal Party has had numerous lively Caucus meetings and that is how it ought to be. There is not a great deal of democracy around the place but what little there is surfaces in the Party room where people can debate the issue, carefully read the Bill, express their viewpoint and arrive at an opinion. That is the normal political process and I assume has been so for the 100 years or so since political Parties were formed.

Apart from whether or not we are in favour of these amendments and this proposition, we have the right to sit down among ourselves and have a discussion on the matter. We have been denied that by the Minister for something that starts in 1999. I have some difficulty with that, particularly as we are sitting the week after next. That would have been more than enough time for us to sit down and discuss it and arrive at a position.

The Minister made a criticism of the member for Elizabeth. She has a personal view that this legislation was on the right track, and she is entitled to that viewpoint. She said that she would have to go to her Caucus and that was in the newspaper item half quoted by the Minister for Health. It would have done him no harm to be completely honest with

the Committee and quote the lot, but nevertheless we have finally got that out and we have added to the Minister's selective quote. I assure the Minister for Health and all backbenchers that, if we had had the chance of discussing the matter in our Party room, it would have had a considerable number of supporters. Whether or not it would have won the day we will never know, because the Minister for Health—

Mr Brindal interjecting:

The Hon. FRANK BLEVINS: Too late. The member for Unley interrupts and says that we will have a chance before it goes to the Upper House. I am not interested in that. I want to state the position here. Had I wanted to state a position in the Upper House I would have stayed there: instead I came down here so that I could debate these matters with the honourable member.

Mr Brindal interjecting:

The Hon. FRANK BLEVINS: For 10 years I was in the Upper House and have been here even longer. If the Minister is casting aside all precedents that have existed in this Parliament since political Parties were established, there must be a good reason. I would like to know that reason. The Minister has had two opportunities to tell us and has declined but apparently is about to tell us. Why are we not permitted to have a Caucus meeting? That is all we ask. The offer was made, but subsequently withdrawn, to introduce the proposition today and discuss it tomorrow. That would have been utterly inadequate but at least it would not have been as contemptuous of the parliamentary procedure as the manner in which this Minister has dealt with the Bill.

In typical fashion the Minister sneers at the Committee. His attitude is: 'I'm the Minister, and I'll do what I like.' I can see that the Minister has been brought up in that atmosphere within the medical profession. That attitude is very prevalent in the health industry.

Mr Brindal interjecting:

The Hon. FRANK BLEVINS: It is not churlish at all. That attitude displayed by the Minister is demonstrated every Question Time. Every time he is asked a question he bristles and his attitude is, 'How dare you. Who are you? I am a doctor.' He is always extremely rude to the member for Elizabeth and enjoys being rude to her.

The Hon. M.H. Armitage: I have never said anything libellous outside the House.

The Hon. FRANK BLEVINS: If the member for Elizabeth says anything libellous, there is machinery to deal with that.

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: Quite right. I am not carrying a torch for the member for Elizabeth as she is big enough to look after herself. It is the rudeness and arrogance to which I object, particularly as this measure would have had an awful lot of supporters in our Party room. Whoever promotes it now in the Party room will have a hard job after the attitude and approach displayed by the Minister for Health.

Ms STEVENS: I will make two short points about things I omitted to say when I spoke last. When the Minister spoke he mentioned two issues in relation to the objections raised in the hospitality industry against this provision. One was the voluntary code, and he said quite clearly that he believed it was not working and, from memory, he quoted some research. Certainly his restaurant survey seemed to indicate that. That was an interesting one because in my discussions with people in the hospitality industry that was something on which they disagreed. They mentioned a number of things like occupational health, welfare and safety and how they had dealt with a number of issues. This is an indication of the poor process the Minister was using. It seemed to me that the thing to do would have been to listen to their views—

Mr Brindal interjecting:

Ms STEVENS: They said that that did not happen.

The Hon. M.H. Armitage: Who said that?

Ms STEVENS: The hospitality industry people I spoke with—

The Hon. M.H. Armitage: Which ones?

Ms STEVENS: The Australian Hotels Association and the restaurants. I am sure they are capable and would not wish me to not say what was said to me. They said there was no consultation with them at all. They were very concerned about this issue of the voluntary code and had some other points of view which I believe they would have liked to have had resolved with the Minister. However, that opportunity was not given to them.

The other issue raised by the Minister which I cannot pass over was about the reluctance of the restaurants in particular, to embrace this measure, because they were very concerned about loss of trade. I noted that the Minister said (and I think I have it exactly as he said it—he may wish to correct me slightly), 'I have stressed to them the reality that they will not lose their business because of this measure.' I think this is very interesting, because it also illustrates the style of the Minister for Health. In other words, if I stress to you and tell you this will not happen, then it will not.

That is not the reality for people. If people believe something else, you actually have to work with them and maybe you have to work through some stages towards what you want. But, of course, the Minister for Health is 'Doctor knows best', and when he gives you the word and tells you what is what, he expects you will accept it immediately. That is just typical of his whole approach.

Mr BRINDAL: I would like to register some disappointment with the Minister for a tactical reason—that we did not give the Opposition a chance to scrutinise this Bill more carefully. All I have heard from members opposite is excuses why they cannot make up their minds on this issue. I would actually like to have heard the Opposition's argument had members opposite been given a chance to discuss this, because it strikes me that we have presented a rather easy way out. I would just like that on the record.

Mrs ROSENBERG: I tried earlier to make some broad comments about the Bill and was told that I needed to restrict myself to the clause, which I did. However, I have now noticed that everybody else who has stood up has gone fairly broad, so I will test the waters once again. One issue I would like to raise relates to the Minister's comments about my statement that I had contacted the hotels, clubs, small pizza bars, etc., in my electorate and asked them how the 50 per cent and 100 per cent bans would affect their business. I do agree that they would probably expect that downturn.

Although I have no problem at all with this ban on smoking in restaurants, my problem is that I represent an electorate where visits to restaurants are not the norm. Visits to eating places (which I frequent also) in my area are to places like my surf clubs and football clubs, where we go on a Friday night and have a meal for $3. That is the norm as regards eating out in my electorate. My constituents—and, I would say, most of the people who visit the front bar also—expect to eat a meal in the front bar.

I see inconsistency in this in the understanding of what is a restaurant and what is a hotel. To me, a restaurant is

probably more a place where I expect to go to sit to eat, mostly just to eat, whereas a hotel is a mixture of a front bar to perhaps have a beer, go to the poker machines for a while, and maybe have a counter meal in the lounge. It is a different mix of expectations when you walk through the door, and it is certainly a different mix of people who frequent those establishments.

I do believe that there is genuine concern in the community, and that if you ask the question, 'Would you agree with a 100 per cent smoking ban in restaurants?', you would get a 70 per cent to 80 per cent 'Yes'. But if you go to the front bar of the Port Noarlunga Hotel, which I have done, and ask the same question, you do not get 70 per cent or 80 per cent who say 'Yes'. However, I believe that those people, who are just as important as those who visit restaurants, are the ones whom we forget in this Bill. I would be happy to see the issue canvassed in such a way as to make an exemption whereby, if there is within the enclosed area a bar, in terms of the definition of 'bar' in the *Macquarie Dictionary*, we then make that particular area exempt from the 100 per cent ban.

Further, I am a firm believer that, if the market forces dictate that it truly is more acceptable to go to a restaurant or eating area that is smoke free, the market will decide that. The market will indicate to me as a non-smoker who absolutely hates smoking and hates going to places where there is smoking where I should go to enjoy a smoke-free area. If those running the business know there will be a 30 per cent increase in people who will go to restaurants more often because it is non-smoking (as the surveys show), then the market will decide that.

Let me contrast two places at which I have eaten recently. One was a small restaurant on Unley Road. The clientele there would have expected that restaurant to be smoke free: that was the expectation at that smoke-free restaurant. On Friday evening, I took my children to the Christies Beach Sports and Social Club for tea, which we do most Fridays. The clientele do not expect to walk into such a club and for it to be 100 per cent smoke free. It is their expectation, and it is their market choice to decide on one against the other. That is where I am really quite concerned and wondering why we cannot make the exemptions broader.

The other key issue is one involving not so much the regulation that is being imposed upon the businesses but the reason for choosing to impose that. Let the market forces take their course and let people choose one or the other. As the member for Giles has indicated—and I believe he is quite right—as time goes by, all these places will be smoke free anyway, and then market forces will take their natural course, as they are doing in shopping centres and small restaurants now. I really wonder why we have to impose that measure when what is envisaged will actually take place as time goes by.

In the three years and so many months that I have been here, I have not had one single person complain to me about the fact that a particular restaurant in the electorate of Kaurna is not a good place to visit because of the amount of smoke within that restaurant. However, I can guarantee that, as the member for the electorate of Kaurna, I will suddenly have a huge range of people come to me and ask what right I have to tell them that they can no longer smoke in the front bar of the Port Noarlunga Hotel during certain hours because a meal might be served. There might not necessarily be a meal being served at any part of the bar, but because the potential is there to serve a meal, they are not permitted to smoke.

My other great concern is who will police this matter. Who will actually hold the publican, or the small volunteer staff that man the Christies Beach Sports and Social Club, responsible for policing the activities of, say, two lads who come in off the street and decide to light up? Who will tell them that that is not acceptable?

The Bill addresses this in a most peculiar way, and I will talk to that clause when we come to it because I am not satisfied with the way that matter has been addressed. It is a disadvantage that this provision has been included in the tar content part of the Bill, because I support that part and it places members such as me in a difficult situation when we have problems with a major provision of the Bill but support the Bill as a whole. It is a disadvantage for those members who have stood up to be counted. I put on record that in the three years I have been here I have not made decisions on the basis of whether or not there is a vote in it, but I have made each decision on the basis that it is the right thing to do on behalf of the electorate. I will continue to do that, but I do not like being placed in a position where probably I will vote for a Bill about which indirectly I am not terribly in favour of.

Mr CONDOUS: I hear continually in the Chamber about the lack of consultation with the industry. I know that the industry has been consulted, but does the industry matter or do we have a situation where the clientele using the industry's facilities are the most important aspect? I remember when Qantas decided to stop people smoking on all Australian domestic flights. It did not approach the three or four million people who fly with Qantas each year and ask, 'Do you agree with our creating a smoke free environment on all domestic flights?' Qantas did it and its clientele increased because people were satisfied to travel on an airline without having some galah three seats forward smoking for the entire flight and blowing smoke into their food and beverage.

When Qantas decided to ban smoking on all flights to South-East Asia, people said, 'No-one will fly with them.' But in a short time Malaysian Airlines and Thai Airlines followed suit. The next thing was that no-one was allowed to smoke in any Australian terminals. It did not reduce the clientele or chase anyone away. I remember when the same thing happened at Football Park when it was decided that it would be a smoke-free arena. I did not see anyone cancel their membership: Football Park still had capacity crowds and people enjoyed the game a lot more.

One of the most important considerations is to try to encourage our young people to steer away from taking up the habit of smoking. Unfortunately, we are failing in that miserably because our children, especially our young females, seem to believe there is some sort of status symbol in having a cigarette in their hand, that it shows maturity, that they have grown up and all of a sudden they have come into the adult world. Members have to realise that restaurants such as McDonalds, Hungry Jacks and Pizza Hut, which specifically chase a clientele between 16 and 30 years of age, have banned smoking completely, yet they are some of the most rapidly expanding food chains in the world. Banning smoking has not made any difference to McDonalds which, this year, will develop another 70 restaurants in Australia and about 2 000 in the world. I want to say one thing: if I have the opportunity to vote against something that discourages our youth from picking up the habit of smoking, I will support it because I do not want to be responsible for having supported the coffin straps of Australians who die as a result of smoking.

Mr MATTHEW: I fully endorse the words of the member for Colton, and it is pleasing to see that we are getting sensible and logical contributions to the debate. Having some idea that there was every chance that this Bill would come before the House, in December last year I circularised my electorate to determine opinion because, obviously, I believed that such a survey was not only useful for me but also my Party colleagues in forming their considered opinions. Some of a series of questions on a number of topics, I asked my electorate the following question:

> Would you support legislation to enforce no smoking areas in all hotels and restaurants?

My electors were simply required to tick a 'Yes', 'No' or 'Don't know' box. I have already shared with Government members the results. Of the 1 053 replies worked through to date—I have received about 1 400 so far—85 per cent said 'Yes'. In other words, 85 per cent of respondents said that they would support legislation to enforce no smoking areas in all hotels and restaurants, 15 per cent said 'No' and none of the 1 053 said they did not have an opinion.

I would have thought that that was a pretty strong representation with 85 per cent saying 'Yes'. I have seen a number of surveys. We have seen surveys from the Hotels Association, and Philip Morris and other cigarette companies have put out their somewhat stilted surveys; they may have been surveys of hoteliers or restaurant owners. However, 1 053 everyday South Australians thought enough about the issue to put forward their view and post it back to me. Clearly, 85 per cent said 'Yes', they support such a move. Members could claim that 'obviously all the non-smokers have put their view forward' but, based on the accompanying comments, that is not the case. As well as having the opportunity to say 'Yes', 'No' or 'Don't know', people also had the opportunity to put a view on the subject to substantiate their answers. I will quote some of the surveys to give members an idea of the views advanced. One respondent stated:

> I am an ex smoker who saw the light.

That person is obviously saying 'Yes', no smoking. Another states:

> As an ex smoker, I don't think anyone should have to breathe in smoke-polluted air.

Another states:

> As a reformed smoker, I appreciate that both smokers and non-smokers have rights and ultimately both should be catered for, but no smoking in restaurants.

Another states:

> Although I am a smoker, I respect the rights and comfort levels of those around me.

Another respondent states:

> Ban smoking indoors totally. I am a smoker. If you need it that bad, smoke outside.

Another states:

> I have been involved in the liquor industry all my life and this legislation is a must.

Another states:

> Smoking is very unpleasant for non-smokers. It is unhealthy and bad for asthmatics.

They are just a few examples of the 1 053 comments I have received, but it is a good indication and reflection of South Australian opinion. I have no doubt that South Australians are strongly behind these amendments and strongly behind change. In looking at this clause, we are also looking at the final timing, and my only concern is that I would like to see the timing much earlier than 1 January 1999. However, in a spirit of political compromise, perhaps this date will convince some members to support the measure who otherwise may be a little uncomfortable. The extra time allowed may encourage them to vote sensibly. However, this amendment is about the interests of the majority of South Australians, the majority who do not smoke—and, indeed, of those smokers, the majority are probably caring and do not smoke at the restaurant table, anyway.

There has also been some concern that the introduction of these amendments and the passage of this clause that we are debating could affect the patronage of hotels and restaurants. What an absolute load of bollocks for restaurant owners and hoteliers to say that this provision will affect their business. We have seen this argument before, and we have been down this path before. When I was but a child going to primary school, smoking in picture theatres was banned. Has the picture theatre industry suffered as a result of that? Not at all. Members have only to look at places like Westfield Marion, where they will see several picture theatres being built—non-smoking, comfortable picture theatres.

I believe that all South Australians will embrace this. I know many people—and I am one of them—who do not usually go to hotels or restaurants because, frankly, I cannot stand the smokers there. I will be going to hotels and restaurants a heck of a lot more when these amendments finally become law, and I am sure that, based on the 85 per cent support from respondents in my electorate, many more South Australians will patronise hotels and restaurants and spend their money. I dare say that after 1 January 1999, perhaps a year after that date, hotel owners and restaurant owners will be saying, 'Thank you, South Australian Parliament. This has actually increased our business.'

The Hon. M.H. ARMITAGE: I cannot recall a more staggering abrogation of responsibility to the people who we as parliamentarians represent than that which I heard from the member for Giles, the member for Ross Smith and the member for Elizabeth, who all said, in differing words, that this is good legislation, and that this is the right thing to do.

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: The member for Giles just said, I believe, 'No doubt.'

The Hon. Frank Blevins: I said, 'No, we have not.'

The Hon. M.H. ARMITAGE: Yes, you have. I will come to that. The member for Ross Smith said that the issue is important. He also went on to say things like, 'I hate smoking', and then gave us a number of examples of how the voluntary code is not working. He also went on to say that if this had been handled differently, in his view, it could have had support, because this part of the legislation will contribute to good health. It represents significant reform. He also went on to say that if it had been handled differently—in other words, if the petty politics had been different—the Labor Party would have been happy to applaud this legislation.

The member for Giles said that I should have quoted the full words from the *Advertiser*, and he seems to have had some particular hang-up about that. I am more than happy to quote the relevant words from the *Advertiser*. I do not resile from that, because the words do not have any effect on the individual words of the Labor Party shadow spokesperson. The whole paragraph reads as follows:

> Opposition health spokeswoman, Ms Lea Stevens, said Caucus will discuss the proposal after she has obtained the information the

Minister distributed within the Party room and she has gathered opinions from affected parties.

That is right. I accept that.

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: The member for Giles has had his say—I am now about to have mine. Having quoted that, which is about the Labor Party processes, the paragraph goes on to say, in direct quote, which the member for Elizabeth has acknowledged is her quote:

'But it is a step in the right direction', Ms Stevens says. 'We know the danger of tobacco smoking. It's undeniable'.

So, here we have the shadow spokesperson for health saying it is undeniable that tobacco smoking is dangerous. However, for petty politicking reasons, from what I have heard, the Labor Party is going to vote against this amendment. It will be interesting to see the way the member for Elizabeth votes personally on this matter, given that she has said, as the shadow spokeswoman for health, it is undeniable that tobacco smoking is harmful to health.

The member for Giles, amongst a number of other things, asked me to quote the full words from the *Advertiser*, which I have done, and then said, 'Why now?' The reason is quite clear: this Bill is a collapse of two pieces of legislation—the Tobacco Products Licensing Act, which is under the control of the Treasurer, and the Tobacco Products Control Act. Until the two Acts were collapsed, they were both under the control of the Minister for Health.

I would ask: what is more relevant than this amendment in relation to tobacco control? That is why it is being debated. I would have thought that the member for Giles, as a former Minister for Health and as a former Treasurer, might understand some of the nuances of that. In fact, having looked at his contribution, I believe he does understand it, but he is using petty politics to try to obfuscate and make it look unclear. The member for Giles went on to say that he personally, if the politics had been different, might have been the biggest ally of this legislation in the Labor Party Caucus room. But for petty politicking reasons he is going to vote against it, I would suggest. As a former Minister for Health, he knows that that will directly affect the health of potentially thousands of South Australians. I will provide the figures later, but the number of people whose health is directly affected by tobacco smoking is extraordinarily high.

The member for Giles also went on to say that, without the politics of this exercise, this legislation would have had considerable support—again, acknowledging the relevance of this legislation. However, he then went on to give the nub of the way the Labor Party operates—and, may I add as a suggestion, the reason that it is in Opposition—because he said that whoever promotes this will have a hard job because of the circumstances. In other words, no matter how good the legislation, no matter how much personally people might like it, if the politics are right you will go against what you actually know is correct. That is exactly what the member for Giles said—it is incontrovertible.

The member for Elizabeth mentioned that one of the bodies that she consulted said that the voluntary code is working. However, her own Deputy Leader said that the voluntary code is not working. He gave countless examples of how it is not working. I am sure that the member for Elizabeth, if she thinks back, will remember that, but she may also wish to check *Hansard* either later tonight or tomorrow. However, the fact is that the Deputy Leader of the Opposition put the lie to her case immediately. The important thing about the voluntary code—which on all the statistics simply does not work—is that one of the very bodies used by the member for Elizabeth to indicate that the voluntary code works so well said to me in my office less than one week ago, 'We acknowledge that we have gone off the boil on the voluntary code.'

That was said to me by one of the industry representatives: 'We have gone off the boil on the voluntary code'. That is exactly what was said by one of the bodies that is now one of the major lobbyists against this legislation. That person said to me in my office less than one week ago, 'We acknowledge that the voluntary code has gone off the boil.'

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: It was a private consultation with one of the major industry bodies. The member for Elizabeth wonders why I did not consult with the Australian Hotels Association. I am confident that the Australian Hotels Association representatives would be only too happy to inform the member for Elizabeth that I consulted with them on three separate occasions. On the last occasion I consulted with them, a member of the AHA thanked me specifically for the time given to consult with them. We cannot have it both ways. Perhaps they say one thing to me and another thing to the Opposition, but I can go only on what I am told. The simple fact of the matter is that I did consult with the AHA on three occasions, and I was thanked specifically for the time given to them on those occasions.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: They are extraordinarily polite and also truthful. They thanked me for the time given, and one of the bodies which the member for Elizabeth mentioned said, 'We acknowledge that we have gone off the boil with the voluntary code.' That is the same body that is trying to hoodwink the people of South Australia, the people who will die because of passive smoking. They are trying to hoodwink South Australians by having the Labor Party believe that the voluntary code is working.

The member for Kaurna made a point about front bars. It is extraordinarily important to identify that front bars are not covered. They never have been. It has never been the intention that that will be the case. After the Party room discussion we had this morning, the member for Unley raised some concerns which indicated that advice I had been given may have taken in some front bars. As I have indicated to the Party room all along, I fully intended that it was never the case that front bars would be taken in. Indeed, further amendments clarifying that position have been placed on file today. Whilst I will not address those amendments, they remove paragraph (b) of the definition of a bar or lounge in a later clause.

I stress to the member for Kaurna that it is absolutely categoric that front bars are not covered. The member for Colton said, quite legitimately, that the industry has been consulted, and I have identified that consultation on a number of occasions. The problem, however, is that the industry did not like the decision that was made after the consultation. In fact, industry representatives came in with that attitude and said, 'We will oppose what you are trying to do.'

The member for Elizabeth made great play about how we as a Government and I, in particular, have not listened. This is the body that came to me to quote a survey which was done in relation to banning cigarette smoking in all enclosed public spaces. That was never our intention. I tried to explain that, but it is the sort of thing that the industry does not like to hear. The member for Bright talked about his local electorate

survey which indicated that 85 per cent of people were in favour of no smoking areas.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: It is statistically valid; it covered 1 053 respondents. Until the final amendments were put to the Party room at about 1 o'clock this afternoon, a certain Liberal Party member was not in favour of the legislation. He has been identified as an opponent of what we are trying to do, but I believe that he is now happy to vote for this amendment. He is doing a survey as well. Whilst I acknowledge that the numbers are very small—only 53 returns—I am pleased to report that he acknowledged to me that 36 were in favour of a complete ban and four maybes—a total of 80 per cent.

We are seeing an acknowledgment by the Labor Party that this is the right way to go. The member for Elizabeth identified it two weeks ago on 22 February, and she identified it again tonight. The member for Ross Smith has identified it, and the member for Giles has said he would have been the greatest ally for this.

The Hon. Frank Blevins: I did not say that.

The Hon. M.H. ARMITAGE: I am sorry; he said that he might have been the biggest ally, and he said that he thought that only one person in the Labor Party Caucus would object.

The Hon. Frank Blevins: No, I did not say that. I said that only one person on this side smokes.

The Hon. M.H. ARMITAGE: I accept that. The bottom line is that the member for Giles acknowledges that this is good legislation; the member for Elizabeth has acknowledged that it is the right way to go; and the member for Ross Smith has indicated that this is significant reform and that the issue is important to Australians. Despite all that, one can only wonder which way they will vote.

The CHAIRMAN: Before I call on the member for Giles, I remind members once again that the last three contributions from the Government benches have ignored the fact that clause 2 refers to the date of operation, and only the member for Bright in passing made mention of the fact that that was the subject of the clause. The other two members completely ignored it. I ask members to return to the subject of clause 2.

The Hon. FRANK BLEVINS: I state quite clearly that I have a great deal of difficulty with this amendment. I have a great deal of difficulty with exempting new clause 46A, because that does not come into effect until January 1999.

An honourable member interjecting:

The Hon. FRANK BLEVINS: Precisely on the point. I was disappointed that for the third time the Minister refused to answer the question. I do not want to go through it again, but there are 84 clauses in this Bill and the question will be relevant to all clauses. I am hopeful that the Minister at some time will tell me: why now? Why are we not permitted to have a Caucus meeting on this issue? The Minister has been—

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: No, you have not. You quite clearly did not.

The Hon. M.H. Armitage: Yes, I did.

The Hon. FRANK BLEVINS: No, you did not.

The CHAIRMAN: Members are out of order.

The Hon. FRANK BLEVINS: It is not just the member for Giles who wants to know why, and it is not just members on this side who want to know why—it is members on your side as well.

The CHAIRMAN: Through the Chair, member for Giles.

The Hon. FRANK BLEVINS: The Minister has made one unholy mess of this piece of legislation, and everyone sitting behind and alongside him knows it. He has made a mess of it. The Minister had the potential to get allies but because of his attitude to people, and particularly his attitude to the Parliament and members on this side, he would sooner have a row and put some of his backbenchers at risk than do his job properly, yet he wonders why he cannot get his legislation passed. Not one person behind the Minister does not think that he has made a right pig's back of it, that he has made a right mess of it, and we have to pick up the pieces. No-one on this side will pick up any of the pieces. They will all be picked up by the member for Kaurna, the member for Reynell, the member for Elder and plenty of other members. They will all pay the price, not us, because the Minister could not organise this properly.

I would like the Minister to tell me and everyone on his side—because we all want to know—why, after three Caucus meetings (including special Caucus meetings), not one word about these amendments could be uttered in the Parliament unless his Caucus agreed. Caucus had a veto over this. The matter had to go through Caucus before it came before the Parliament—and I agree with that—but why cannot we do the same with our Caucus before arriving at a decision?

I have not discussed the merits or otherwise of this piece of legislation, except in a slightly favourable way. I have tried to stick to one issue, and that is this first amendment. All we are asking for is what members opposite have had. We want only one Caucus meeting when they have had three. The Minister would not have been allowed to bring this into the Parliament unless his Caucus agreed with it. All we have asked for is one Caucus meeting to discuss it, and the Minister has said, 'No, it has to be done today', in spite of the fact that this set of amendments ensures that the legislation does not come into effect when the Act is proclaimed: this set of amendments comes in in 1999. So, we have until 1999, yet the Minister will not allow us to have a Caucus meeting. That is my only complaint at this stage. It is related directly to clause 2. If the Minister has told the Parliament why he will not allow us a Caucus meeting when this amendment ensures that new clause 46A will not come into operation until 1999, why the hurry today?

It annoys us, because the Minister is walking all over us. It will not cost us anything, and it will not give anyone on this side, particularly me, any grief at all, but it will give members on the other side grief. I think the Minister ought to treat his colleagues better. If he wants to walk all over us, that is fine, and we will deal with that on another day—there is always another day in Parliament—but why walk all over his own colleagues? What have they done but support him and give him this job? I hope that I will not have to go through this again with regard to the second amendment to clause 2, which actually inserts the date, before I receive an answer from the Minister as to why, given that this will not come into effect until 1999 and given the fact that the Liberal Party has had to have endless Caucus meetings—this issue has been put off until the Minister has been given permission to form a viewpoint and put it before the Parliament—the Opposition cannot have one Caucus meeting.

Amendment carried.

The Hon. M.H. ARMITAGE: I move:

Page 1, after line 19—Insert subclause as follows:

(2) Section 46A will come into operation on the first Monday in January 1999.

The Liberal Party believed that it was relevant that there be time for a specific public relations exercise for consumers, restaurateurs and owners of licensed premises so that the possibility of people ending up suffering a financial penalty because of the legislation would be absolutely minimised. This Bill is not being introduced so that we can fine people $500 or body corporates $1 000: it is for the occupier of the enclosed public dining space or cafe. It has not been brought in so that we can fine people $200 if they smoke on licensed premises other than in a licensed restaurant and so on. However, this legislation must include a penalty. If one brings in legislation without a penalty, it clearly means that one is not interested in having that legislation taken seriously.

Between now and 1999 there will be a long-term and protracted campaign to ensure that everyone understands every nuance of this legislation. If an occupier, a restaurateur or a patron is caught smoking, that will be deliberate. We do not want anyone to be fined inadvertently. However, as I said before, it would be pointless to bring in legislation with no penalty. That is why we have allowed until 1999. It is equally my very strong belief, from what I have heard already from large numbers of restaurants and from my belief regarding a campaign that I understand is to take place in the very near future, that many restaurants, eating areas, public dining areas and cafes will become 100 per cent smoke free well before that date.

That is merely the final date. It is my belief—and may I say as the Minister for Health it is also my fervent hope—that there will be a ground swell of opinion, and that the 85 per cent quoted by the member for Bright as wanting smoke free restaurants—and all the other surveys that report similar figures—will say to hotels, restaurants and licensed dining areas, 'This is where you will have to be by 1999, and we would like you to get there earlier.' We have every reason to believe from information with which we have been provided already that that is likely to occur. So, we do not envisage the boom coming down on the first Monday in January 1999. We believe that the vast majority of places that will be affected by this legislation, having recognised that the Government is serious about this matter, will have voluntarily made the move to do so well and truly before that time.

Ms STEVENS: I have listened to what the Minister said, but it seems to me that almost two years is an inordinate length of time for what is essentially a public awareness campaign. I see the sense of having some time within which to inform the public, but two years seems to be quite extreme. If the Minister were intending to bring in an Act such as the one that applies in the ACT where people can apply for exemptions and where those exemptions require them to have air at a certain standard, which means the provision of ventilation equipment and so on, which could involve quite a cost, I could understand why a longer lead time might be required, but that is not required under this Bill. I think two years is a hugely exaggerated period for a public awareness campaign, which I understand is essentially the reason for it.

The Hon. M.H. ARMITAGE: As I have indicated, we do not believe that the campaign will take as long as that. We think that some restaurants will voluntarily go to smoke free areas well and truly before then, but one must choose a date somewhere in the future. We could have chosen six months or 12 months, but we chose roughly 18 months. It is roughly 18 months from where we are now. There is nothing sinister about it; it is just literally that we believe it is appropriate to have a campaign in place so that everyone completely understands the ramifications of this legislation and so that no-one will be caught inadvertently. However, I would stress that the first Monday in January 1999 is part of a continuum and we are confident that many people will have grasped the intent of this legislation well and truly before that date and gone smoke free anyway.

The Hon. FRANK BLEVINS: The 1999 date is now directly on the table. I will be easily pleased tonight. I simply want a sensible explanation as to why, if this provision is not to come in until 1999, we have not been allowed a Caucus meeting when we are sitting the week after next. That is the extent of my beef with this legislation to date. I would have thought that my position had been made clear. I have been accused of lots of things, but not making my views known clearly has not been one of them. Given that we are sitting the week after next, and given that the provision is not to come in until January 1999, why will the Minister not let us have a Caucus meeting when he has had three and when he would not have been allowed to express an opinion in this place in a legislative sense without the permission of his Caucus? We are in exactly the same boat. We are not able to express an opinion in this place without a Caucus meeting. Given that it is not coming into operation until 1999, why will the Minister not allow us the same privilege—or even one-third of the privilege—that he has had himself?

The Hon. M.H. ARMITAGE: I merely reiterate what I said before: this is part of a collapsed Bill. As everyone knows, the legislation has been up for debate and this matter has been clearly in the public domain for at least three weeks. So that the member for Giles does not waste one of his three goes—

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: I understand that. I am talking about this provision. The principle is absolutely clear. Under debate now is the detail, and that happens in Parliament with amendments every day on which Parliament sits. Let not the member for Giles cast any aspersions that receiving an amendment in relation to a matter that has been on the public record for three weeks is unusual. I sat in Opposition for four years and have been in Government for three and a bit, and I know that amendments occur on a daily basis. It is frequently quite staggering to see the type of amendment that arises.

Indeed, I have in my hand a copy of nine amendments to be moved by J. Quirke, MP, my having received them about five minutes ago. I do not complain about that because I know that that is the parliamentary process. Deep down the member for Giles, who in a previous life was the Leader of the Government in the House, knows only too well that that is the process. One gets amendments in the Parliament, one looks at them and one debates them.

For the health of South Australians, that is what we would expect the member for Giles to do, but I suggest that he will not do that. He will not follow the normal parliamentary process. If it is not the normal parliamentary process, how does he explain amendments that I have just received from his side? The simple fact is that the member for Giles knows that this is the way the Parliament works. He knows that my amendments in relation to this Bill are the detail around the principle yet, despite knowing all that, I suspect that he will vote against what he knows is good legislation, for which he said he might have been the greatest advocate in his own Caucus.

The Hon. FRANK BLEVINS: I can now understand why not just backbenchers but some frontbenchers on the Government side are angry, hostile and very bitter at what the

Minister is putting and will put them through. I accept what the Minister says in the sense that he believes that what he is doing is the parliamentary process because the Opposition has tabled amendments. It is obviously education time after all this time for the Minister for Health. The amendments that have been placed on file by Mr Quirke are the result of our taking the Bill to our Caucus, the Caucus deliberating on the Bill—

The Hon. M.H. Armitage: When was your Caucus?

The Hon. FRANK BLEVINS: The Caucus was yesterday, if you want to know.

The Hon. M.H. Armitage: Why did we receive a copy five minutes ago—

The Hon. FRANK BLEVINS: The Caucus was yesterday.

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: It was yesterday. The Minister is showing his ignorance. He always shows his arrogance and lack of manners. If this is what St Peters taught him for manners, it does not say much for private school education. The process that has been gone through as regards the introduction of the Bill is the normal process, absolutely. There is no argument with that. However, the Minister refuses to tell the Parliament why he will not allow the Opposition to have a Caucus meeting on this new principle, this new proposal, introduced into the Parliament. There is nothing that the Minister can do that will overcome the problems he has created for his own members through both his ignorance of the parliamentary process and his natural born-to-rule arrogance.

The Minister said that we are now dealing with the detail of the principle brought into Parliament. He is absolutely 100 per cent wrong. The principle of this set of amendments—of this proposal—was not before the Parliament until after three o'clock this afternoon. That is why we are having these debates, which would have been covered more appropriately in the second reading stage. The Minister in his ignorance, his arrogance, his monumental rudeness and his lack of any manners, parliamentary or otherwise, believes that everybody in the Parliament has to dance to his arrogant, ignorant tune, even when, with half an ounce of competence, he could have gained many more votes for this measure or something like it. But we are prevented from doing what the Minister has been able to do, namely, to go to his Caucus time after time to get permission to bring this matter before the Parliament. He could not have done it without that.

Never mind about the health of the people of South Australia. Had his Caucus today said 'No', the people of South Australia apparently would have had to carry on dying or choking in restaurants. Is not that the position? Do not come the high and mighty with us about caring about the health of the people of South Australia. Do not give us all that flannel or nonsense.

Members interjecting:

The CHAIRMAN: The debate is degenerating.

The Hon. FRANK BLEVINS: Had your Caucus room said 'No', the people of South Australia would have had to continue coughing in restaurants. So, the Minister is not only ignorant and arrogant but also an utter and total hypocrite, and an ill-mannered one at that. If the Minister for Health will not tell us why we cannot deal with this the week after next—and the measure is not coming in until 1999, as the amendment under discussion indicates—then perhaps the Treasurer can tell us because, whilst not always sticking 100 per cent to the rules of this place, he at least has some kind of feel for the Parliament and some respect for it. He spent some time in Opposition and has come to me on many occasions, after weeks during which something has been before the Parliament, and said, 'Frank, we're not ready.' I will not say who he said had the Bill and why, therefore, *ipso facto* they were not ready, but he told me who it was and said that they did not have a prayer of getting it ready that week. I would say, 'Okay, fair enough.'

These things happen in Opposition. You do get one shadow Minister handling two issues, and that shadow Minister, to be polite, is perhaps over-stretched a little in his capacity to deal with things. The Deputy Leader used to come to me and I would say, 'Fine, we will work around it,' because you have to give the Parliament the right to work, and work effectively. However, that right is not being given to us on this occasion. Sitting there smirking, the Minister for Health will never be able to get around that point. The Minister will have an awful lot to do to try to repair the damage he has done to members of his own backbench, and we have not heard the last of it yet. We have a long night ahead of us.

Those members whom the Minister for Health has tried to walk over, having won their marginal seat, have given the Minister the right to swan around the State in his big white car, lauding it over everybody in his usual fashion. It was not you who did it; it was all the troops at the back who did it. They are the ones who are going into the trenches in a few weeks or months, not the 64 per cent silvertail. It is all these poor suffering mugs at the back who will have to pick up for your arrogance, ignorance and the way you cannot deal with your legislation. With the measure not coming in until 1999, I still have not heard why we cannot have a Caucus meeting so that—

An honourable member interjecting:

The Hon. FRANK BLEVINS: Collapsed legislation: I am not quite sure what collapsed legislation has to do with a measure, which does not become operative until 1999, having to be dealt with today. What does collapsed legislation have to do with it? Absolutely nothing. That is not a sensible answer. It has been messed up by the Minister for Health right from the first day, and the Minister knows it. Everybody behind and alongside him knows it, and he will wear the odium of it for quite a while to come.

Ms WHITE: I do not like to speak in debates unnecessarily, and I do not like to use a lot of words, but I really am motivated to respond to the Minister's comments and criticism of the Opposition in this debate. As I said in my second reading speech yesterday, I am quite annoyed by the way this Bill has been handled by the Government and the Minister, and by the process and the lack of consultation and confidence the Government has had in introducing this Bill.

The Minister has had the gall to criticise the Opposition on the conduct of its amendments to this Bill, yet this is a Minister who not only did not get the Bill right in the first place: he had to introduce a set of amendments as late as this afternoon; and then, just a little while ago, he had to introduce another set of amendments to his amendments to his Bill. What sort of competence is that, if that is how the Liberal Government is running this State? How many Bills have we seen in this Parliament where Ministers have had to introduce amendments to their own Bills? What does that say for the process of government?

We have had very little of substance on our legislative program since we have come back for this session—very little indeed. The Government has not had a lot on its plate

to think about. Yet, in a Bill like this, members opposite cannot get it right the first time, nor the second time, and they have not got it right the third time, yet they want to rush it through. Will that lead to good government in this State? Of course it will not.

Ms Stevens: Who cares!

Ms WHITE: 'Who cares!', as my colleague the member for Elizabeth says. 'Who cares!', Government members say. That is the contempt with which they are treating the people of South Australia, the smokers as well as the non-smokers. My message to the Minister is this: please do not continue to waste our time. Get it right, if not in the first place, perhaps in the second place, and do not have the gall to come into this House and say to the Labor Opposition that we cannot even have a Caucus meeting to discuss it. Quite frankly, we get our positions right, so why cannot the Minister?

The whole point about this issue is that Cabinet had already approved this Bill. It could not have reached the stage that it reached in the Liberal Party room if Cabinet had not approved it, so what sort of a Cabinet do we have running the show in South Australia? We have an incompetent Government, an incompetent Cabinet, and we see an incompetent Party. So, when all these Liberal backbenchers go out to their electorates—

The Hon. Frank Blevins: Here's another set of amendments!

Ms WHITE: Not another set—you are kidding me! In the space of the time I have been speaking we have had an incomplete and wrong Bill, one set of amendments from the Minister, a second set of amendments from him, and now a third set of amendments from the Minister. What is the bet for the next set? When will you get this right, Minister? Go back to the drawing board. Do the consultation and stop wasting the time of this Parliament!

Mr QUIRKE: I understand that the Minister had some concerns a short while ago about some amendments from me arriving on the issue of knocking over the tax. I think we ought to get a couple of things on the record. First, I am told that this Bill is being dealt with in a rather schizophrenic fashion—that in fact there are two Ministers dealing with this measure. I was made aware of that today. I must say that I have been dealing with the Treasurer for the past couple of weeks, and I guess I have also been dealing with the Adelaide *Advertiser*, having said that I would be opposing this tax and that I would be taking that position to Caucus. Just in case the Minister did not know, I made that clear to him.

In fact, I have not moved any amendments here which vary the legislation, other than to knock over the tax. That is the position I have adopted, and that was it: it was a tax increase that we were not going to wear. We belled the cat, and I made my position crystal clear to anyone who wanted to listen; and, out of courtesy, I made sure that the Treasurer knew my position. I did not know that the Minister for Health had any interest in this Bill until a few days ago. Now I find that the Minister for Health is actually changing the nature of this Bill, which I suspect will have a rather dramatic impact, at least in restaurants, clubs and pubs in South Australia for a few years to come.

My amendments are different from his and simply reflect our Caucus position: we are going to hold the Premier to his promises. We made it clear here and out in the community, and the document circulated here will give effect to that decision. The Minister can have a go at me for not circulating amendments and all the rest of it but, frankly, I just wish that he had told us a week or so earlier that he was planning this Pearl Harbor approach on his own backbench. That would have been a much more sensible way of dealing with the matter.

I have been inundated with paper: I am getting amendments from everyone and there are a few amendments coming from members opposite who are not absolutely enthralled with the way this Minister has grabbed hold of the Bill and moved it in a whole series of historic directions. If my amendments get up, I will be one of the more surprised members in this place today. I do not know that the rot over there has got that far yet but I would say to the Minister that my amendments are in line with the original issue, which has been before the Parliament and which we have had time to take to our Caucus in order to determine a position. We would have loved to take his amendments in there; he might actually have won them, although he would not have had my support.

I take the view, like the member for Giles, that there is enough namby-pamby stuff around the place: most people in this country are sick to death of being told how to live their lives, what they can do and with whom they can do it. These sorts of amendments rarely get my support. I thought I would offer a bit of advice to the Minister tonight and, if he wants to have a go at me, that is all right. We will carry the fight on still further. The reality is that the Minister has brought in some major policy changes and he seems to want to get them through before he has his Kelloggs cornflakes, yet those changes will not hit the deck for another 18 months.

The Hon. M.D. RANN: I want to support the comments of the member for Playford and other members on this side. This is an extraordinary situation. When I was a Minister I was frequently asked by members of the Opposition whether they could have more than the requisite, agreed or traditional time for them to consult widely with the community and their colleagues in the Upper House and get back to me. That happened concerning university, Aboriginal land rights and Tourism Commission legislation, and so on. On each occasion, even though the requisite amount of notice, which has not been given in this case, had been given, I agreed so that we could have a decent debate and hopefully bring about some consensus. Here we go again with 'Doctor knows best'. Interestingly, the good doctor is a lot quicker off the mark than he was on the matters involving Garibaldi and Legionnaire's disease. We only have to wonder why.

Is the Minister saying that these amendments—we have been flooded with them this evening, with no notice whatever—are an important piece of social policy? Does he want to say to people in the Health Commission and some of his critics, 'Look what I've done; I have achieved something'? Surely someone in his position, after three years, particularly having lurched from gaffe to gaffe, would realise that it is important with social policy, first, to have public debate; secondly, to achieve consensus, even within his own Party; and, thirdly, that you achieve sensible public debate, sensible social cohesiveness and sensible consensus if you actually go out and consult. It is interesting that the Minister says he has spoken to those prominent restaurateurs who have pledged their support for the proposed smoking ban but, from what I have been told by other restaurateurs and by the South Australian Restaurant and Catering Industry Association, the industry has been afforded no consultation in formulating the policy.

This will impact on the people you want to help implement your policies. What you should be doing, as a sensible Minister in the area of social policy, is bringing people along

with you. You cannot even bring your own backbench with you and, in fact, it is quite interesting to note the comments being made about the way that you do business once more. We have a situation where this was a tax revenue Bill—we all know that: it was a Bill about raking in extra tax. The Treasurer tried to disguise it as a health initiative but everyone in the community knows that it is as much about health as speed cameras are about revenue. We know why the speed cameras are there: they are principally about a revenue device and about a road safety device secondly.

What we have seen is, first, a tax increase without any proper consultation, with just a few days' notice. We now have this raft of amendments, and today we have amendments to amendments to amendments. Is that a Minister who knows what he is doing? Is it a Government that knows what it is doing? If these provisions are not to be in place until 1999, or whenever the Minister said it was the other day, why not get it right? Why not go out and consult and come in here with a proper Bill aimed at dissuading people from smoking, with industry support? Why will you not do that? It is not as if the provisions are coming into force on Easter Friday, because the Bill talks about coming into force in 1999. Why will you not go out and get it done properly? Why will you not give the Opposition—

The CHAIRMAN: This is developing into a direct harangue of the Minister. The previous member was called into line and defied the Chair.

The Hon. M.D. RANN: With profuse apologies, Sir, you know I always try to cooperate. Why, then, does the Minister not try to do what we did with him and say to the Opposition, 'This is what we want to do. We want to try to achieve it through the Upper House and we want to do it properly and have our Bill in place, set in concrete, so that people can debate it'? The very fact that it is a fluid Bill, with amendments tacked on to amendments, shows a Minister and a Government that, in trying to quell dissidents on their backbench, do not know what they are doing.

A key factor is that any Minister who has been around politics for a fair while should know one thing: any attempt to bulldoze and use numbers arrogantly in the Lower House always pays the poorest of dividends in the Upper House. My advice to the Minister is that anyone who tries to play games with the traditions of this Parliament in terms of getting sensible debate—here the Opposition is being asked to debate a Bill and we did not even see half the Bill—will encounter problems, and I can only warn the Minister that he will lose his backbench and lose out also in the community.

Ultimately his own credibility will be put at stake, because I know and the Minister knows that this is a total botch-up and now he is trying to remedy the situation and perhaps put the best possible light on a bad job. You had problems in your Caucus earlier in the week and last week. The fact that the ministry itself was prepared to support it speaks volumes for the problems that beset a ministry now comprised of 'Yes' men and one woman. The Minister can be assured of one thing: I will vote against any Bill that is rushed into this Parliament when there has not been proper consultation. This Bill is being hurried through arrogantly because basically it is flawed.

Amendment carried.

The Committee divided on the clause as amended:

AYES (25)

Andrew, K. A.	Armitage, M. H. (teller)
Ashenden, E. S.	Baker, D. S.
Baker, S. J.	Brindal, M. K.

AYES (cont.)

Brokenshire, R. L.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Gunn, G. M.	Hall, J. L.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Leggett, S. R.
Lewis, I. P.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Wade, D. E.
Wotton, D. C.	

NOES (10)

Atkinson, M. J.	Bass, R.P.
Becker, H.	Blevins, F. T.
Clarke, R. D.	De Laine, M. R.
Quirke, J. A. (teller)	Rann, M. D.
Stevens, L.	White, P. L.

PAIRS

Caudell, C. J.	Geraghty, R. K.
Venning, I. H.	Hurley, A. K.

Majority of 15 for the Ayes.

Clause as amended thus passed.

Clause 3—'Objects of Act.'

Ms STEVENS: The Anti-Cancer Foundation and the Heart Foundation have sent me a series of comments for consideration in relation to the Bill. They suggest that in paragraph (b) the Government considers making a specific commitment to a percentage per annum reduction in the incidence of smoking and the consumption of tobacco products. Their comment which supports that is that smoking rates have been static since about 1990: for adults, around 27 per cent; and for children aged 15 years, around 25 per cent. A commitment by the Parliament to reduce smoking rates by 5 per cent per annum would see the current rates fall to 17.9 per cent for adults and 16.6 per cent for children aged 15 years by the year 2005.

They go on to say that this would be the first time an Australian Parliament made an explicit commitment to reducing smoking rates. They also say that at the Australian Health Ministers conference it was agreed to set targets for adults and children of 20 per cent by the year 2000. Did the Australian Health Ministers conference agree to a set target and, if so, why does this Bill not demonstrate this target by specifically stating that one of the objects is to reduce the incidence of smoking and the consumption of other tobacco products by 5 per cent per annum in the population, especially among young people?

The Hon. M.H. ARMITAGE: The national goals and targets are well identified; they are on the public record, and they have been identified in other fora. If one were to include every single thing that has been written about the topic, each Bill would be a foot high. However, the national goals and targets are well identified and we are supportive of them.

The Hon. S.J. BAKER: I will give the member a very considered view on this subject. The member well recognises that there are extreme differentials in smoking habits. We know, for example, that in the past 10 years people over 35 have been giving up smoking at ever increasing rates. That has been offset by the number of women who have taken up the habit. I think that, if the member looked at the statistics on smoking habits, she would see that the increase in demand has certainly been through females and not through males and, generally, people over the age of 30. The escalation in the number of people who are abandoning smoking is

commensurate with age. The further you go up the age scale, the wiser people become, although some people never become wise and continue with the habit.

The issue is whether you should prescribe it in legislation. The extent to which you can then prosecute anyone who falls above the line is an issue that I do not know this Parliament would wish to contemplate. It is not appropriate. National goals are set, and there is considerable debate about the matter. The Labor Party has talked about achieving 50 per cent representation of women in Parliament. I can say that the rules under which we operate and the way in which we operate means that the Liberal Party, without these prescriptions, has achieved greater inroads into that target than has the Labor Party. Indeed, I wonder whether the Labor Party would have resigned from office if that target had been inserted in the legislation and it failed to achieve it. The issue is the extent to which one can prosecute those goals. The national proclamations should exist, but the goals should not be inserted in the legislation because they then become a matter which can be—

Ms Stevens interjecting:

The Hon. S.J. BAKER: I do not know where the member for Elizabeth has been living for the past 30 years or so, but it is a fact of life that people do take up the habit of smoking. My daughters have been through education programs and have rushed home to show their father exactly what damage smoking does, but despite all that education—which has never been greater in terms of instructing children—the fact is that people make decisions.

If, once we have hit the prescribed rate, the member for Elizabeth wants to prosecute everyone above that rate who is smoking, I say, 'Good luck.' There is an impracticality about that process. If the Labor Party had felt so strongly about women in Parliament, it would have inserted that goal in the Constitution, the Electoral Act or some other Act. It is a fact of life that the health authorities understand the changes taking place. They have targeted various advertisers and educative programs. There has been a benefit in that the incidence of smoking has declined as a result of those programs and, indeed, the number of older people who have given up has been quite impressive. The only difficulty is that we have not been able to pick up on women who have taken up the habit, but that will occur over time. In general practical terms, if you insert a goal in legislation, you must prosecute someone, but I do not know who that would be. I am not sure who you would prosecute in the ALP for not achieving its goal of putting more women in Parliament.

Ms STEVENS: Despite the fact that it is clear that it is about taxation, when it introduced the Bill the Government made great play and tried to say that it was about health.

The Hon. Frank Blevins interjecting:

Ms STEVENS: The member for Giles says that that was a spurious claim. Indeed, the answers we are receiving to our questions indicate that it was a spurious claim. I ask the Minister for Health to give me a 'Yes' or 'No' answer, rather than a waffle: first, have the Australian Health Ministers agreed to set a target of 20 per cent for adults and children by the year 2000? Secondly, I am not sure what the Treasurer was getting at in terms of prosecuting people in relation to smoking. That was not what was said at all. It was suggested that, if the Australian Health Ministers have agreed to specific targets, and if this Bill is about health and tackling the issue of tobacco smoking and its prevalence, why is the Government not prepared to be more specific in its objects and put up specific targets—

The Hon. M.H. Armitage interjecting:

Ms STEVENS: No, you have not.

The Hon. M.H. Armitage interjecting:

Ms STEVENS: Your answers are illustrating that fact. If you were genuine about this being a health Bill, you would answer my question rather than diverting off into some red herring.

The Hon. M.H. ARMITAGE: As I indicated before, the Australian Health Ministers have identified a range of goals and targets in endless diseases and disease processes. That document has been around for three to four years, and I understand that we will concentrate more on some of those at the July meeting. That document is publicly available, and that is why we have not identified every one of the goals and targets in this legislation.

Ms STEVENS: I know this is my third and final opportunity to speak on this amendment. Will the Minister confirm whether the Australian Health Ministers conference has agreed to set a smoking rate target of 20 per cent for adults and children by the year 2000? I know that the Australian Health Ministers talk about a whole range of different topics, and I know that if you stacked all the agreements they could be a foot high. Have you agreed on that set target in relation to tobacco smoking at a level of 20 per cent for adults and children by the year 2000?

The Hon. M.H. ARMITAGE: I will provide the member for Elizabeth with a copy of the document.

Ms Stevens: I want a 'Yes' or 'No' answer.

The Hon. M.H. ARMITAGE: I will provide a copy of the document.

Mr BECKER: The preamble in this clause sets out the objects of the Act. I do not know whether members have studied it closely but there is a change in the words. It provides:

> In recognition of the fact that the consumption of tobacco products impairs the health of the citizens of the State and places a substantial burden on the State financial resources, the objects of this Act are. . .

The first part of the objects is contained in the Tobacco Products Licensing Act 1986, and the second part, as I understand it, comes from the Tobacco Products Control Act 1986. I do not mind consolidating legislation—in other words, bringing two Acts into one—but I object to the statement:

> In recognition of the fact that the consumption of tobacco products impairs the health of the citizens. . .

Some people may have their health affected, but Simon Chapman, an Associate Professor at Sydney University, has made it very clear that the statistics relating to the impact of smoking on health are bodgie: they are crook. This is spelt out quite clearly in what is probably one of the most important draft reports prepared for the National Health and Medical Research Centre, an organisation that advises Governments and Ministers for Health. Mr Chapman says that the statistics are compiled from taking a little bit from this death and a little bit from that death, and he warned the committee that was preparing the draft report to be careful because the statistics may not stand up. In other words, they would be considered as a joke and the credibility of the report could be questioned. Yet, we as a Parliament are making a clear and definite statement. I have not seen anything like these objects in all my life. They have not altered since they were written into the legislation. The objects of this Act are:

> . . . to create an economic disincentive to consumption of tobacco products and secure from consumers of tobacco products an

appropriate contribution to State revenues (irrespective of the source of the tobacco products) by a scheme under which licence fees. . .

This consolidated Act brings in a new system of taxation on tar content. Not all products are marked with the tar content. So, we will have the situation of tobacco manufacturers worldwide, if they want to sell their products in South Australia, having to print a special label to cover South Australia. In other words, we are telling the people: 'Thou shalt not smoke.'

As I said last night, the Government should have the courage to ban the product and see how it gets on. We saw how prohibition of alcohol worked in America in the 1920s and 1930s, so what chance has the Government got of banning cigarettes? It frustrates me to think that at this time of the year this Government will be bogged down with playing around with this type of legislation which, in my opinion, is nonsensical. Leave it up to the people; show the people some respect. The people have the right to choose what they want to do. California has just legalised marijuana, and I understand that it is going well: everyone who wants to enjoy marijuana is having a real high time. So much for what legislators do on the hop or the spur of the moment.

I want to know how the Minister can justify that statement of fact in relation to the effect of cigarette smoking on health when last night I cited two very clear examples, one of whom is a 79 year old returned serviceman who fought in Tobruk, Papua New Guinea and the Pacific to defend this country so that we could enjoy freedom of speech in this Parliament and everywhere else. He is a great person. The other person at 92 years of age smokes and plays lawn bowls. Some people can do that: some people cannot. So, how can the Minister make a definite statement in this respect? That is why I have great difficulty in supporting the continuance of these sorts of statements in our legislation. This clause has been re-written and strengthened to make this sort of definite statement, and I object to it.

The Hon. M.H. ARMITAGE: I wish to address the matter of passive smoking, which was one of the matters raised by the honourable member. I believe that the remainder of the issues he has raised are more applicable to the Treasurer. In February 1991, in the case of *The Australian Federation of Consumer Organisations v The Tobacco Institute of Australia Limited*, Mr Justice Morling handed down a highly significant judgment, which provided a link between passive exposure to smoke and illness. Whilst the case was about false advertising rather than negligence, the judgment provided judicial authority for the argument that, if a non-smoker is exposed to tobacco smoke and suffers a specific acute or chronic illness, that exposure can be argued to be the cause of that illness. In December 1992, the Full Bench of the Federal Court reaffirmed Morling's conclusions. I understand why a number of people attempt to persuade others that the link between passive smoking and illness does not exist, but the Morling judgment gives the lie to that contention.

Mr BRINDAL: I seek a qualification from the Minister. I find it curious that one of the objects of the Act is to create a licence fee payable by consumers to take out consumption licences, but by payment of an *ad valorem* fee the purchase of a tobacco product from a tobacco merchant obviates the need for a consumption licence. It seems to be convoluted. I do not know of anyone in the world who has ever taken out a tobacco consumption licence. Why do we need such a weird vehicle? In theory, you must have a licence, but then you can be exempted from having a licence provided you purchase from a tobacco merchant. What is to stop everyone going to the Minister and saying, 'I want a tobacco consumption licence' and then getting their cigarettes more cheaply from a merchant? I am interested in why it has been worded in this way.

The Hon. S.J. BAKER: The history of this goes back to the former Government. My understanding is that the former rule was inserted because of the restriction of competition. It provides that you can actually have your own consumption licence—it involves a restraint of trade issue—and that you shall not be prevented from buying directly from a wholesaler. However, I think you would have to smoke about three or four packets of cigarettes a day to make it even vaguely worthwhile. My understanding is that no consumption licence has ever been taken up. It is also important to understand that such a person cannot trade in cigarettes as a result of that purchase. I think the law was adhered to in terms of restraint of trade, but it was made impracticable.

Mr BECKER: The Treasurer did not answer the point I made in relation to the rewording of this clause and the intention to tax cigarette smokers or consumers as a disincentive.

The Hon. S.J. BAKER: If the honourable member read the second reading explanation, he would see that we are combining two separate pieces of legislation in one Bill. One is taxing legislation and the other is health regulating legislation. Rather than having two pieces of legislation to deal with tobacco products, they are easily definable and the boundary lines are clear. Therefore, it is appropriate to have them under the one Act. The objects include a strong health component and also a taxation component. Cigarettes or tobacco products have been a mainstream revenue source for Governments, particularly for the Commonwealth or Federal Government, and originally for the States. Excises from tobacco and liquor were the mainstream revenues of some of our earlier settlements. That is where it derives from and why we have the bringing together of those two principles in this Bill.

Mr BECKER: I understand that there is no system in the world for labelling the tar content of roll-your-own tobacco because by its nature each person makes their own style of cigarettes, some thinner than others. Roll-your-owns are favoured by smokers of the low socioeconomic groups and this Bill will discriminate against them. It is also a popular form of manufacturing cigarettes in our correctional institutions. How will we overcome the problem of defining the tar content of cigarettes, particularly when there is such a difference in each person's manufacture or making of roll-your-owns?

The Hon. S.J. BAKER: The fact of life is that they will be assessed at 105 per cent. They will be at the end where they do not define tar content. If they wish to do so, they can do that. As the honourable member rightly points out, the fatness of the cigarette rolled dictates its tar content. It is also a fact that the total tar content inhaled by a person depends not only on the content of the stem but also on the number of stems smoked. In comparing a person who smokes 60 low tar cigarettes a day with someone who smokes 20 high tar cigarettes a day, you could say that the person on the low tar is more vulnerable than the person on the high tar cigarettes. The medical evidence clearly forms linkages between tar and nicotine, and that is why health authorities around the democratic Western World have determined that the tar and nicotine content shall be shown on the packets. Various

countries have signs on the cigarettes to say that smoking kills or that smoking is a health hazard.

As a person who has gone through the roll-your-own syndrome, I assure the honourable member that, if he is worried about them, the effect on my health of unfiltered roll-your-owns was a little more severe than with others. If anybody wants to look at the cheap end of the market, I suggest that they do a survey on who smokes Drum, for example. They will find that different types of people smoke Drum, and it is very fashionable for those with some wealth to smoke roll-your-own Drum cigarettes. There is nothing simple or clear in this world. We have made the determination and it is reasonable under the circumstances. The matter has been discussed with the various distributors involved in the roll-your-own area.

The CHAIRMAN: The member for Peake has spoken three times on this clause, so the Chair has to deny him in his attempt to speak a fourth time.

Clause passed.

Clause 4—'Interpretation.'

The Hon. M.H. ARMITAGE: I move:

Page 3—

Line 19—Leave out '"public place"' means a place' and insert '"public" area or place means an area or place'.

After line 32—Insert the following definition:

'smoke' means smoke, hold, or otherwise have control over, an ignited tobacco product;

Both amendments are machinery provisions and I will not take the time of the Committee to discuss them.

Amendments carried.

Ms STEVENS: I refer to the definition of 'place of public entertainment', which is 'a building, tent or other structure in which entertainment is provided for the benefit of members of the public and in which the audience is seated in rows'. These days people are often not seated in rows. The provisions does not accommodate people standing, queuing or engaging in such other activity where the public is required to congregate but people are not protected from passive smoking, to which the Minister just referred. Rather than the words 'seated in rows', the words 'not able to move about freely' might be more appropriate.

The Hon. S.J. BAKER: This definition comes from another Act, so there is some consistency between the various definitions.

The Hon. Frank Blevins: Which other Act?

The Hon. S.J. BAKER: The old public entertainment Act.

Ms STEVENS: What about the point I am making?

The Hon. S.J. BAKER: The honourable member makes a relevant point. I will check out the relationship between this definition and its impact on the legislation, and I will take on board the honourable member's comments.

Clause as amended passed.

Clause 5 passed.

Clause 6—'Interpretation—Certain transactions not sale or purchase.'

The Hon. FRANK BLEVINS: I move:

Page 6, line 11—Leave out '(but of the same prescribed category)'.

I move this amendment on behalf of the member for Playford. I would have thought that it was self-evident. I would have thought that nobody in this Parliament would require any further explanation. However, the member for Playford may choose to explain it.

Mr QUIRKE: The list of amendments in my name may appear to be mysterious, but they are no more mysterious than most other amendments I have seen. In essence, the first is the same as the last, except that its goal is to defeat the Government's tax grab and keep the Premier honest with his electorate. That is a goal we on this side always pursue. We want to ensure not only that the Premier tells the truth but that the Liberal Party keeps to it. In fact, I do not intend to proceed with all these amendments if the first one is defeated. I will use the first as a test case. I am assured by Parliamentary Counsel that all these amendments are needed to knock over this 100 to 105 per cent tar tax.

I feel a bit sorry for the Minister now. He had a good little scheme that was draped up in all sorts of fancy health warnings and all the rest of it to get an extra few bucks. The only thing is that the Minister for Health took him seriously and put a few other things in as well. I do not know whom he consulted, because I have not found anyone yet who was all that keen on what the Minister for Health is doing. In fact, the anti-cancer people were in here yesterday making a whole series of suggestions. They took the Minister's Bill fairly seriously also. They thought it was something to do with health, and the sort of argument they were putting forward was that it was a lousy health Bill. They were right: the reality is that it is a revenue grab.

This amendment is the first of a string to knock out the revenue provisions in this Bill. I predict that this is one that the Treasurer will fight hard for, because this is really what the whole thing is all about. I feel sorry for him, because I think his Bill has been largely hijacked. I will use this amendment as a test case to determine whether to proceed with the remainder.

The Hon. S.J. BAKER: I was well aware of what the member for Playford was attempting to achieve. It is the first time within the confines of the Bill that we talk about prescribed categories. With those three categories, the honourable member was being consistent, even though the provision is not the main motivating provision of the Bill. I remind the Committee that what we are doing is sending a signal to people that, the higher they go up the tar chain, the greater the likelihood of their catching cancer. If you think you can do that simply by saying, 'You should not smoke those higher tar cigarettes', or 'You should not smoke cigarettes at all', obviously people have not been looking at the habits of others over a long period of time.

The Government is proposing a very responsible health measure, as the member for Playford would well recognise—or as I hope he recognises, although I am a bit worried about the tenor of the debate in terms of the challenges in ensuring the good health of our population. The issue is—

Mr Clarke interjecting:

The Hon. S.J. BAKER: Just be careful. The issue is that we are here to send a signal to the population of South Australia by saying, 'Do not smoke'—and that is one of the objectives of the Bill—'But, if you cannot help yourself, move down the tar line to cigarettes that do not have quite the same impact.' That is recognised, but not by standing on the top of Mount Lofty and saying, 'This is a good idea' or 'You shall not do this.' We are saying it in legislation, and recognising it with some small penalty, and the penalty can only be small because otherwise we would be condoning cigarette smoking *per se*. The matter has been under discussion for a long period of time. This is an appropriate signal for the population. It is not a lot of money in the scheme of things, but it does make a statement.

I would have thought that I would hear some very interesting comments by members opposite about the need for good health in the community, irrespective of what decisions are taken by individual members in this Parliament, me included. We know that, if people do not smoke, they are likely to live longer. That is an established fact of life—or death. It is a recognised statistic. We are doing something that punctuates the message in a way which does not raise a lot of revenue but still makes a difference. I would hope that the Opposition could recognise the merit of that argument, but I understand why the honourable member has raised the matter.

Ms STEVENS: As I said in the second reading stage, to argue this measure in terms of health is false. The information that I put on the record in the second reading debate needs to be read and thought about by the Treasurer. First, there are very good arguments that delineation in terms of tar could be an anti-health measure. Secondly, it is very clear that price measures alone are not sufficient to make a real impact on tobacco smoking. The Government needs to put its money where its mouth is in a number of other measures which we will canvass throughout the Bill. Let us be quite clear. This has nothing to do with health: it is about a tax increase.

The Hon. S.J. BAKER (Treasurer): I move:

That the sittings of the House be extended beyond 10 p.m.

Motion carried.

The Hon. FRANK BLEVINS: I support the amendment. It is a pity that the Opposition has to oppose measures such as this because of the lies that the Government tells. The Government said it would not be increasing any taxes. The Government told lies to the people, and the proof of that is in this Bill before the Committee. It is a tax increase, admitted by the Treasurer, to bring in an additional $5 million.

I am not one to say that Governments do not have to raise money. Clearly they do, but what they do not have to do is tell lies. They do not have to say to the people, 'We will not increase taxes' and then, five minutes later, here it is. Almost the first thing that the Olsen Government has done is to bring in a tax increase on smokers. Of course, smokers are the modern day pariahs; nobody is supposed to like smokers. So the Government figures, 'It is only smokers. Who cares? They are dirty people. Let's slug them some more tax. We will get away with it.' It may well get away with it, but it will not be with our assistance.

If you go to the people and say, 'No increases in taxes', then that is what you ought to do. You could have gone to the people and said, 'We will have a scheme of tax on cigarettes that tends to encourage those people who feel they have to smoke or want to smoke to smoke the least damaging product'. I happen to agree with the Treasurer and disagree with those who say that to put a lower tax on low tar cigarettes is not the way to go as regards health. It is absolutely clear to everyone, apart from our very good friend the member for Peake, whom I admire enormously for his consistency. Everybody else in the world believes, wrongly according to the member for Peake, that, the higher the tar content, the more damaging the particular cigarette, provided you smoke the same amount.

But I ask myself this: if this was a health measure, if the Treasurer genuinely thought this was a health measure, what would he do with low tar cigarettes? There are some cigarettes on the market that have only one milligram of tar—I think that is the scale. The amount of tar is next to nothing. It is next to nothing in regard to tar—it has a thousand other things that will kill you but, in regard to tar—and this is a tar tax—they have a trivial amount of tar in them. I would have thought that it was not a bad analogy with alcohol. How much State tax is charged on low alcohol beer? None at all. I would have thought, 'There's a Treasurer with principles. This Government has principles. It is going to come into this Parliament and say, "Smoke low-tar cigarettes, drink low-alcohol beer, and we will assist you by not taxing either of them".' That is what it has done with alcohol, but with low-tar cigarettes it is playing at the margins and cooking up a scheme to give it an extra $5 million in tax and trying to wrap it around an anti-smoking case.

It just does not wash, does it? It does not wash at all. If you want the extra $5 million, if you want to support a lie to the people, stand up and say that. I would respect that there was an honest man or woman saying, 'We want the five million bucks. Give us the $5 million. Give us the extra tax; we need it for schools and hospitals.' It would be fine if the Minister said, 'We are breaking a promise to the people of South Australia. We lied to them when we said that we would not increase taxes, but now we have to do that.' That is an honest position, although I would not agree with it, but you must have some respect for that. Again, you could have some respect for a health measure that came in here and genuinely encouraged people to smoke, if they have to smoke at all (and they should not), low-tar cigarettes by removing the State tax on those cigarettes, the same as is done with low-alcohol beer.

You Would then say, 'It's a genuine health measure.' We would have a look at that and commend the Minister. The Minister for Health would also be commending the Minister, but we have none of that. We have an absolute sham before the Parliament—a simple increase in taxation dressed up in all kinds of nonsense, and I cannot respect that position or vote to support it. If you want to increase taxes, say so; state your reasons and we will see you at the next election. That is the way it is done: open, honest and above board. To lie to the people and dress it up with all this nonsense is despicable, and the Opposition will not assist the process.

Mr QUIRKE: I will not take up too much more time, because I want to see whether we can bring this matter to a vote shortly, but I want to make a final appeal to those members, particularly the couple who crossed the floor before and who showed a great deal of courage as to their—

The Hon. Frank Blevins: Good principles.

Mr QUIRKE: I agree with the member for Giles—good principles. I hope that they and some of their colleagues will support us again on this measure. The member for Peake has been mentioned by the member for Giles. I mentioned the member for Florey, who has stood up for his constituents in here and who must be under enormous pressure. In fact, I noted earlier today that a number of members were paying much more attention to the member for Florey than they usually do, going up and chatting to him, because they know of his absolute disquiet on this matter, having correctly understood the wishes of his constituents and not wishing to join in the Minister for Health's lynching of cigarette smokers in this State. Certainly, I hope that other members, including one or two who have made statements on the Bill, will join us on this question.

Mr BRINDAL: I have some sympathy with members opposite. Members of my own Party know that I have long

objected to the hypocrisy to which we in this House subject cigarette smokers, but it is not a position unique to the Liberal Party. I well remember Premier Arnold, whom I regarded as a thoroughly principled person, coming in here and saying, 'When it comes to tobacco products I will tax them and tax them through the roof. It is bad for them and, therefore, I will hit them for all they are worth.' As I say, Premier Arnold was a very principled man and I am sure he believed it, but he also realised—as was clearly said by members opposite—it makes revenue and big revenue for Government. I have a lot of time for what the member for Playford says. Basically, I object to the way we are not game in any Parliament in this nation to come in and say, 'Let's ban cigarette smoking,' many members of Parliament fearing that they would lose their seats as a result of that.

We are not game to ban it, but we are game to come in here and play the hypocrite and say, 'We will up the tax and make it harder and harder for people to buy this product because we are doing it for the good of their health.' That is hypocrisy pure and simple, and every Chamber in the country is guilty of it. As to the member for Giles asserting that it was dishonest and we had been in Government for five minutes, I remind the honourable member that this Government has been in office for three years.

Members interjecting:

Mr BRINDAL: I heard what the member for Giles said, but who is captain of the ship is less relevant than the ship you are on. This ship has been on course for the past three years and we are doing this three years into our term.

The Hon. Frank Blevins interjecting:

Mr BRINDAL: No, I did not mishear, as the member for Giles alleges. I would say to the member for Giles that, if there is a measure of hypocrisy in the way that all Parliaments in this nation attack this measure, we are guilty along with everyone else. But we are no less guilty and this Treasurer is no less guilty than any other Treasurer in the country.

Members interjecting:

Mr BRINDAL: No. If Premier Arnold, whom members opposite would acknowledge to be a thoroughly principled person, could stand in this House and espouse it as a health measure, the Treasurer deserves no less consideration or belief than in the case of Premier Arnold.

Mr CLARKE: This Bill is wrapped up, in the Treasurer's language, around health issues: of the expected $4 million to $6 million that Treasury expects to receive, will Treasury be donating one cent extra towards the advertising campaign seeking to dissuade people from smoking as an ongoing effort? I happened to see the Treasurer on television earlier this evening responding to a question from the interviewer about an attack launched on the Government by the Anti-Cancer Foundation that the Government was being miserly and was not spending enough money on a concerted and consistent advertising campaign to reduce the incidence of cigarette smoking, and the Treasurer said there would be no extra money allocated to any such campaign. Clearly, any extra revenue gained—between $4 million and $6 million—

The Hon. S.J. Baker interjecting:

Mr CLARKE: You will be able to answer my question—

The Hon. S.J. Baker interjecting:

Mr CLARKE: The Minister had his chance. I will just finish my question. Just because you have been caught out, there is no need to get toey.

The CHAIRMAN: The Deputy Leader must speak through the Chair.

Mr CLARKE: How much extra of the revenue will you commit to the campaign? Do not talk about the consolidated budget, but how much will you commit out of the taxation increase to assisting the campaign, not on a one-off basis but on a consistent basis, to reduce the incidence of cigarette smoking in South Australia? I believe that the State now puts in about $600 000. How much extra will you put in as a result of this increase in revenue? If this is about health issues, this is the area you should be targeting with those increased resources.

The Hon. S.J. BAKER: The honourable member would well recognise that we are not about to hypothecate any money in terms of the taxation revenue from tobacco.

Mr Clarke interjecting:

The Hon. S.J. BAKER: Just hold on a second. I believe that the amount of effort now made through our education system is bigger and, presumably, better than at any time in the history of this State. Anyone who has been to school in recent times would acknowledge right through their schooling years the programs on drug abuse, for example. Those programs tend to be very expensive by the time you add up all the dollars and cents and, in fact, they have been the most extensive this State has ever seen; but whether the kids finally take any notice, or whether people of the age of 30 take any notice, is another matter.

If the Deputy Leader wants to look at the amount of advertising of either a positive or negative nature, I suggest that he look at the newspaper occasionally, featuring a whole range of material on how to give up smoking, including material from various health groups which the Government supports. There is an enormous amount of information and advertising. I recall the advertisement with the tar pouring into the beaker, and there was also the black lungs advertisement—and I will take advice on this—but when that advertisement was on television smoking was still increasing, so, obviously, it did not have the desired effect. In terms of discussions about appropriate health campaigns, certainly I am willing, and I am sure that the Minister for Health is willing, to look at those particular measures, given the fact that Health Ministers collectively have said that we have to reduce the incidence of smoking.

People seem to think there is a magic pudding there and that, if we are interested in health, we cannot increase any tax because the tax would be wrong or inconsistent with promises. If we say that the population should be educated, first, not to smoke or, secondly, if they do smoke, to move down the tar chain—and I do not hear much dispute about that in the Parliament—how do you illustrate to them the Government's intention? As I have said, you have several alternatives: you can stand on the top of Mount Lofty and tell everyone and nobody takes any notice; you can spend money on TV every night telling people to move down the tar chain; or you can say, 'Look through the measures in the Bill. There is a statement being made by the Government about health.' We think it is an appropriate statement. In terms of the poorer people, it will not cost a lot—it is a matter of a few cents—and it will not cost them any money if they move down the tar chain, anyway.

I do not know of any better way of doing it. If members have any exciting ideas, I am sure they will share them with the Parliament. However, the point has to be made that this measure is about health: it punctuates the message, and I would have thought it was a reasonably effective message to sell. We have tried advertising, and people believed that once we took the Marlboro advertisement off television suddenly

consumption would reduce, when in fact it just continued to increase. So, there have not been any successful campaigns that I am aware of, except if we were to increase taxation by up to 500 or 600 per cent, and the Government is not about to do that.

Mr CLARKE: You did not really answer that question. I just want to be absolutely clear that there is—

The Hon. S.J. Baker: I did answer it.

Mr CLARKE: No, you did not. You have talked about the Government's advertising campaign to date, which obviously has failed, because you are still a smoker. Your answer can only mean one thing—and I want you to disagree with me if you wish—and that is that the Government will not allocate $1 out of this extra revenue you gain to the advertising campaigns to dissuade people from cigarette smoking.

The Hon. S.J. BAKER: I clearly stated that the manner of an effective campaign against cigarettes will be a matter of discussion between the—

Mr Clarke interjecting:

The Hon. S.J. BAKER: No. We have actually done it just simply by this Bill itself. If there are some effective means that have not been tried to date, I am certainly willing to consider them.

The Hon. FRANK BLEVINS: As I understand it, some additional money, if this tax increase is agreed to by the Parliament, will be allocated to what used to be called Foundation SA, now known as Living Health—or Living Hell, depending on whom you talk to. A simple nod across the Chamber would help. Am I correct in understanding that the percentage—

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: Therefore, of the increase that follows. As an anti-smoking organisation, I believe Living Health is a total and utter waste of time. There is no doubt in my mind that it ought to be abolished. I opposed its establishment. I am not breaking any Cabinet confidences: the Hon. Dr Cornwall did that when he wrote in his book what a terrible man I was for opposing Foundation SA being established.

Mr Clarke: And you are still here.

The Hon. FRANK BLEVINS: I am still here, yes. However, to my regret, so is Foundation SA. I believe that no Government is doing enough at the moment to deal with anti-smoking propaganda directed towards children. With adults it does not bother me too much: I regret it if they smoke, but it is their business. There is not an adult in South Australia who smokes who does not know that it is dangerous and damaging to their health. If they choose to do so, I believe that is their right. So, I am not concerned about the waste of money through Living Health when it is directed towards adults. I believe a very small amount of the money that Living Health receives is directed to anti-smoking campaigns, which is a pity. I believe that Living Health has paid its dues in respect of whatever obligation it had to replace sponsorship.

I believe that all of those funds ought to be given to the Minister for Health to develop anti-smoking campaigns overwhelmingly directed towards children. There ought to be a unit in the Health Commission, and I do not care very much how it is established, but that is the only way that I would now direct funds from the hypothecated tax that is there now into anti-smoking campaigns. I believe it has been identified that something like $600 000 is outlaid directly into anti-smoking campaigns. Given that the hypothecated tax collects over $11 million, I would argue that, if the objective was, first, to replace sponsorship and, secondly, to reduce the incidence of smoking in the community, there ought to be an awful lot more than $600 000 and it ought not to be done by the amateurs in Living Health: it ought to be done by the professionals, in my opinion, in the Health Commission, or some other organisation—as I said, I do not very much care which. It is no good seeing that money frittered away on the likes of Sky Show—and not just Sky Show; there are hundreds of other things going on where that money is just being wasted, doing absolutely nothing at all to deal with a very serious problem—a problem which I think is getting worse.

I think that more and more young girls are smoking. Given that $10 million is taken from this tax, yet only a lousy $600 000 is spent on this problem is deplorable. I would like to hear the Minister for Health on this. I believe that the health industry does have a very significant role to play. I believe it is underfunded, and I believe that there is no reason for it to be underfunded. To see many millions of dollars wasted from what was a hypothecated tax ought to be enough to make a Minister for Health cry.

An honourable member interjecting:

The Hon. FRANK BLEVINS: Well, we do not have a majority. I do not want to labour this point, but when money is hypothecated from tobacco smokers—although I do not think it ought to be—under the guise of an anti-smoking campaign and it is then frittered away when the problem amongst young girls is increasing is a tragedy.

Ms STEVENS: I would like the Minister for Health to respond to the comments which were made by the member for Giles and which I support. I would like to read into *Hansard* a letter which I received today from both the Executive Director of the Anti-Cancer Foundation and the Executive Director of the National Heart Foundation in relation to funds that should be allocated directly to the prevention of tobacco smoking. It states:

Dear Ms Stevens.

We have long argued that the current resources committed to reducing tobacco caused diseases in South Australia are totally inadequate. Through Living Health [formerly Foundation SA], the SA Quit Campaign has received up to $600 000 a year since 1989 to conduct the major statewide education and publicity campaign on smoking. This amounts to about 40¢ per head of population. It is difficult to reconcile this meagre allocation to the Quit Campaign in South Australia. In Western Australia, the commitment is $2 million a year and it has been at this level since 1984. Western Australia has the lowest smoking rates in the country. The Northern Territory, with one-fifth of our population, has recently increased its commitment and now spends $500 000 a year.

There is little doubt that in public awareness programs you get what you pay for, especially as we are competing with the tobacco industries counter offensive. In California, after a hypothecated tax increase in 1988, the Legislature mandated that about $3 per head be spent on its smoking and health programs. Smoking prevalence in California fell by 20 per cent in five years from about 27 per cent in 1988 to 20 per cent in 1994. On present trends the smoking rate in California will be 10 per cent by the year 2000. Over the same period, South Australia's adult and children smoking rates have remained static.

In order to produce a 'Californian type' effect, we estimate at least $4.3 million needs to be spent on education and publicity programs designed to reduce smoking.

This is about 2 per cent of all State tobacco licence fees and coincidentally about the amount expected to be raised from the proposed increase in the licence fee from 100 per cent to 102 per cent and 105 per cent for higher tar cigarettes.

It is also an amount which is equivalent to the $4.3 million of State tobacco licence fees and Federal excise taxes raised from the tobacco smoked by South Australia's children. In the attached table we have made an estimation of this for your information.

We must reduce smoking rates amongst adults and children and hope they might fall by about 5 per cent per annum. We believe this can be achieved if the SA Quit Campaign receives funding equal to South Australia's children smokers tobacco taxes. We believe that the Parliament is unanimous that children should not smoke.

When the Tobacco Products Regulation Bill 1997 is debated today, we urge you to support our request that 2 per cent of State licence fees be allocated to the Quit Campaign to enable us to give our children the best possible chance of growing up smoke free.

That is a solid case for a health measure that could make a real difference, and I would like to hear the Minister for Health's comments and whether the Government will commit itself to just that.

The Hon. M.H. ARMITAGE: The member for Elizabeth made great play of reading into *Hansard* a letter from the National Heart Foundation or the Anti-Cancer Foundation—I am not sure which one.

Ms Stevens: Both of them.

The Hon. M.H. ARMITAGE: The letter states that Parliament is unanimous that children should not smoke. That was their view. I notice the member for Giles nodding. Parliament is not unanimous that we should have smoke free restaurants. The Labor Party is saying 'No' to every amendment which the Government is moving and which would see smoking banned in restaurants. The member for Elizabeth cannot have it both ways. She cannot claim Parliament should be unanimous about this as a virtue and then within five minutes—hopefully shorter than that—vote 'No' on an amendment which would see smoking banned in restaurants.

On occasions, I agree with the member for Giles, and this is another of those occasions. He said that he did not believe that taxes should be hypothecated. I agree with him. He also said that, sadly, in his view Living Health was wasting money. I am not sure how many organisations, if any, in the electorate of Giles receive funding from Living Health. I am not sure how many bowling clubs, darts clubs, or other clubs where small groups of people gather are funded in the electorate of Giles but, if the honourable member believes that that money is being wasted, would he be prepared to write to me so I might write to Living Health to suggest that they remove funding from the small community groups in his electorate and put them elsewhere?

In my view, Living Health does apply the moneys well because it applies them to those small groups. Many people have said on many occasions that the administration of Living Health takes too high a proportion of its budget. I disagree with that, but it would be easy to decrease the administrative budget for Living Health by just splitting the money which Living Health receives and which it then distributes into, say, three, and giving one-third to football, one-third to racing and one-third to cricket or three other sports such as netball, ice hockey and something else. That would be extraordinarily easy, but the dilemma in administration for Living Health is the number of applications from small dedicated bodies which are supported by Living Health funding.

I was briefed recently about an exciting program which is being developed at the present time for the youth of South Australia by Living Health. I believe that will be ground breaking material, and I am very keen to support it. I have also received various applications and letters from the National Heart Foundation, the Anti-Cancer Foundation and many other organisations, but the most important thing about all those organisations is that we as a Parliament need to be assured that the money is spent in the most judicious way.

It is easy for people to say, 'We are getting X, we want 4X or four times the amount of benefit.' That may well be the case—I am not for one moment disputing that—but what this Parliament must determine and what I as Minister must be assured of is that even X is spent most appropriately. It may well be that other plans are more revolutionary than some of the things that we have done. Both the Government and I are committed to attempting to bring down particularly the rate of smoking by young people. That is why I took issue before with the Deputy Leader of the Opposition—and I suppose I do with the member for Giles—who opposed expenditure on things such as Sky Show, because those are the sorts of events at which young people congregate.

Those sorts of groups need to be given these messages. I learnt that lesson when I was first presented with the budget for Living Health. There was a request for a grant for the darts club in a hotel in the member for Elizabeth's electorate. I said to the people from Living Health, 'That's ridiculous. Why are we spending (say) $500 on the Elizabeth Hotel darts club?' The answer that I was given was terribly cogent, and I am cross that I did not see it myself. They said that the people who are not getting exercise, who are drinking too much and who are smoking in the front bars of hotels—and they will still be able to do that under this legislation—are the very people who ought to be getting the Living Health message. That is the point that I make in relation to the expenditure of Living Health moneys. If that money is applied so that the people for whom the message is applicable receive the message, that is good expenditure.

Mr QUIRKE: Turn it up, Minister! Do not give us this stuff about Living Health. I have not taken part in this argument so far, but I will now. The Minister ought to have a close look at what is going on in his portfolio. Why does Living Health have a box at Football Park? What has that got to do with anti-cigarette smoking? Ask Living Health who sits in that box at Football Park. It is not the kids that it is trying to wean off cigarettes.

I also point out to the Minister that the Elizabeth darts team might get $500 but, if you go to this white elephant immediately north of this building to see shows put on by the State Theatre and the Opera, all you find is that the top four or five people in any State Government department get freebies courtesy of Living Health. The only thing that the Minister ought to stand up and say in this Chamber about that is that most of them are his constituents. I would be able to understand that: that would be straight up and down and honest.

I have not got into this argument about Living Health, but the Minister says that he is satisfied with what that organisation is doing. Let me say that he is the only person in South Australia who is. Living Health is burning $100 notes on street corners on every little project it wants. In fact, I well remember an application for a bowling grant in my electorate. The Royal South Australian Bowling Club sent out a representative who said, 'You will never get a quid from Foundation SA because we get it all at the peak body. The reason we get it at the peak body is that we put on the fancy black tie dinners.' The Minister ought to have a close look at this, because the Economic and Finance Committee is. Both Parties, including the Minister's, are not happy about what is going on. So, I ask the Minister to tell us about the box at Footy Park and who is admitted to that, because I do not think that it has anything to do with anti-smoking.

Ms STEVENS: I would like to respond to the Minister's statement that the Labor Party is not interested in the prevention of smoking by children simply because of the comments that members on this side have made so far

regarding this Bill. I remind the Minister that the provisions about the sale of cigarettes and a whole lot of other issues in the current Acts came in when the Labor Party was in Government.

Mr BECKER: Regarding the comments of the member for Elizabeth, I refer to a letter sent to the Liberal Party by the Anti-Cancer Foundation and the Heart Foundation, two of the biggest and most vigorous professional fundraising organisations in South Australia. I have had 20 years experience with fundraising by charitable health and welfare organisations in South Australia, so I can tell members what it is like to establish a health organisation in competition with these professional organisations. In this letter, the Anti-Cancer Foundation and the Heart Foundation advise us of the estimated smoking rate of young people in South Australia, as follows: 12 years (20 233) 5 per cent; 13 years (20 101) 12 per cent; 14 years (19 234) 21 per cent; 15 years (19 347) 28 per cent; 16 years (19 388) 26 per cent; and 17 years (19 830) 26 per cent. The most popular brand of cigarettes smoked by children is Escort, which attracts a licence fee of $3.22 per packet and a Federal excise duty of $1.80.

The point I make is that these organisations are seeking a greater percentage of the funding, and we want to know why they cannot be given an extra grant. More importantly, for nine years Foundation SA (now Living Health) has been conducting the Quit campaign, but we have been unable to ascertain how successful it has been. Can the Minister inform the Committee whether there has been a reduction in cigarette smoking amongst people in South Australia over the nine years of Foundation SA, particularly with regard to children? I refer to the annual report of Foundation SA. The Economic and Finance Committee is trying to do the Minister a favour, because if we are going to have education programs—

The Hon. M.H. Armitage interjecting:

Mr BECKER: The Minister might laugh. Perhaps he knows the background of the person whom he appointed as the General Manager of that organisation. The whole point is that, if the Minister is going to run a successful education program to discourage people from smoking cigarettes, he should be entirely responsible for the whole of the budget and not be answerable to some other organisation that wants to play all sorts of games with the funding. Foundation SA took over the tobacco sponsorship of sporting organisations, which was valued at $1 209 000. In the area of arts and culture it was $225 000. So, originally, Foundation SA—and I remember nagging the Hon J.R. Cornwall over this—was to take over the tobacco sponsorship of sport, arts and culture worth $1 434 000.

The current budget of Foundation SA is about $11.5 million. There is $4 million cash in reserve that has not been allocated or spent. It can tell you all sorts of things. That organisation is good at saying that the money is for forward commitments, but we know what it does. When one looks at the organisations it funds, one finds that they are only sporting associations and not individual clubs, but occasionally one finds a reference to organisations such as the Marion Bowling Club, which now gets $3 500 for its annual bowls carnival. That is a substantial increase, but originally a tobacco company sponsored a competition at that club. It was successful in its application for a change of funding.

However, an organisation in Glenelg known as the Holdfast Ring Bowl Club is unique in the world. It had a world championship about 11 years ago. The first prize was $250, donated by Rothmans. Foundation SA will not replace it because the committee of that organisation—typical, average working class people—were told, 'Here is the form, fill it in.' The chap said that he had had only a basic education and could not do it. He was given no help and told that, if he could not fill in the application form, he would not get the grant. That was nine years ago. It has never been given any consideration and, as far as I am concerned, Foundation SA owes that club $250 for the past nine years. I am building up that one.

Let us also look at the distribution of funds from Foundation SA to an organisation in the western suburbs which handed it down to a coffee lounge collective. I am in favour of any project that creates employment opportunities and provides opportunities for job training and placement. An amount of $19 500 has been lost because one of the employees could not work out 10 per cent discount and kept giving 30 per cent discount. That is beside the point. It is part of the training. But why is Foundation SA funding a coffee shop, for God's sake? You can go down there and have a cigarette if you want to.

You can go through the annual report and see the organisations that are funded. I say 'Good luck' to a lot of them. I put a question mark beside some of them, but good luck to all of them. But it annoys me that the Quit smoking campaign received $580 000 and in the next two years it will receive a reduced amount of money. The Cancer Foundation and the Heart Foundation have every reason to be concerned about the amount of money allocated to the Quit campaign. If you are dinkum about it, you do something positive. If I were Minister for Health, I would want control of that campaign, because the Minister's organisation—the South Australian Health Commission—could run a far better and coordinated campaign rather than having some autonomous body over which you have hardly any control telling you what to do and getting you into trouble. You are getting into trouble because of the management and operation of Foundation SA.

A committee of the Parliament is looking at the matter: let us have a good look at it and let us help. That is what we want to do. We are not here to hinder. My personal issue on smoking is a different issue, but I want to help, because there is $4 million in reserve. Are we reducing the incidence of smoking among young children and, if not, why not? Where has Foundation SA failed? What would the Minister do with an extra $4 million, because the Cancer Foundation and the Heart Foundation are asking for that money as they believe something can be done. But, I would rather see the Minister, who is answerable to this Parliament, have those funds to do something more positive with them.

The appeal I make is that the Minister have trust and faith in his colleagues who are on parliamentary committees to look at these issues and do something pro-active for the State rather than look at us from a paranoid viewpoint and think that we are here to cause nothing but mischief. It is not so. My opinion on cigarette smoking is one issue but this organisation has had almost $100 million over nine years, and I ask the Minister, 'What the hell has it achieved?'

The Hon. M.H. ARMITAGE: I have previously addressed the matter of the Quit campaign and other things. This is a classic case of a parliamentary debate. The honourable member wished to make a point and has made it to me on other occasions, and frankly he did not listen to what I said five minutes ago. Five minutes ago I said that we are looking right now at, first, whether the money in the existing programs is being well spent. Secondly, I identified that I have been informed of an exciting campaign which would see a large amount of money from the reserves that have been

judiciously built up being spent and which, hopefully, will see a smoke free generation of young South Australians. If the honourable member is sincere in saying what he wants—and I know him well and know that he is sincere in wanting those things—he will support those programs.

Mr BECKER: I heard the Minister make the previous statement, but I wanted to draw to the attention of the Committee to the latest annual report of Foundation SA, which I doubt many people would have read. The cost of the operation of that organisation is said to be about 9 per cent. I do not believe that: I believe that we are discovering that it is costing a lot more than we expect—probably double that figure—and that is a terrible waste of money, in my opinion, when I know that each Government department or the Health Commission could run that share of the health funds in an economical way. The Health Commission could absorb that section and not have to engage any additional staff—maybe one. That would be a real benefit and saving to the State also.

Sure, we support any campaign that can reduce the incidence of smoking among young people. We have a long way to go. Videos, television and films play an important role as far as cigarette smoking is concerned, as it is what the young ones watch. If you watch any films of years gone by, you see that everybody had a cigarette. If we are to tackle the problem, we need to look at that area. The whole assessment of Foundation SA needs to be thoroughly reconsidered—its role, the funding and the allocation of funding to the various organisations.

I am concerned at the impact of this clause and I am still concerned, given the allegations made, that the tax on the tar content will be challenged. Has the Treasurer any advice for the Committee on what, if we bring in this tar tax and there is a challenge, it is likely to cost the State to defend the legislation we are asked to put through now? Will we be successful in upholding this tar tax?

The Hon. S.J. BAKER: If you ask a lawyer for an opinion and if you then ask another lawyer, you will quite often get different answers. The best advice we have is that it does not offend section 92 of the Act. It is consistent with the current licence fee system. It strengthens our hand in other proceedings. It is a direct health measure and would be warmly applauded as such. On all those grounds, the likelihood of an appeal against it in its own right would not succeed. We have legal advice on that but, with all legal advice, there are other opinions. The best advice we have is that a challenge would not succeed. In terms of the health nature of the tax, it is clearly a strengthening of our position.

The Hon. M.H. ARMITAGE: In relation to the member for Playford's impassioned plea, I am informed that Living Health no longer has a box at Football Park.

The Committee divided on the amendment:

AYES (8)

Atkinson, M. J.	Blevins, F. T.
Clarke, R. D.	De Laine, M. R.
Quirke, J. A. (teller)	Rann, M. D.
Stevens, L.	White, P. L.

NOES (27)

Andrew, K. A.	Armitage, M. H.
Ashenden, E. S.	Baker, S. J. (teller)
Bass, R. P.	Becker, H.
Brindal, M. K.	Brokenshire, R. L.
Buckby, M. R.	Condous, S. G.
Evans, I. F.	Greig, J. M.
Gunn, G. M.	Hall, J. L.

NOES (cont.)

Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Leggett, S. R.
Lewis, I. P.	Matthew, W. A.
Meier, E. J.	Oswald, J. K. G.
Penfold, E. M.	Rosenberg, L. F.
Rossi, J. P.	Wade, D. E.
Wotton, D. C.	

PAIRS

Geraghty, R. K.	Caudell, C. J.
Hurley, A. K.	Venning, I. H.

Majority of 19 for the Noes.

Amendment thus negatived.

The CHAIRMAN: As the member for Playford indicated that that would be a test case, will the remainder of his amendments not be put?

Mr CLARKE: That is correct.

The Hon. FRANK BLEVINS: The Minister for Health, in his usual smart-armed way, suggested that I ought to contact my bowling club, I think he said, in the seat of Giles to see whether it thought that the money it got from Living Health was wasted.

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: I said Living Health was a waste of money—exactly. I think the member for Peake explained it fully. The Minister is a very difficult person to assist. I would abolish Living Health. I would allocate the funds that would have been available to Living Health to the Minister for Health, the Department of Recreation and Sport and the Department for the Arts on either the same break-up as applies now or in whatever way the Government chooses, because I believe that is the Government's prerogative.

My bowling club could apply to the Minister for Recreation and Sport for a grant if it chose to do so. There is absolutely no necessity for any third party intervention by another quango: none whatsoever. I would say to the Minister for Health that, if the object of the exercise is to discourage people from smoking, could he tell me how many smokers in bowling clubs in this State with an average age of 60 years have been dissuaded from smoking or dissuaded from taking up smoking by Living Health?

I will tell you how many—nil, not one. I would be staggered if there was one. So, as an anti-smoking measure it is a waste of money. If the Government chooses to subsidise or fund bowling clubs in the electorate of Giles or any other electorate, that is the Government's business through the Department of Recreation and Sport, or whatever, and has nothing to do with Living Health. My point is this: probably the only hope we have of cutting down the incidence of smoking is to direct the campaign towards children. As I understand it, young girls are now taking up smoking in ever-increasing numbers. The percentage is actually increasing, so as to the rhetorical question asked by the member for Peake—what have they done over the past 10 years with $100 million?—I can tell you what Living Health has not done: it has not prevented any young women from taking up smoking and, in fact, Living Health is a total failure because the incidence of smoking among young girls is increasing.

I do not want to fight with the Minister for Health over this. If the Minister feels that he is not competent to spend the $12 million or whatever is allocated to health through the hypothecated fund, I am sure other Ministers will be able to assist him. I would have thought that any Minister for Health would want this money and would want to do some direct

health promotion, rather than giving it third hand to a group of bowlers whose receptivity to the anti-smoking message is absolutely nil. The problem of children smoking is a very serious one. If the Government takes it seriously, it should work with any body of Parliament with good will that wants to give the Minister for Health more money to attack the problem, particularly involving children, which is what everyone I know in this Parliament wants to do.

For the life of me, I cannot see why the Minister for Health would not want to welcome what everyone in this Parliament is trying to do, that is, to make more funds available to target young people with the anti-smoking message. I am sorry if I and other speakers have somehow offended the Minister for Health to the extent that he feels it necessary to make smarmy smart-arm remarks about writing to the clubs in the electorate of Giles and telling them that Living Health is wasting its money giving funds to them. It does not warrant that. We are trying to attack the problem and give the Minister more money to do it with.

If the Government wants to give money to the Department of Recreation and Sport and the arts, let it do that if it thinks that attacking the problem, say, through junior sport is a good way to do it. That is fine, but I am saying that $100 million, 10 years later and children smoking in ever-increasing numbers: it is definitely a problem—it is not working—and anyone ought to be able to see that. For the Minister to have a go and be as nasty as he was—I and the member for Elizabeth are used to it, but I do not know why the member for Peake got it. What has the member for Peake ever done wrong to warrant that kind of approach to him? He wants to give you more money.

Members interjecting:

The Hon. FRANK BLEVINS: There is plenty of money. I have never understood this Government, particularly with pokies money and this kind of money. There is plenty of money—hundreds of millions of dollars coming in—and we are quibbling over $600 000 and saying that that is as much as we can afford. That is what brings these taxes into disrepute. I do not want to broaden the debate at all, but I refer to the trivial amounts that are given back to those people who have a gambling problem. When we are raising $150 million, I cannot understand how we can be quibbling over $600 000 out of that. We are raising a couple of hundred million dollars so, for goodness sake, let us have an effective anti-smoking campaign directed at children. There is plenty of money to do that. The Minister should show that he is serious and not just keep having a go at people for reasons unknown to us.

The Hon. M.H. ARMITAGE: I merely make the point to the member for Giles that he has changed his ground. He now appears to be wanting to be seen as a health crusader. Good luck to him; I agree with that; that is fabulous. But not an hour ago he was voting against measures which would have seen smoke-free areas in restaurants. I identified why that was the case: it was the case for petty politicking reasons. The member for Giles cannot have it both ways. I understand where he is coming from with children and other people who smoke; I understand that only too well, but what is sauce for the goose is sauce for the gander. Either he is consistent with that and votes with the Government on its amendments to decrease smoking in restaurants or he is clearly seen as being inconsistent. But that is an aside.

The point I really want to make about Living Health sponsorships is that they are given and the organisations are expected to be consistent with the Living Health guidelines. The most obvious of all those is the sponsorship for the South Australian National Football League, where Football Park is now a smoke-free area. That is an extraordinarily good use of sponsorship money.

The Hon. FRANK BLEVINS: Mr Chairman—

The CHAIRMAN: The Chair has been pretty lenient in this debate. The member for Giles was allowed a response to a taunt by the Minister, who has now responded to the member for Giles. I suggest to honourable members that clause 6 is a taxation measure and is probably the least appropriate clause upon which to debate this point. There are probably more appropriate clauses and, if the member for Giles intends to pursue this matter, I suggest that he refrains from doing so.

The Hon. FRANK BLEVINS: Consistent with the clause before the Committee, it is a taxation measure and some of the tax is to be applied to Living Health. How Living Health spends that additional tax is entirely relevant to the clause. On the question of consistency, the Minister's problem is that in Caucus he got the numbers just, but at a price. In this debate, through his behaviour, he really has been wiped all over the floor and he does not like it at all.

The Hon. M.H. Armitage interjecting:

The Hon. FRANK BLEVINS: There will be many more Bills: there is always another vote and you have not won anything yet. Look at the faces around you; see what you have lost through incompetence. It is not necessarily that you do not have the right message, but through your own incompetence, see what you have lost. I have not addressed the question of consistency in any substantial manner because it would have been out of order for me to do so concerning the absolute substance of the debate, but I have hinted to you what my view is.

However, we have not as yet debated it. My difficulty is that you would not allow me to discuss it with my colleagues as you have had to do: that is the only point. Everyone alongside you and behind you agrees with me and they do not agree with you. They are lining up and voting with you, but they do not agree with you—except for one or two—because you have made a complete and utter hash of the whole debate. So, do not talk about consistency or anything else, because my view is totally consistent. If I win or lose a debate, I am used to that and I wear it. I believe that if you wanted to give me a middle name then it would be consistency—boringly consistent, but honourable also, which is more than we can say for the Minister.

Clause passed.

Clauses 7 and 8 passed.

Clause 9—'Unlawful consumption of tobacco products.'

Mr BECKER: This clause consolidates the two pieces of legislation and, since the original legislation was enacted, can the Minister advise the Committee of the number of consumption licences that have been issued and the number of persons who have been prosecuted for not having a consumption licence?

The Hon. S.J. BAKER: On the first point the number is zero, and I believe the answer to the second is also zero. However, I will have that matter checked.

Mr BECKER: The reason I sought the information is that, if it is zero, do we really need the clause? As we are consolidating the legislation, I thought perhaps the time had come when we could do away with it.

The Hon. S.J. BAKER: I explained this matter earlier, when another member raised the question. I said that the issue is a restraint of trade issue; that we should not restrict the

right of someone to trade with a wholesaler. So, when the former Government constructed the Bill they made this consumption licence available, but set a very high fee for that consumption licence. That was to dissuade people from either using that process or using a process to develop their own tobacco trade outside the normal trading restrictions. So, it was a matter that was debated previously in the Parliament. It still holds: if we do not have something about a consumption licence then we would have the other problem, with people going straight to the wholesaler and therefore avoiding the tax.

Clause passed.

Clauses 10 to 28 passed.

Clause 29—'Application of Part.'

Ms STEVENS: I note that this clause provides:

> This Part does not apply in relation to anything done by means of a radio or television broadcast.

I notice there is no mention of the newer forms of electronic communication such as the Internet. I would like the Minister to comment on whether he has considered that, or give his reasons for not including it.

The Hon. S.J. BAKER: The honourable member is correct that the Bill does not make reference to the Internet. It is a comment which has been made by the Anti-Cancer Foundation, whose letter I have just received. I will have the matter examined to see whether there is any validity to the suggestion that we should broaden the reference to technology.

In terms of actual trade in tobacco, as the honourable member would recognise, as soon as the product hits Australian shores it must be subject to the excise of the Commonwealth, and wherever the tobacco is sold it must be subject to State taxes. Anyone who avoids either of those two taxes would be prosecuted under the normal laws of the State and the Commonwealth. So, I will ask the Taxation Commissioner to look at the issue of the influence of the Internet and whether there is any need to broaden the scope of the Act.

Clause passed.

Clauses 30 to 37 passed.

Clause 38—'Sale of tobacco products to children.'

Ms STEVENS: I note in subclause (1), relating to the sale of tobacco products to children, the maximum penalty is $5 000. In the amendments placed on the table by the Minister for Health there are expiation fees together with maximum penalties, and I ask the Minister why that was not considered in this case, for consistency with the other penalties further down the track in clause 48. Secondly, who is responsible for enforcing this provision?

The Hon. M.H. ARMITAGE: The first part of the question relates to the expiation fees in later clauses: they were set in relation to similar expiation fees and fines for similar things; for instance, one is not allowed to smoke in a lift, the fine for which is $200 and the expiation fee $75. It is consistent with later clauses for a similar type of, if you like, offence—for example, smoking in an area where smoking is not allowed. That is why that penalty is in future clauses which we will discuss. The answer to the second question is that officers of the Health Commission are responsible for enforcing the provision.

Ms STEVENS: How many successful prosecutions in relation to this matter have occurred over recent years? In relation to the advantage of having an expiation fee, it has been put to me that an expiation fee by way of an on-the-spot fine would impact more directly on the person who has committed the offence. As it stands without an expiation fee, it is possible that a child could be required to give evidence against whoever supplied or sold the tobacco product to that child. It has been suggested that this is hardly a fair process for the child and puts the child in a very difficult position. This situation could be alleviated by having the choice of an expiation fee.

The Hon. M.H. ARMITAGE: Is the member for Elizabeth suggesting that there should be an expiation fee for selling tobacco products to a minor?

Ms STEVENS: I am asking whether you would consider in subclause (1) having a maximum penalty of $5 000 and then an expiation fee. An expiation fee of $250 has been suggested to me, for example. It was suggested to me that the advantages of doing this were, first, that it would impact more directly and be an efficient way of enforcing the will of Parliament in this matter; and, secondly, it could be possible to avoid the need for the child to go to court.

The Hon. M.H. ARMITAGE: The answer to the first part of the question is that there has been one prosecution about six to 12 months ago. At the time it was thought the penalty was quite severe. I was interviewed by a number of people who felt it was too severe for this offence. I do not agree with that because I believe that it is part of a process of setting an example to other people who may be tempted to sell tobacco products to a child. I undertake to look at it, but I am immediately concerned about an expiation fee of $250 which is not a huge penalty when one looks at the price of a packet of cigarettes today. Indeed, if we want this to be a deterrent to those who supply tobacco to children, I believe an expiation fee of $250 is potentially not enough.

In relation to the child potentially appearing in court, legally there is a chain of evidence which in some cases may need a child to appear in court, but if one is serious about stopping the sale of tobacco to minors that is one thing that one must contemplate. In the case of the successful prosecution, I am informed that with the chain of evidence being so strong—and indeed that is what we believe would be the case with most offences—the person admitted guilt and, accordingly, there was no need for the child to provide evidence.

It is a moot point. The last thing I would want to do is subject a child to an experience which was negative but, equally, if we are serious about deterring the sale of tobacco products to children, I think that on some occasions that may be necessary and that that is perhaps a necessary evil.

Ms STEVENS: You said that this was enforced by officers of the Health Commission: how many officers are involved in this task and approximately how many places must they police?

The Hon. M.H. ARMITAGE: I have been informed that there are about five of these officers. It is not a matter of policing these places as such. Indeed, there has long been an argument about whether or not one ought to indulge in entrapment, although that is not something with which I am in accord. As to the question about the number of places that must be policed, the answer is: every place that has the potential for selling tobacco to minors—hundreds of thousands potentially. That is why I am in favour of a larger penalty rather than an expiation fee, so that, on the occasions when the chain of evidence is clear, the person who has perpetrated the wrong incurs a severe penalty. Indeed, members of the Retail Traders Association and other organisations are very supportive of these measures and I commend them for it. I have had a number of discussions with people from that organisation who advise me that they

publicise a severe penalty in all their journals to continue to reinforce the message that the sale of tobacco products to children is something frowned upon by their organisation. Further, the severe penalty is a disincentive to the actual sellers.

Mr BRINDAL: I would like to follow up a point made by the member for Elizabeth. While I agree with the Minister in relation to the severity of penalty that may be applied, if expiation notices were issued for some of these offences it would give greater consistency to the Bill, and a severe expiation fee, in the case of sale to minors, would in fact be an admission of guilt: it is a penalty and would stop the whole litigation process which is costly to not only the State but also the person eventually found guilty.

As I read this Bill, if you smoke in a lift, which is an enclosed space, you can either be taken to court or pay an expiation fee; and if you smoke in a bus, again an enclosed space, you can be taken to court or pay an expiation fee. But if you smoke in an auditorium, a place of public entertainment, there is no expiation fee, only a fine. If I smoke in a lift, I can expiate it; if I smoke in a bus, I can expiate it; if I smoke in a theatre I must go to court.

For the sake of consistency and for the sake of the courts, will the Minister undertake to review this aspect of the Bill? Heavy expiation fees can be imposed, and those people have the right to go to court if they think they are innocent, but for the sake of consistency and our court system it might be good to add a few more expiation fees.

The Hon. M.H. ARMITAGE: I will look at this matter between now and when it goes to another place and take advice on whether having an expiation fee is seen potentially as a watering down of the severity of penalty for people who sell tobacco products to children. If the advice is that that is the case, I will not be in favour of bringing it in. As I have done with respect to all this legislation, and as the member for Unley knows only too well, I have taken the advice of the Party room. If the Party room feels that it is a good idea, I will do it, but personally I am not in favour of anything which diminishes the penalty for people who sell tobacco products to children.

Regarding the consistency of these matters, I recall reading about some horrific episodes where numbers of people in movie theatres were incinerated because of fires started by smoking and the resultant panic. I believe that is potentially a more severe offence than some of the other examples cited by the member for Unley which are expiable. Whilst I was not party to the application of the original penalty, I wonder whether the obvious increase in severity which can occur from that sort of an event may have been part of the rationale behind that process.

Clause passed.

Clause 39 passed.

Clause 40—'Certain advertising prohibited.'

Ms STEVENS: My understanding is that clause 40(3) is redundant as the Federal Tobacco Advertising Prohibition Act 1992 prohibits advertising in connection with cricket unless an exemption is given by the Federal Minister for Health under section 18 of that Act. Does the Minister agree that clause 40(3) should be deleted?

The Hon. M.H. ARMITAGE: I have before me the legislation to which the member for Elizabeth refers. I am not certain whether the section to which the honourable member refers should not still apply because, whilst advertising in connection with cricket appears to be prohibited, there is the potential for an exemption to be given by the Federal Minister for Health. When I received this information a day or so ago I wondered whether that was inconsistent. I am happy to have the matter looked at. If it is unnecessary, it will simply be deleted, but I was concerned about the fact that there was the potential for an exemption to be given. The Federal Minister for Health is almost completely in accord with me regarding these matters, so I do not believe that such an exemption would be readily given. However, I undertake to look at the matter between here and another place.

Clause passed.

Clause 41—'Prohibition of certain sponsorships.'

Ms STEVENS: I raise the same point with regard to clause 41(3).

Clause passed.

Clauses 42 and 43 passed.

Clause 44—'Smoking in buses.'

Ms STEVENS: This clause provides that 'subject to subsection (2) a person must not smoke in a bus that is carrying members of the public.' What about people travelling on trains, trams and other forms of public transport? Smoking in taxis is already covered by the Passenger Transport General Regulations 1994. Surely this clause should be amended to cover all forms of public transport.

The Hon. M.H. ARMITAGE: I undertake to discuss this matter with the Minister for Transport. However, I point out the extraordinary change of heart that the member for Elizabeth appears to be having. In one breath, the honourable member suggests that we add to this Bill a restriction against smoking in a train, tram or other form of conveyance which carries members of the public. In the other breath, less than an hour ago, the member for Elizabeth railed against it and loudly proclaimed that she would not vote for legislation—

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: The member for Elizabeth says that that is not true. The member for Elizabeth called a loud 'No' on the clauses that would have seen smoking prohibited in restaurants. The honourable member is blindly and blithely putting to the Parliament information that she has received from the Anti-Cancer Foundation and the Heart Foundation, which is her right, and I do not dispute that, but that is totally inconsistent with her position—disregard for the moment the Opposition's stance—regarding smoking in restaurants. That absolutely gives the lie to the honourable member's earlier supposed position and proves what I say, that the member for Elizabeth and other members of the Labor Party know that our amendments in relation to smoke free areas in restaurants is good legislation.

The member for Elizabeth now says that we should legislate to prevent people smoking in trams, trains and so on. I undertake to discuss that matter with the Minister for Transport between here and another place, but in doing so I emphasise as strongly as I can that the member for Elizabeth's proselytising the virtues of this clause does nothing more than point out the total inconsistency of her opposition to what the Government is trying to do in respect of restaurants.

Ms STEVENS: I refer to clause 44(2). The Minister cannot help himself. He goes off on tangents. The Labor Party has made its position clear. Because we have not been given an opportunity to consider these amendments which were dropped on us by the Minister at twenty past two this afternoon, we are not taking a position. We will consider them next week when our position will be made clear after we have had a chance to discuss these matters in Caucus, which we have not yet been able to do. We will then see how

things work out in another place. That has been made quite clear, but the Minister for Health cannot help himself. He continually jibes and prattles on.

I feel quite within my rights and have a clear conscience in pursuing these matters. I might add that I am surprised that the Minister for Health did not come up with these matters himself in relation to the Bill. It shows how seriously he approached this as a health Bill. Clause 44(2) as it stands does not apply where a bus has been hired for the exclusive use of members of a group. It has been suggested the to me—and I know that the Minister has the same material—that, if members of a group were permitted to smoke, no protection would be afforded to the driver of the bus or to other staff.

The information gives an example of the Melbourne bus driver Sean Carroll who contracted lung cancer and died. Expert testimony at his trial from a professor from Adelaide University indicated that smoking in connection with his bus work was more than 75 per cent likely to be responsible for his lung cancer. It has been suggested that that should be differently phrased in the following way, namely, that subsection (1) not apply where a bus has been hired for the exclusive use of members of a group. Has the Minister considered this, and will he consider it before the Bill is presented in another place?

The Hon. M.H. ARMITAGE: I will certainly consider it between now and when the Bill reaches another place. I indicate how delighted I am to hear the admission the member for Elizabeth has just made that the Labor Party's position on this piece of legislation has changed. It gives emphasis to what I said before. We had a bit of shadow boxing—and I understand that; theatre is involved in politics—about whether it was good, bad or indifferent legislation, and a number of members tried to have 50 cents each way by saying that personally they supported it but did not like the politics of it. I understand that, but I am delighted that the Opposition has now identified that it will consider the Bill in Caucus next week.

I ask members opposite to consider it without prejudice because I have been told on about three occasions tonight that I should have done this in a different way. After he told us how the voluntary code was not working, the Deputy Leader of the Opposition said, 'This could have had support, but unfortunately it is going to come to grief.' I ask how much open and clear minded consideration the member for Ross Smith will give to what he indicated was an important issue when it is considered in the Labor Party Caucus next week, having been so frank about the process. The member for Giles said that this would have had considerable support in the Caucus, yet now we hear the member for Elizabeth saying that the Bill will be considered in Caucus next week.

The member for Giles also said that whoever promotes it will have a hard job. All I ask is that, if the Labor Party, having changed its position, considers the Bill next week, it supports what it knows is good legislation, legislation that will help the health of South Australians and not let their publicly identified shadow boxing tonight get in the way of a good decision. It is quite clear that what members opposite have done tonight was for all the best political reasons, but I hope that they do not allow that to prejudice their decision in what will be a most interesting discussion in Caucus, given that so many people, particularly the member for Elizabeth, have identified that this is good legislation.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: No. The member for Elizabeth is quoted as saying:

> It is a step in the right direction. We know the danger of tobacco smoking. It's undeniable.

I hope the Labor Party will end up supporting this legislation, as a number of them have already identified that it is a step in the right direction. I will certainly undertake to address the matter raised by the member for Elizabeth.

Mr MATTHEW: What an amazing turn around we have seen in this Chamber during debate on this clause in the past 10 or 15 minutes. We have been subjected to this constant bleating by the Opposition all night that it has not had a chance to consider the clauses. In the amount of time we have been here members opposite could have run away and had their Caucus meeting and come back again while everything kept running in the Chamber and none of us would have missed a thing. The member for Elizabeth now admits that Caucus will consider it, and that members opposite will make up their mind in a couple of weeks. Members opposite have made a complete turnaround. The member for Elizabeth initially opposed it. She claimed that she had not had a chance to debate it. I am sure that she is not taking advice from the member for Giles—we know of his dismal performance as a Minister.

Perhaps the member for Elizabeth was influenced by the gentleman from Philip Morris. I do not know how many members had a visit from the gentleman from Philip Morris, but I did. I was certainly aware of the likelihood of this Bill since late last year and supported the Minister for Health in his endeavours—and the matter has been talked about for some time and is not something new or a surprise to members. The Labor Party and its individual members should have had time to consider the principles. I was prepared to see the gentleman from Philip Morris, but I had him warned in advance by my secretary that, even though I was prepared to see him, I would not be influenced by what he had to say.

I was quite amazed by what he had to say. The gentleman from Philip Morris said to me that Philip Morris was absolutely sure that this Bill would have no negative effect whatsoever on the hotel industry nor would it have any effect on the restaurant industry. However, Philip Morris said that its only concern was on the consumption of cigarettes, and it thought that its business might drop. That is why we have been lobbied by the gentleman from Philip Morris. Perhaps the honourable member was influenced by that gentleman and that is why she is swaying from one side to the other. More recently, maybe she remembered that she is the shadow Minister for Health and is following through with the health argument. During the debate I would be interested to hear from other members whether they had a visit from the gentleman from Philip Morris and whether he indicated any concern about these clauses other than the effect on that company's business.

The CHAIRMAN: I did not hear the honourable member relate his comments to the clause on smoking in buses.

Clause passed.

Clause 45 passed.

Clause 46—'Smoking in places of public entertainment.'

Ms STEVENS: I suggest to the Minister that the words 'the auditorium of' be deleted, because the clause does not restrict smoking in the foyer areas or areas where the ability of a person to move away from smoke is restricted, such as the reserved seating areas at Football Park. These situations represent areas of risk, particularly to asthmatics and young children. Would the Minister comment on that?

The Hon. M.H. ARMITAGE: I would have thought that in foyer areas one is able to move away from the smoke. That is certainly what I do.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: No, I think what the honourable member is saying is that you cannot move away from the smoke in a foyer. I would suggest one can, because I do, every time I am in a foyer and someone smokes next to me.

The Hon. FRANK BLEVINS: I would seek a little clarification. Do I understand that smoking in foyers is permitted, and the Minister agrees with it, or is there something in his scheme which will restrict it?

The Hon. M.H. ARMITAGE: I understood the member for Elizabeth to say that one is unable to move away from smoke in a foyer. I contend that that is incorrect. I happen not to support smoking in a foyer, but I understood the member for Elizabeth to say that one is unable to move away from smoke in a foyer. I do not believe that is relevant. I am happy to be corrected.

Ms STEVENS: I may not have been clear in what I said. I suggest that the words 'the auditorium of' be deleted from the clause, so it would read, 'A person who attends a place of public entertainment to be entertained must not smoke in the place of public entertainment. . . ' In other words, it is not just restricted to an auditorium. It could be a different sort of place of entertainment that is not necessarily an auditorium.

The Hon. M.H. ARMITAGE: I believe that is, if you like, sneaking towards the ACT legislation, and that is not what the Liberal Party has contemplated in relation to this Bill.

The Hon. FRANK BLEVINS: I am appalled at the hypocrisy of this Minister. The Minister has suggested that, because members on this side have not had the opportunity to consider this measure and cannot voice an opinion on it, we are somehow not looking after the health of the people of this State. In fact, I was accused of the crime of inconsistency. It seems to me that the suggestion by the member for Elizabeth is that the ambit of the scheme ought to be widened so that there is a smaller area where smoking is permitted. Therefore, following the Minister's logic—with which I agree, incidentally—there will be fewer places to smoke, less opportunity to smoke, and less smoking going on, resulting in healthier people. If that is the object of the exercise, for consistency's sake he ought to support the proposal of the member for Elizabeth.

The Minister cannot have it both ways. He cannot say that he is in favour of anti-smoking measures and then, when an additional one is presented to him, say, 'No, that is going too far'. If this is life-saving legislation, an additional life saved through taking up the suggestion of the member for Elizabeth surely ought to be worth it. I would suggest that the Minister really does not have a clue whether smoking is allowed in foyers of places of entertainment or not. I do not know, either, but I am happy to stand up and say so. With all the waffle of the Minister saying, 'No, we cannot extend this', he does not have a clue whether or not smoking is allowed, or whether that is classed as a public place. He does not have a clue.

It has been made clear throughout this debate that the legislation is half baked. It has amendment on amendment on amendment. It really goes nowhere. Since it is not due to be introduced until January 1999, it is no wonder that all members in the Parliament, and a surprising number of members opposite, are getting a great deal of pleasure out of watching the discomfort of the Minister.

The Hon. M.H. ARMITAGE: The legislation introduced by the Government does not address the question of whether one smokes but where one smokes. I have been at pains to suggest all along that when one is seated in a restaurant, as the Deputy Leader of the Opposition identified earlier, one is a captive audience, if one likes (although one does not like it—one likes the description) whereas, in the foyer, one is able to walk away. One does not—

The Hon. Frank Blevins: That is not the point.

The Hon. M.H. ARMITAGE: It is the point.

The Hon. Frank Blevins interjecting:

The Hon. M.H. ARMITAGE: The point is saving lives; I agree with the member for Giles.

The Hon. Frank Blevins interjecting:

The CHAIRMAN: The member for Giles is continually out of order.

The Hon. M.H. ARMITAGE: I agree with the member for Giles: it is a question of saving lives. That is why I am so surprised that the member for Giles was one of the loudest in voting 'No' earlier on when we were contemplating this sort of provision. The way one saves lives is by stopping environmental tobacco smoke. If I have moved 100 metres away from someone who is smoking, there is no environmental tobacco smoke. But if the member for Giles, as we have just heard, wants to contemplate these matters in the Party room next week, in the Labor Party Caucus, and if my willingness to address this instance in the Bill's passage between here and the Legislative Council will give him solace and allow him to come back from his publicly identified position of scorn on our 100 per cent smoke free areas in eating rooms, I am very happy to acknowledge that. I will contemplate addressing this issue in the Bill's passage between here and the Legislative Council in the hope that it will encourage the member for Giles to do what he knows is right, which is to support our legislation in relation to restaurants.

The Hon. FRANK BLEVINS: Before I can take up the invitation of the Minister, I would like some clarification. The Minister suggested that I poured scorn on smoke free space. The Minister keeps copious notes and has some quite unwarranted pride in his memory, in my view. I would be happy to consider his suggestion provided I knew what he was talking about. Would he enlighten me as to where I poured scorn on his smoke free spaces?

The Hon. M.H. ARMITAGE: The member for Giles poured scorn on the legislation by loudly and consistently voting 'No' to the amendments which would have seen 100 per cent smoke free areas in restaurants. The member for Giles can only vote 'Yes' or 'No' on that issue. Tonight he has consistently voted 'No' when given the chance to support 100 per cent smoke free areas in restaurants. As I have identified, we have just heard from the member for Elizabeth, not five minutes ago, that the Labor Party, instead of taking a public position tonight, will now contemplate how it might react to this legislation between now and when it is debated in the Upper House.

I am delighted to hear that. I am suggesting to the member for Giles that, if he is prepared to do that, rather than saying—it is not in my memory but in my notes as to what he said—he might have been the biggest ally for this if it had been handled differently, rather than saying it would have had considerable support—in other words pouring scorn on the possibility of having 100 per cent smoke free restaurants and consistently voting 'No'—if my agreeing to contemplate

some change in this area—which I agree is a good thing to do even if it means that I do not have to move 100 metres away—would achieve that, I am happy to do it on the understanding that the member for Giles, hopefully, will vote for the legislation.

I hope that the member for Giles will decide to be the biggest ally for smoke free areas in restaurants in his Caucus room next week. Hopefully, he will be the one who promotes it, rather than pouring scorn on the proposition, and hopefully he will ensure that smoke free restaurants have considerable support in the Caucus room. Nothing would give me greater pleasure than if that were the case.

The Hon. FRANK BLEVINS: Mr Chairman—

The CHAIRMAN: The member for Giles has spoken three times to this clause.

Mr MEIER: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

The Hon. M.H. ARMITAGE (Minister for Health): I move:

That Standing Orders be so far suspended as to enable the House to sit beyond midnight.

Motion carried.

Mr BECKER: Clause 46 mirrors section 13A of the Tobacco Products (Control) Act 1986. How many people have been apprehended for smoking in places of public entertainment? Who polices this provision in places of public entertainment?

The Hon. M.H. ARMITAGE: I am unable to determine that information at the moment, but I undertake to provide it to the member as soon as I can.

Clause passed.

New clause 46A—'Smoking in enclosed public dining or cafe areas.'

The Hon. M.H. ARMITAGE: I move:

New clause, page 24, after line 10—Insert new clause as follows:

Smoking in enclosed public dining or cafe areas

46A. (1) In this section—

'bar or lounge' means an area that is primarily and predominantly used for the consumption of alcoholic drinks:

'enclosed' area or place means an area or place that is, except for doorways, passageways and internal wall openings, completely or substantially enclosed by a solid permanent ceiling or roof and solid permanent walls or windows, whether the ceiling, roof, walls or windows are fixed or movable and open or closed;

'enclosed public dining or cafe area' means a public area that—

(a) is comprised of the whole or part of an enclosed public place; and

(b) is established or set aside for the purpose (whether or not the exclusive purpose) of—

(i) in the case of licensed premises—the consumption of meals: or

(ii) in any other case—the consumption of food or non alcoholic drinks, or both, purchased at the place;

'entertainment area' means an area

(a) in which live entertainment (within the meaning of the Liquor Licensing Act 1985) is being provided; and

(b) that is being used primarily and predominantly for the consumption of alcoholic drinks rather than meals;

'licensed premises' means licensed premises within the meaning of the Liquor Licensing Act 1985;

'licensed restaurant' means premises subject to a restaurant licence under the Liquor Licensing Act 1985;

'meal' means a genuine meal eaten by a person seated at a table.

(2) Subject to this section, a person must not smoke in an enclosed public dining or cafe area.

Maximum penalty: $200

Expiation fee: $75.

(3) Subsection (2) does not apply in relation to the following:

(a) if there are two or more separate enclosed public areas used for the consumption of meals within licensed premises (other than a licensed restaurant)—one (and only one) of those areas that—

(i) is a bar or lounge; and

(ii) is for the time being designated in the prescribed manner by the licensee as a smoking area;

(b) an entertainment area within licensed premises (other than a licensed restaurant) between the hours of 10 p.m. and 5 a.m. the next day;

(c) an area while it is not open for business;

(d) an area while a special arrangement exists (negotiated separately for a single occasion) under which it is given over to the exclusive use of members of a group;

(e) licensed premises (other than a licensed restaurant) with only a single enclosed public area for the consumption of alcoholic drinks.

(4) If licensed premises (other than a licensed restaurant) consist of or include only a single enclosed public area for the consumption of alcoholic drinks and meals are available in the area, a person must not smoke in the area while meals are available or being consumed in the area.

Maximum penalty: $200.

Expiation fee: $75.

(5) The occupier of an enclosed public dining or cafe area must display signs in the enclosed public dining or cafe area in accordance with the regulations.

Maximum penalty: In the case of a natural person—$500;
In the case of a body corporate—$1 000.

(6) If smoking occurs in an enclosed public dining or cafe area in contravention of subsection (2) or (4), the occupier of the enclosed public dining or cafe area is guilty of an offence.

Maximum penalty: In the case of a natural person—$500;
In the case of a body corporate—$1 000.

(7) It is a defence to a charge of an offence against subsection (6) if the defendant proves that he or she did not provide an ashtray, matches, a lighter or any other thing designed to facilitate smoking where the contravention occurred and that—

(a) he or she was not aware, and could not reasonably be expected to have been aware, that the contravention was occurring; or

(b) he or she—

(i) requested the person smoking to stop smoking; and

(ii) informed the person that the person was committing an offence.

I understand that there will be a lot of debate in relation to this proposed new clause so I will be brief. As I have indicated before, this legislation is not about whether one smokes but where one smokes. I should like to give a very brief overview. Tobacco smoking has been identified as a major cause of illness, death and disease in Australian society. Tobacco kills more South Australians than any other drug, legal or illegal. Unlike alcohol, there is no safe level of tobacco consumption, hence all smokers face potential health risks. Tobacco smoking has been implicated in a wide range of illnesses including cancers, ischaemic heart disease, bronchitis, emphysema and stroke.

In 1993, an estimated 1 610 persons died in South Australia as a result of tobacco use. Tobacco related deaths account for more deaths than alcohol, all other drugs, motor vehicle accidents, murder, accident, suicide and HIV/AIDS combined. A national study conducted in 1995 on behalf of the National Campaign Against Drug Abuse attempted to quantify the economic costs of alcohol and other drug use in Australian society. It is estimated that that cost South Australian communities a minimum of $1 569 million in

1992 and, of that, $1 061 million can be attributed to tobacco use.

While the health effects of directly breathing in tobacco smoke are well known, people who smoke are not the only people exposed to tobacco smoke. Environmental tobacco smoke, which is often absorbed in enclosed public dining or cafe areas, includes smoke which passes into the atmosphere from burning tobacco. It also includes environmental tobacco smoke—so-called passive smoking. As I have indicated before, the Morling judgment provides a link between passive exposure to smoke and illness. I acknowledge a number of the cases of the recent focus in Australia on the workplace, occupational health and safety, and employer liability. That is particularly important in relation to enclosed public dining or cafe areas, because so many of the workers in those areas are potentially exposed to occupational health and safety risks.

The effect of this proposed new clause would be to have 100 per cent smoke free areas in restaurants, and by that I mean enclosed dining or cafe areas as defined. I acknowledge that restaurateurs have a number of fears that this will affect their trade. Every statistical survey which has been done, and there are many of them around the world, indicates that that is an unfounded fear. As I have acknowledged in this Chamber, some smokers may not utilise the eating area as much. Indeed, they may even boycott it, but the surveys indicate that that is more than made up for by non-smokers who get greater appreciation of food and wine and, hence, are more likely to revisit that restaurant.

The University of Adelaide's Department of Community Medicine did a survey last year of a random sample of restaurants in metropolitan Adelaide, and that indicated that 70 per cent felt no effect on trade and that 21 per cent experienced an increase. That is in sharp contrast to the expectations of restaurants that their trade would be dramatically affected. This legislation is clearly well supported in the community. Everyone knows of the results of the recent publicity and the public demand for these sorts of things that have been expressed on radio, television and talkback programs. There are many other surveys, not least of which is the National Drug Strategy household survey in 1995, which showed that 73 per cent of people were in favour of banning smoking in restaurants.

A number of members from this side of the Chamber have reported already that their constituencies are strongly in favour of this legislation. So, I recognise that there will be a number of contributions on this, but I emphasise, in moving these amendments, that the Deputy Leader of the Opposition said that he would vote against this. However, this is important legislation involving a particularly important issue. It could have a major health aspect to it, and I suggest that Opposition members take those things into account when they are called to vote on this legislation, which I believe is quite groundbreaking. I look forward to members' contributions and answering their questions.

Mr BRINDAL: I move the following amendment:

Leave out from subclause (4) 'If' and insert 'Subject to this section, if'.

After subclause (7) insert the following new subclauses:

(8) The Minister may exempt an enclosed public dining or cafe area from this section or a provision of this section.

(9) An exemption under this section—

(a) may be given on application in a manner and form approved by the Minister; and

(b) may be subject to limitations and conditions; and

(c) may be given, varied or revoked by notice in writing served on the person concerned.

These amendments do not cut across anything which the Minister is proposing and which I am sure we will debate in some detail. Rather, they allow flexibility which is otherwise not present in this legislation. They are basically a simple set of amendments which allow a Minister, be it a Labor or Liberal Minister, in the future to have some flexibility in the operation of this Act, in that they make possible exemptions under this Act. At present, if the House passes the Act in its current form any future Government is bound strictly to the provisions of the Act. These amendments say simply that a Minister may exempt an enclosed public dining or cafe area from this section. It does not in any way limit the Minister's right, because it then says that the application must be in a manner and form approved by the Minister. So, he can set out the manner and form of the exemption and the limitations and conditions, and any Minister, whether it be Labor or Liberal, may give, vary or revoke an exemption by notice in writing served on the person concerned. So, all it does is say that, when we pass this legislation, we must be a little flexible and allow a Government the right in certain circumstances to vary the legislation.

I am sure members opposite will agree that sometimes there will be situations that the Parliament has not thought of and where it is inappropriate to demand that this legislation be rigidly enforced. This will allow any Minister reasonably to exempt people. It will allow a future Minister, if he does not concur strictly with the ethos of this Minister, in some way to relax the legislation. So, it really means that it gives this legislation a flexibility that it does not have, and I would commend this amendment to all members as a sensible measure which most Parliaments adopt in most legislation.

Ms WHITE: I have a couple of questions of the Minister regarding new clause 46A, the first of which relates to one of the definitions. The definition of 'meal' is a genuine meal eaten by a person seated at a table. What constitutes a genuine meal and, by implication, what constitutes a meal that is not genuine?

The Hon. M.H. ARMITAGE: That definition is a direct take from the Liquor Licensing Act, and I am informed that there is case law that would determine that. We did not invent that; it is in other legislation.

Ms STEVENS: As I have not had a chance to look up the Liquor Licensing Act properly and think about the Minister's definitions, will he explain the terms 'entertainment area', 'licensed premises' and 'licensed restaurant' with regard to the Liquor Licensing Act 1985?

The CHAIRMAN: I remind members that there are three statements per member on new clause 46A.

The Hon. M.H. ARMITAGE: Under the Liquor Licensing Act 1985, 'live entertainment' means:

(a) a dance or other similar event at which a person is employed to play music (whether live or pre-recorded); or

(b) a performance at which the performers, or at least some of the performers, are present in person.

On page 2 of the Act, 'licensed premises' is described as premises in respect of which a licence under the Liquor Licensing Act is enforced. A 'licensed restaurant' means a restaurant in which a licence, under the Liquor Licensing Act, is enforced. There is nothing difficult about those; they are just premises or restaurants that have a licence under the Liquor Licensing Act.

Mr LEGGETT: I want to look at this proposed new clause purely from a health perspective. I am very much aware that this legislation has drawn considerable opposition from some quarters of the community. I am a reformed smoker who gave it up because it was too darned expensive—

Mr Clarke: Not for your health?

Mr LEGGETT: —and for the good of my health. I saw my own father die from emphysema, and that was caused purely by smoking. I am fairly strong on my viewpoint. I was particularly interested in the views of the Anti-Cancer Foundation, the Heart Foundation and the Australian Medical Association on the 100 per cent ban on smoking in restaurants and the consequence of passive smoking. As the Minister has mentioned, tobacco smoking has been identified as a major cause of illness, disease and death in Australian society. Tobacco kills more South Australians than any other drug—legal or illegal—and, unlike alcohol, there is no safe level of tobacco consumption, hence all smokers face potential health risks through passive or direct smoking.

Tobacco smoking has been implicated in a wide range of chronic and acute illnesses, including cancers, heart disease, bronchitis, emphysema—to name a few. As the Minister indicated, in 1993 an estimated 1 610 persons died in this State as a result of tobacco use and this represented approximately 82 per cent of all drug-related deaths and about 15 per cent of all deaths in the State in that year. This is calculated using the 1993 mortality data for South Australia supplied by the Australian Bureau of Statistics.

As the Minister indicated, tobacco-related deaths account for more deaths than those from alcohol, all other drugs, motor vehicle accidents, murder, accident, suicide and HIV/AIDS combined. A national study conducted in 1995 on behalf of the national campaign against drug abuse attempted to quantify the economic costs of alcohol and other drug use in Australian society. The study estimated tangible costs, such as health care services, loss of production, welfare costs and road accident costs, as well as intangible costs, such as loss of life or reduced quality of life which cannot be valued in the economic marketplace. The Minister mentioned other statistics which indicate that drug use in South Australia, including alcohol use, is estimated to have cost the community a minimum of $1 569 million in 1992, and he produced other statistics as well.

I would like to return to the crucial issue of passive smoking. While the health effects of directly breathing in tobacco smoke are well known, people who smoke are not the only people exposed to tobacco smoke. Environmental tobacco smoke includes smoke which passes directly from the burning tobacco into the atmosphere and which is known as sidestream smoke. Mainstream smoke is exhaled by active smokers and a small quantity of smoke diffuses through the cigarette paper or mouthpiece.

Taking into account the percentage of South Australians who smoke, there are many situations involving exposure of non-smokers to environmental tobacco smoke, so-called passive smoking. The Morling judgment of February 1991 (*Australian Federation of Consumer Organisations v. Tobacco Institute of Australia Ltd*) was highly significant in that it proved a link between passive exposure to smoke and illness. While the case was about false advertising rather than negligence, the non-smoker is exposed to tobacco smoke and, if he or she suffers a specific acute or chronic illness, the exposure can be argued to be the cause of that illness. In 1992 the Full Bench of the Federal Court reaffirmed the Morling conclusions.

Much of the focus in Australia recently has been on the workplace, involving occupational, health and safety, and employer liability. There have been a number of cases where workers compensation has been allowed for exposure to tobacco smoke in the workplace, and several cases of note have been recorded, including the case of a Melbourne bus driver, a non-smoker, who contracted lung cancer; a person named O'Keefe, a barman, who died of lung cancer in 1987; and a psychologist in the New South Wales Health Department was awarded $85 000 in the New South Wales District Court for injuries due to exposure to tobacco smoke during her employment which worsened her asthma and gave her emphysema.

Some businesses are concerned that they will be the losers if restrictions are placed on smoking in restaurants. About 40 years ago smoking was banned in picture theatres. I was probably a culprit at that time along with the member for Peake. Smoking did take place in theatres up to 40 years ago, but I have noticed that there are no decreases in attendances in picture theatres now. In fact, I would imagine that one could say there are substantial increases in attendances with more theatres being built. Football Park is a smoke-free zone, yet fans still pack the stadium for football matches each week.

There is a total ban on smoking on aeroplanes, yet people still use aeroplanes and will continue to do so. Smoking is prohibited on buses and trains, but people do not seem to be terribly inconvenienced. In the 1970s when I used to indulge in smoking, the bus would be filled with clouds of smoke and you would hardly be able to see your bus stop. In a radio poll held on 11 February 1997, Julia Lester's 5AN program found that, when the issue of smoking in restaurants and other enclosed places was raised, 93 per cent of callers agreed with the banning of smoking in an enclosed place. SAFM put a similar question to callers about whether smoking should be banned from eating premises, and 77 per cent were in favour. Tonight, I spoke at a dinner at Mile End. It was a mixed group of people from all walks of life. It was not 77 per cent who were in favour of banning smoking in restaurants but 100 per cent. I support the amendments to this Bill.

Mr BRINDAL: At the outset, I say that I intend to support the amendments moved by the Minister for Health, but I seek a point of clarification. The member for Hanson would be aware that the Minister's argument in respect of banning smoking in restaurants has been consistent regarding the definition of where people go deliberately to have a meal. These amendments actually capture more than just restaurants: they include bars and all sorts of other areas. The Minister has made a deliberate attempt to exclude some places, particularly bars. He is also to be commended for considering places such as the Buckleboo Football Club where often a large area is designated as an eating area at certain times of the day, but generally that area is used as a bar and for socialising.

Most of the amendments regarding new clause 46A(4) have been clarified. However, subclause (3) which provides that subclause (2) does not apply states quite clearly:

> . . . if there are two or more separate enclosed public areas used for the consumption of meals within licensed premises. . . one (and only one) of those areas. . .

can be designated as a bar or a lounge. I would like the Minister to clarify the following situation. For instance, the Goodwood Park Hotel or the Albion Hotel may have a restaurant in an enclosed space and they may also have a lounge bar in another enclosed space as well as a front bar.

On my reading of this amendment, one of those bars can be designated for smoking and that, in any hotel, under this legislation effectively there will be one allowable smoking area. It also means that, because there are now no time limits, a person will not only not be able to smoke in the lounge bar and the dining area during meal times but they will not be able to smoke in the lounge bar of a hotel at any time. That is not the exempt bar. The exempt bar is the front bar. Because meals are served in the lounge bar, a person will not be able to smoke in that bar at any time of the day or night. That is the way in which I read this legislation. I hope I am wrong. If I am not, I hope that when the Minister passes this Bill to another place a suitable amendment is inserted in the legislation.

I will support this measure because, as I understand it, the Minister has said that the Government wants to progress the public's understanding of health relating to smoking. It does not want people to smoke where they sit and have what one might call a serious meal rather than casual eating, grazing and the other forms of social eating in which we indulge. Therefore, let us ban smoking from what we would all define as restaurants. Many of us agree with that. Many of us say, 'Look, that is a fairly radical step to take; let us try it and see.' But to take that next step, which is basically to take venues that traditionally have been smokers' havens probably since Victorian times and effectively say, 'What we will do is ban smoking from hotels except in one area' goes too far and goes beyond what the stated intent of this legislation is.

I say to the member for Hanson in asking this question, and to the Committee, that we should all consider the fact that all the questions that have been asked and all the polls that have been taken have been clearly related and public expression has been given clearly on the question: do you want smoking in restaurants? Many people say, 'No, we want to sit down and enjoy a meal, we do not want smoking.' But I do not think, if you approached the ladies who want to drink and have a cigarette between 4 and 6 in the lounge bar of the Goodwood Park Hotel and said, 'You know this legislation will stop you smoking in the lounge bar,' that they would want to crowd into the front bar—and that is why hotels have a lounge bar—to have a cigarette. They will not be—

Mr Clarke interjecting:

Mr BRINDAL: The Deputy Leader is quite wrong. They certainly did not invade the front bar of the Goodwood Park: it used to be a topless bar and they avoided it in droves. Will the Minister clarify the points I have raised and indicate whether I am wrong in relation to this matter?

Mr Clarke interjecting:

Mr BRINDAL: Because I often used to visit it. If I am not wrong, will the Minister seek to have the matter looked at between now and when it enters another place?

The Hon. M.H. ARMITAGE: The member for Unley is quite correct in that we are seeking only to have one area in a hotel in particular established as a drinking and eating and smoking area. It is my understanding that, if the member for Unley is looking at a saloon bar as an area that has not been designated as smoking, if he looks at the definition of an enclosed public dining or cafe area, he will see that it means that a public area that:

> (b) is established or set aside for the purpose (whether or not the exclusive purpose) of—
>
> (i) in the case of licensed premises—the consumption of meals; or

My advice is that, if meals are unavailable between 4 and 6 at the Goodwood Park, it is clearly not set aside for the purpose of the consumption of meals. Because we have no intention of catching that situation we will take further advice on it, but my advice is that the legislation has been drawn such that that eventuality would not occur.

Mr Atkinson interjecting:

The CHAIRMAN: The member for Elizabeth still has the call, despite the interjections of the member for Spence.

Ms STEVENS: I put on the record some of my own views in relation to the matter of tobacco smoking and the health issues concerning it. There is no doubt that tobacco smoking is a health hazard—no doubt at all. We have already had waved about in this House the quote that I made in the *Advertiser* that the negative health effects of tobacco smoking are undeniable, and I stand by that. They are undeniable both in terms of direct smoking and passive smoking. There is so much evidence available on both those scores that I do not need to quote any more of that article. My experience as a teacher and school counsellor working with young people in drug education and antismoking programs in secondary schools and as a principal managing the curriculum in secondary education bore that out. There is certainly no doubt in my mind that it is a significant issue.

It is very difficult for us to make any definite pronouncements on these amendments as we have only just received them. I am sorry that we are not able to talk in great detail about the amendments in relation to establishments in our own electorates because we have not had the advantage of talking with people in terms of specifics. We have had information only in the most general sense. However, after this debate finishes in this place we will certainly have the opportunity to take out at least the first half of this process and obtain feedback that we will be able to pass on to our colleagues in another place.

Our main concern is twofold: first, that we were not given the opportunity to even consider these amendments and to consult with stakeholders about them; and, secondly, in respect of the process that the Minister used in arriving at these amendments. To help me in my understanding of where this set of amendments is in relation to all stakeholders, will the Minister indicate the position of each of the groups that he listed earlier this evening as having been consulted by him? There was a substantial number, including the AHA, the restaurants, the licensed clubs, the AMA—

The Hon. M.H. Armitage interjecting:

Ms STEVENS: This is who you said you consulted, and we had a debate over the nature of your consultation. Also mentioned was Living Health, the tobacco industry and there may have been others, but I cannot recall them now. The Minister said that he had consulted with them, and I would like to hear from him specifically in relation to each one of those groups their response to the Minister's final set of amendments. Having received the first lot of amendments at 2.20 p.m. and the rest as the debate proceeded tonight, we have had no chance to consult anyone. How did each of those groups stand in terms of the Minister's latest set of amendments?

The Hon. M.H. ARMITAGE: The groups consulted, as I identified before, included the Tobacco Institute, which surprisingly did not like this legislation. When I last spoke with people from the licensed clubs they said to me that they were completely relaxed about legislation for a 100 per cent smoke free policy in restaurant dining areas. However, they were concerned about what they termed the bistro area. I believe the alterations made following discussions in the Party room will cover their concerns.

The Australian Medical Association was strongly in favour of a complete ban and carried out a survey of 17 general practices during the previous week, giving people the opportunity to indicate whether they were in favour of banning smoking in restaurants. The member for Elizabeth knows that that survey showed that 82 per cent of people who responded believed that smoking should be totally banned in restaurants.

Living Health was very much in favour of what we are doing. The National Heart Foundation has been the source of most of the amendments moved by the member for Elizabeth tonight, and so I believe that its view is known to her. I indicated that I consulted the AHA on three occasions, and I believe that it has made its view clear to the honourable member. In fact, the AHA's view to me was that this was inevitable. The AHA would have preferred to work through it with a voluntary code but, as I have indicated, numbers of people from within the hospitality industry indicated to me that they had gone cold on the voluntary code since 1991 when it was introduced.

The Catering and Restaurants Association executive was very strongly against what we were doing but, as I have indicated, I have had strong support from a number of restaurateurs, not the least of whom is a man who owns a restaurant, I believe, in St Peters. The last time I saw that man, bar one, he was strongly campaigning for the member for Spence's electorate assistant when she was the candidate for the Labor Party against me. It could hardly be said that this man was a personal friend of mine or, indeed, of the Liberal Party, given that he worked consistently and assiduously to unseat me at the last poll. He stopped me in the street—

The Hon. S.J. Baker: But you won.

The Hon. M.H. ARMITAGE: But I won, as the member for Waite says, and won well. This man, who is a restaurant owner, stopped me in the street to indicate that he was 100 per cent behind a 100 per cent ban. It is sad, but he indicated that he was concerned about the representation a number of restaurants were receiving from the association I previously mentioned. The Anti-Cancer Foundation was also the source of a number of amendments moved by the member for Elizabeth tonight, and so it is strongly in favour. Major restaurants, as I have said, are strongly in favour.

The head of the Reception Centre Association was delighted that we are taking this step. In fact, he told me that every night reception centres have an argument about people who are or are not smoking. As I have indicated, the President of the Italian Club and the Chief Executive of the Veneto Club, both of whom were contacted through an intermediary, indicated that they were unconcerned as to what decision we made. I think they are the only organisations I mentioned as having consulted. That shows that some people are against this legislation. That does not surprise me. I knew that when I started down this path.

It does not surprise me one iota that if the Liberal Government is attempting to make significant change, which the Deputy Leader of the Opposition acknowledges we are trying to do, some people will have their noses put out of joint. I would suggest that that list of people does nothing more than confirm what we expected before we started down this path.

Mr BASS: If I was confused before we started, I am confused now with these amendments. I am not totally against prohibiting smoking in restaurants: I am totally against the procedure that has been followed and the way in which the whole thing has been handled. I do not believe that the proposal put up by the Minister adequately reflects the reality of how the hospitality industry operates. To link this proposal to areas designated pursuant to the Liquor Licensing Act ignores the purpose for which these areas are so designated and severely limits an operator's ability to provide a service to patrons.

The proposals do not recognise the significant investments many operators have already made in improving ventilation systems and the industry's response to public demands by providing non-smoking areas in their facilities. This proposal seeks to impose draconian measures in all parts of premises merely because an area happens to be designated a dining area. Historically, venues have designated dining areas to enable them to trade with meals after 8 p.m., on Sundays, after midnight without the obligation of providing live entertainment, on Christmas Day and on Good Friday.

On all other occasions, the 'dining' designation has no relevance. The area could be a bar, lounge, entertainment area or function area. Meals may or may not be provided, and therefore cannot be designated as 'smoking' because they are excluded by the definition of 'bar' or 'lounge' simply because they are designated 'dining area'. Therefore, any bar or lounge where meals are provided at some time is caught by this proposal. The latest amendment put up by the Minister, 61(4), goes to show how little thought has been put into these amendments that some week ago could have been done within a matter of hours, and then it is not done—

The Hon. M.H. Armitage interjecting:

Mr BASS: You go away. You have had your talk; I'll have mine. I have listened to your crap all night. Now you are going to listen to what I have to say. The Minister produces it to me yesterday morning, and to the Opposition yesterday afternoon, but he still cannot get it right, because he brings in one lot of amendments tonight, and then he gets in another lot of amendments.

Mr Brokenshire: Whose side are you on?

Mr BASS: I will tell you what side I am on. I am on the side of being fair.

Mr Brokenshire: You ought to be an Independent!

Mr BASS: I might want to be an Independent; I might be a member of the Liberal Party, but I will tell you that I have a backbone and I stand up for what I believe in. I do not just sit there, make quips and just go along with the Party. So, if you have got anything to say, get up there and say it!

Members interjecting:

The CHAIRMAN: The member for Mawson is doubly out of order. He is interjecting out of his place.

Mr BASS: In the amendments marked 61(4) which state:

'enclosed public dining or cafe area' means a public area that—
. . . (b) is established or set aside for the purpose (whether or not the exclusive purpose) of—
(i) in the case of licensed premises—the consumption of meals;

bars still get caught in that interpretation as far as I am concerned, and I would like to hear the Minister on that later. On page 2 of the amendments marked 61(4), it provides:

(2) Subject to this section, a person must not smoke in an enclosed public dining or cafe area;
(3) Subsection (2) does not apply in relation to the following:
(a) If there are two or more separate enclosed public areas used for the consumption of meals within licensed premises (other than a licensed restaurant)—one (and only one) of those areas that—
(i) is a bar or lounge; and
(ii) is for the time being designated in the prescribed manner by the licensee as a smoking area;

If we provide an example of a typical hotel—and let us assume that the hotel has a front bar, saloon, lounge, two dining room areas and a gaming area—it is likely that the saloon, lounge and dining rooms will be designated as dining areas. The gaming area is not a lounge or bar by definition, because such area is defined in subclause (1) as an area that is primarily and predominantly used in the consumption of alcoholic drinks. It is highly likely that, at various times throughout the day, meals would be served in all these areas, including the gaming area. Therefore, the operator must decide in accordance with subclause (3) which one and only one area can be designated 'smoking'. Because the saloon is a designated dining area, is not a bar or lounge, the front bar is the only area that can be designated for smoking.

This will dissuade operators from providing meals in front bars or saloons because, if the operator chooses the front bar, smoking is banned in all other areas including the gaming area merely because meals are provided. Jobs in the food industry will be lost. It is not just a matter of stopping smoking somewhere. A lot of hotels will cut food out. If they do that it flies in the face of the Government's proposal with respect to responsible service and the Tim Anderson recommendations to actively encourage operators to have food available at all times. I know what they will do: they will serve liquor with no food. They will get over it; there is always a way to get around it. Instead of having people affected by smoking and instead of having a nice meal and a few drinks in the bar where you normally have a drink, you will not be able to have a meal. You will have a few drinks and on the way home probably injure some poor innocent person.

Time and again, the Minister speaks about consultation. He has consulted here, he has consulted there. He made an interesting comment at the end of his last contribution in this respect. He said that through an intermediary he had consulted, but he had not consulted himself. The Minister did that before. He told me that 20 restaurants approved of this, but one restaurant happened to be owned by a friend of mine. When I spoke to him he said, 'No, that's not right.' The intermediary, who had a vested interest, had not reported back to the Minister what he believed or what he was told. I challenged the Minister, who very quickly said, 'No, you have got it wrong; the intermediary has been back and has spoken to that man. No, you have got it wrong; he agrees with it.' Yet today I received a letter from the South Australian Restaurant and Catering Industry Association that says restaurants oppose smoking bans. Blow me down, one of them is Jarmers Restaurant. Peter Jarmer, a good friend of mine, did not tell me porkies the day before yesterday: he told me the truth in that he did not support smoking bans in restaurants; he supports industry regulation.

Let us look at what industry self regulation has been trying to do. I refer to the AHA and to a lovely folder which it distributes amongst its hotels. The folder outlines the following: hospitality and friendly guidance for dealing with smoking in hospitality venues. It is a brochure that explains to the hotel trade what it should do about smoking within its industry. It covers ventilation and indoor air quality and states:

> In order to maintain appropriate levels of air quality the following actions are recommended: comply with building regulations regarding fresh air ventilation; maintain ventilation plant in good operating order; in naturally ventilated buildings ensure windows are kept open; where practical, locate smoking areas adjacent to extract air grills; consider obtaining specialist advise from experts; and undertake regular surveys of indoor air quality.

It refers to customer expectations, implementing a smoking policy, establishing a smoking policy, where and where not to let people smoke and to how to encourage customers.

That is self regulation and it will happen; it is only a matter of time in my opinion before just about all restaurants ban smoking. It will happen. This reminds me of a few years ago when I spoke to the South African Ambassador about apartheid. I asked, 'Ambassador, do you believe that the bans put on South Africa caused the end of apartheid?' He said, 'No, apartheid was a bad thing. It was going to end eventually. People started to say that apartheid was wrong.' The same now: people are saying that smoking is wrong, especially in hotels where there are dining rooms and restaurants. It will end. The industry itself will do it because, if it does not and people move more and more against smoking, they will not go to restaurants or bars if smoking is allowed.

Let us not destroy the hotel trade simply because someone has the desire to chop out smoking. If we want to ban smoking in a restaurant within a hotel, so be it, but let us work with the industry and not just thrash ahead over two or three days or two or three weeks and say, 'This is what we are going to do,' and not consult with the industry. The Minister says that this is not about whether one smokes but about where one smokes. It is a pity we did not consult with those who are affected in relation to where one smokes. Where one smokes is in a hotel. Let us consult with the Hotels Association and not just consult through an intermediary, who might have a vested interest. Let us get out and talk to the people and sit down over a period of time because, as the member for Giles says, it will not happen until 1999. So let us sit down and talk: more haste, less speed. Let us get it right: let us not stuff it up. Let us take our time. But no, we have to forge and rush ahead and act without proper consultation.

I have several questions to raise and doubtless the Minister will have the opportunity to answer questions. I understand that originally there was no attempt to have smoking bans in bars, hotels or clubs that were primarily for drinking alcohol, for socialising, and in gaming rooms. Does this legislation ensure that, if any meals are served at a table in what a reasonable person would consider to be a bar, effectively smoking would be banned? If this is the case, what is the Minister's explanation to the industry about how this happened when I understand that this was not the Minister's original aim? What has happened? Has he had ongoing consultation with the industry? I do not believe this is right.

Is it correct that, if a bar is licensed for, say, 200 people and a large number are enjoying themselves and one person decides to have not a snack but a simple meal on a plate when seated at a table, under the proposed law the other 199 people cannot smoke? If that scenario is correct, does the Minister appreciate that it would make pretty good commercial sense for that licensee not to serve meals? By not serving meals he would be able to meet the needs of the majority of his customers. Again, we get back to the position where, instead of going out for a drink and having a meal, one would have an extra couple of drinks and drive home. I can tell the Minister that alcohol does a lot more damage than cigarettes will ever do. Not only does it damage the person drinking but it damages innocent people, much more so than cigarettes.

Finally, what is the definition of 'island bar', as described in the Minister's notes of explanation? The concept is not addressed in the Bill. The Minister's notes suggest that a bar area separated from a dining area by an island bar would be enough to allow smoking in that bar. However, the concept

is not defined. Therefore, it is left to the industry to determine what an island bar is, and I would be interested to hear what the Minister has to say about this.

I totally oppose this proposed new clause. I do not oppose banning smoking in restaurants and in proper restaurants within a hotel in the future, but I do object to the way this has been brought in. We have not had time to discuss it properly. We have not had time to consult with the people it affects. I have no doubt that in the end the majority of the people will want it to go ahead. If that is the case, so be it. But let us not bulldoze it through. Let us do the right thing. Let us sit down and talk about it with the people who are involved in the industry. Let us make sure that we get it right in such a way that everybody works together. At the end of the day, we will achieve what is wanted, but we will do so without all this process.

Ms WHITE: Regarding the definitions of 'meal', 'entertainment area' and 'enclosed public dining area', does this legislation include in the ban or exclude under the exclusion provision of subclause (3) those pokies rooms within hotels where food is served? This issue was raised also by the member for Florey.

The Hon. M.H. ARMITAGE: I ought to make some points now in relation to what my good friend the member for Florey said, because it is the subject of a number of other questions. I believe that the member for Florey may be labouring under the misapprehension that the definitions as were originally proposed to the Party room have not been altered, and that is the effect of the amendments which have been introduced tonight.

The original definition of a bar or lounge was an area that (a) is primarily and predominantly used for the consumption of alcoholic drinks; and (b) is not a designated dining area. I have been very frank during all the time that this has been in the public arena in saying that front bars and bars in general were not to be covered by this legislation. The member for Florey knows that and, given that I am referring to bars, I have said that on each of the three occasions when I have spoken with the AHA representatives. When it was raised in the Party room this morning that there may have been some unheeded consequence of this provision, further advice was taken and paragraph (b) of the definition before the Party room was removed.

So, as the member for Florey and the member for Taylor would note, in 61(4) a bar or lounge means an area that is primarily and predominantly used for the consumption of alcoholic drinks. That, I believe, now quite specifically excludes front bars from this legislation, and that has always been the intention. The member for Florey talked about a series of amendments coming through tonight. Only one lot of amendments has come through tonight which are in direct consequence of the Party room decision today. Following that, as the Chairman acknowledged—

Members interjecting:

The Hon. M.H. ARMITAGE: No. Are you talking about our Party room?

Members interjecting:

The Hon. M.H. ARMITAGE: No. I am talking about the member for Florey and his suggestions. I now refer to the second, or what is alleged to be the third, lot of amendments. I point out that the first lot of amendments were those which were tabled and filed before 2 o'clock, or thereabouts, today; the second series of amendments was that which had been moved after the Party room suggested changes; and the alleged third lot of amendments which we are debating now, 61(4), are in fact not new amendments. So, I ask the member for Florey to acknowledge that the Chairman of the Committee identified that 61(4) is not a series of new amendments; they are just consolidated amendments for the ease of the Committee. So, it is not true to say that there has been a series of amendments after amendments after amendments.

The member for Florey also asked, in essence, about my consultation with the Australian Hotels Association. As I indicated before, I spoke with them on three occasions and, particularly on the last occasion, I was thanked for the time that I had given to them in relation to this matter. The member for Florey asked what would happen if one person out of 200 was having a meal, and said that there would then be a disincentive for the owner of that establishment not to serve meals, which would not be in the interests of his customers. I suggest that, if only one person out of 200 is eating a meal, the customers have already determined that they do not want that to be an eating establishment. In relation to this, I have been told by endless people that it is an expensive business to provide chefs, food, and so on, and I am sure that no-one would be doing that for one meal.

The amendments that we are now debating take into account the fact that, particularly in the football club exercise or the single enclosed public area, the only restriction is that people must not smoke in that area while meals are available or being consumed there. The intention was to allow a minimal time for people not to be smoking while they are eating. I hope that answers the questions of the member for Florey and the member for Taylor.

Mr OSWALD: I would like to put a point of view to the Committee on behalf of many of my constituents who are in business. These are people who own hotels or the licences thereof or who own restaurants—and I suppose I come from a constituency whose main industry happens to be the restaurant industry, accommodation and hotels. These small businessmen have some difficulty with this legislation, and I think I owe it to them to place those concerns on the record.

There are in my electorate hotels that, by their very design, will have a lot of trouble. For example, the front bar of one hotel has been designed in such a way that it blends into the saloon bar, which blends into the restaurant. If patrons in the front bar smoke, the smoke will eventually go through into the restaurant, so they will have a problem at that hotel.

One of the biggest philosophical problems with this legislation is that, if a business person starts a restaurant or goes into a hotel, he or she goes in there with their risk capital, knowing that they will rise or fall by how they deal with their customers. They know that, if the customers do not like the conditions in the hotel or restaurant, they will vote with their feet and dine somewhere else. As I come from small business, I take the view that the Government should allow industry self-regulation for this very reason.

I am a pharmacist and I understand the health issue; I do not smoke. However, over recent years I have noted that restaurateurs and publicans have introduced industry self-regulation. They have done that because they are responding to the needs of their customers. Given time, we will have non-smoking in 100 per cent of hotels and restaurants because that has been the trend. However, it is not my philosophy to tell someone who has just put, say, $2 million into the upgrading of a hotel the conditions under which he or she will deal with their customers. That is their role; it is their money that they have invested; and they will lose if they do not have the right mix as far as the clientele is concerned.

I have heard the member for Florey speak at length, and I will not repeat the issues he raised. Over the course of the afternoon, I have had some assurances from the Government that, between now and when this matter is raised in another place, some of the issues about which we are concerned, such as the rights of people to conduct their business, will be addressed. It is with those assurances that I will support this legislation as it goes through this House, but we will watch closely how the debate evolves in the other place so that the rights of small business are maintained. It must be understood—

The Hon. Frank Blevins: Once it's gone, it's gone.

Mr OSWALD: You might say that, but we still have some contact in our Party with those who are talking to our colleagues in the other House. I have had assurances that some work will be done on some of the difficulties that have evolved over the past 24 hours before that debate takes place. Let us not forget this whole principle—and it is a Liberal principle—that, if someone puts their money into a business, the Government should step back and let the person who is running that business decide the conditions within that business. That does not mean that we do not have health regulations in the kitchen, and the like. However, when it comes to issues such as this, I have not had any representation from people wanting a change to the legislation, bar one letter as a result of an article in the paper the other day from someone in the country.

I have certainly had a lot of representation from many of my restaurateurs, who have quite clearly said to me, 'Let us decide what the mix will be. We will get it right. We are moving to a total ban on smoking, but there are some conditions under which we would like to retain it. The customers come to us, and we offer them smoking and non-smoking areas.' If they can provide a mixture of smoking and non-smoking areas, then, by and large, the customers will be happy. If there is too much smoking, the customers who do not like it will not go in and the owner of the business, who will suffer because of a drop in turnover, will make a readjustment. That is what industry self-regulation is all about.

In relation to the Glenelg hotel in question, it is just not fair for someone to put risk capital into that business, set up what is a very smart and tasteful operation, and then suddenly find that this legislation does not pick up the concerns of that hotel. Between now and when the legislation is addressed in another place, we must look at those concerns, face up to them and ensure that the relevant changes are made.

Ms WHITE: I am still unclear about the answer to the question I asked previously. Which clause covers the situation of a gaming machine room in a hotel that serves food? Is a gaming room that serves food included in this legislation or not?

The Hon. M.H. ARMITAGE: New subclause (3)(a) provides:

> If there are two or more separate enclosed public areas used for the consumption of meals within licensed premises. . . one (and only one) of those areas that—
>
> (i) is a bar or lounge; and
>
> (ii) is for the time being designated in the prescribed manner by the licensee as a smoking area.

A bar or lounge is an area primarily and predominantly used for the consumption of alcoholic drinks. If they are serving meals in a gaming room, it is an enclosed public dining area or cafe area, and so it is taken in.

Mrs ROSENBERG: New subclause (1) provides:

> . . . 'bar or lounge' means an area that is primarily and predominantly used for the consumption of alcoholic drinks.

Who makes the determination in relation to 'primarily and predominantly used for alcoholic drinks'? Does the establishment itself determine which area is predominantly used for that consumption? Under that definition, if it were decided to provide a meal as a front bar service, while a meal was being served would that then fall outside the provision relating to smoking in the front bar? For example, the South Adelaide Football Club in my electorate has the ability to serve drinks from a bar all day. Would it, therefore, be classified as being an area used primarily and predominantly for the consumption of alcoholic drinks? One can purchase a meal there just about any time during the day because of the poker machine facility. Does it then become classified as a bar, lounge and/or dining room?

If it is used predominantly and primarily for the consumption of alcohol, which I believe the front bar is, what happens if it is decided to serve a counter meal, which happens in most front bars? Does it then fall outside that definition? According to new subclause (2), 'meal' is defined as 'a genuine meal eaten by a person seated at a table'. The *Macquarie Dictionary* defines 'table' as 'any flat surface maintained by one or more perpendicular legs'. Could that be a front bar? I believe that the definition of 'table' could be stretched to include a front bar. New subclause (4) provides:

> If licensed premises. . . consist of or include only a single enclosed public area for the consumption of alcoholic drinks and meals that are available in the area, a person must not smoke in the area while meals are available or being consumed in the area.

What would happen in the following situation? A football club, which is a licensed premises, primarily has only one public bar. It has one single enclosed public area used primarily for serving alcoholic drinks, but at certain times of the day or evening it serves meals. Is that area exempt or is it classified as a non-smoking area?

New subclause (7) provides that 'it is a defence to a charge of an offence against subsection (6) if the defendant proves that he or she did not provide an ashtray, matches, a lighter', etc., and that he or she was not aware that smoking was occurring or had requested the person to stop smoking or had informed the person that he or she was committing an offence. Who is responsible for policing that section, and what would happen after the person responsible for policing it had requested the person to stop smoking but the person decided to continue smoking? Who is then held responsible and liable, and who is fined?

The Hon. M.H. ARMITAGE: Regarding the honourable member's question about a bar or lounge that is used primarily and predominantly for the consumption of alcoholic drinks, I am informed that it is a decision of the licensee. If that decision were challenged in any way, the matter would be taken before the court, but in the first instance it is a decision of the licensee. In her second question, the honourable member asks whether a person is able to have a meal in a front bar. That is absolutely and categorically the case.

The next question relates to a football club which occasionally serves meals during the day and night. If it is a single enclosed public area, that is covered in new subclause (4). That has been included so that a person may not smoke in that area while meals are available or being consumed. The advice that I have been given during both the consultation period and Party room discussions is that the vast majority of these sorts of clubs and organisations serve meals for a period of time, perhaps from 6 to 7 p.m., during

which a person must not smoke in that area. For the remainder of the time, when meals are either not available or not being consumed in that area, smoking is allowed.

The honourable member's final question related to the defence to an offence where a person requested another person to stop smoking. It would be a matter for the licensee or the operator of the establishment to request that person to stop smoking. It is clear from the legislation that that is a defence to any charge of an offence against new subclause (6).

The reason for that and all the other, if you like, defences to the charge is, as I said before, there is no malice in drawing up this legislation to people who operate eating establishments. We are very keen that none of them be fined whatsoever, and hence the long lead time with the long operative period for the public relations campaign so that everyone will know absolutely all the defences and the opportunities for informing their customers about the non-smoking requirements in the areas of their particular establishments which are non-smoking—and I reiterate that front bars are definitely not included in those areas.

Mr CLARKE: I have a few questions. One deals with the enforcement issue, which matter the member for Kaurna also raised. Who will act as the enforcer of this legislation? Will the Health Commission, Treasury, or some such agency have a special police branch, if I can term it that way, who will go around and ensure that publicans and restaurateurs are abiding by the law? Will it be left to self-regulation to dob themselves in, in terms of the owners of the business, or, as I have heard from some rumours in the past, will it be local government health inspectors? If so, what resources would the local government authorities be given to have their council inspectors able to do the job? At the moment they cannot even adequately police the health regulations in the local delicatessens, let alone anywhere else.

The other point is that there will be enormous problems. I can imagine down at the Blair Athol Hotel in my electorate, if a council health inspector issues one of my constituents who happens to be smoking in an area that is prescribed as a non-smoking area with a ticket for $75, it is just as likely that that inspector will get a knuckle sandwich for his lunch. I can see all sorts of difficulties coming to the fore. Another point relates to an earlier answer the Minister gave with respect to a question from the member for Taylor on gaming machine areas. As I understand the Minister's answer, if food is served in a gaming area, then it falls under the enclosed public dining or cafe area, meaning you cannot smoke if meals are served. However, I draw the Minister's attention to subclause (3) of his amendment which provides:

> if there are two or more separate enclosed public areas used for the consumption of meals within licensed premises (other than a licensed restaurant)—one (and only one) of those areas that—
>
> (i) is a bar or lounge; and
>
> (ii) is for the time being designated in the prescribed manner by the licensee as a smoking area;

It would seem to me that, in a number of pubs, there are two or more separate enclosed public areas, that a gaming area could be designated as a lounge, with the publican designating the area as a smoking area, and that would seem to obviate the point the Minister was making earlier in answer to the member for Taylor's question. So, who's who in the zoo, so to speak? Does 'in the prescribed manner' mean that that is by regulation? Do we know what that regulation looks like because, as the Minister may be aware from other contributions made in other debates in this House, the Opposition is now extremely sceptical in allowing this Government to legislate by regulation because of the total disregard it has for the motions of disallowances that have been passed in the other place from time to time on important issues. The Government simply ignores the disallowance motions and regazettes it the day after. We will not give the Government any more chances on that, quite frankly. That has been abused far too often.

The Hon. M.H. ARMITAGE: As to the question in relation to who would police it, the intention would be to appoint officers under the main Bill, as is now done under the Tobacco Products Control Act. This is a collapsing down of that Act and the Tobacco Products Licensing Act. Under the Tobacco Products Control Act five officers within the Health Commission are authorised officers.

Mr Clarke: At the moment.

The Hon. M.H. ARMITAGE: That is at the moment and there may be a minor increase in that, but it is not expected to be huge.

Ms Stevens interjecting:

The Hon. M.H. ARMITAGE: I cannot commit myself to say that there will never be more than five, but there will not be 500. Those officers do lots of other things—this will not be their only function. This is a minor part of their function. An independent suggestion is that we should increase their number by several officers. They are authorised officers of the Health Commission under the main Act. There are five of them at the moment.

The Deputy Leader referred to a gaming area. As he described it, the gaming area would be one of two or more separate enclosed public areas—and I acknowledge that—but they would not be a bar or lounge because a bar or a lounge is defined as an area primarily and predominantly used for the consumption of alcoholic drinks. The Deputy Leader refers to the gaming area: it is predominantly a gaming area and that is why it is classified as that function. We are attempting to ensure that hotels have an area—a bar or a lounge—designated by the licensee under regulation to be the area in which smoking is permitted in his or her establishment.

The Hon. FRANK BLEVINS: The Minister said, under an earlier clause, that I had poured scorn on the Bill. The Minister was being his usual cynical self. I have not done that, but I am now pouring scorn on this provision. The way it has been handled—not necessarily the idea behind it—with the number of amendments that the Minister has brought in to amend his own amendment, and amendments brought in by other members to amend the amendments amending the Minister's amendment, is such that, if they are all carried, we will not be any clearer on what will happen out there on the ground, because some of this is absolute nonsense. The degree of difficulty people will have in attempting to comply with the Act will be very high indeed.

I am not clear about what will happen in the front bar, because at least one front bar in one hotel in my district—and I am sure that there are dozens, if not hundreds, around the State the same—has tables (as defined by the member for Kaurna as a flat surface with four legs or one central leg) with chairs or in some cases with high stools around high tables. People sit around in the front bar drinking and eating their meals on these tables in the front bars. I will pause until the Minister is ready.

Mr Brokenshire interjecting:

The Hon. FRANK BLEVINS: With all due respect, the honourable member's answer would be of no great value.

Mr Clarke: In fact, it would be totally irrelevant.

The Hon. FRANK BLEVINS: I did not want to be unkind, but one must face certain truths, especially at this time of the morning. This is not the hour for idle flattery. I can see one problem, and perhaps the Minister can reassure me and describe how the legislation solves my problem. Again, with respect, the Minister's word is not sufficient, because the courts do not care what the Minister says in this place. I can think of at least one front bar, and there are probably many others, that has tables which are a permanent fixture and where people sit in chairs and eat a meal. Some tables are fairly high and have high stools.

Mr Atkinson interjecting:

The Hon. M.H. Armitage: Contrary to what the member for Spence says, I do know what the honourable member means.

The Hon. FRANK BLEVINS: Good, then the Minister will give me some reassurance, because if the intention is that that front bar is not caught and that people can continue smoking and eating a counter lunch perched on high stools around high tables—which I always found extremely uncomfortable, but, nevertheless, some people seem to enjoy them; in fact, some people look as though they have been glued to them for 20 years—

Mrs Rosenberg: Some people have.

The Hon. FRANK BLEVINS: Perhaps they have. Will the Minister tell me where in the legislation it is clear that that type of front bar is not caught by this legislation?

The Hon. M.H. ARMITAGE: The member for Giles, I believe, can take consolation from the fact that, under new subclause 3(a), if there are two or more separate enclosed public areas used for the consumption of meals within licensed premises (other than a licensed restaurant) one of those areas that is a bar or lounge and is for the time being designated in the prescribed manner by the licensee as a smoking area is exempt, if you like, from section 2. I have been quite frank throughout this debate and throughout the past four weeks whilst the debate has been in the public domain that front bars are exempt.

I even indicated earlier, in relation to questions from my colleague the member for Florey, that we changed the definition contained in the original paper introduced in the Party room so that that was better clarified. I assure the member for Giles that there is no intention of taking in front bars.

Mr BROKENSHIRE: As a point of clarification in relation to new clause 46A, if a hotel or club has two separate areas, one of which was a straight out dining room with bar facilities, and the other had, say, gaming machine facilities, bar facilities and eating facilities, would the area that had bar facilities, gaming facilities and eating facilities be exempt? In other words, would that area be able to serve meals whenever it wanted to, as well as allowing smoking, as long as the other area was a smoke free dining room area?

The Hon. M.H. ARMITAGE: There is absolutely no doubt that, where there are two or more separate enclosed public areas used for the consumption of meals within licensed premises, the licensee is able to designate one of those areas as a bar and smoking area, and the other enclosed area within licensed premises, which is for the service of food, would be smoke free.

Mr ROSSI: As a point of clarification, with respect to subclause (3)(a) on page 2, does the Bill discriminate between hotels and restaurants? If a restaurant is split into two, is it allowed to have one part smoke free whilst the other part is a smoking area? If not, will this clause discriminate between hotels and restaurants in respect of fair competition and a level playing field?

The Hon. M.H. ARMITAGE: As I understand the honourable member's question, restaurants are always taken in by this legislation and will always be 100 per cent smoke free. With respect to unfair competition, we have excluded the bar area of a hotel. All other areas of hotels, which we believe would be in direct competition with restaurants, in fact are taken in by the legislation, so we do not believe there is unfair competition.

Mr CLARKE: Mr Chairman, is it in order to deal also with the amendment by the member for Unley?

The CHAIRMAN: Yes.

Mr CLARKE: The amendment of the member for Unley is a real cop out. It basically says that the legislation can be subverted by the Minister simply by exempting any organisation as the Minister sees fit. Quite frankly, it negates the whole purpose of the legislation. You either believe in the legislation or do not. If the member for Unley is going to support the Bill, he should support it without this amendment because it would be an absolute nightmare for the Minister of the day, who would be continually hounded by various restaurants and hotels seeking an exemption.

There will always be cases of one pub or restaurant getting it while another does not. In some respects it would be an absolute political nightmare. In that respect I should support it, because it would be a nightmare for the Government of the day; although, since we expect our Party to be in Government within a very short space of time, I do not want us saddled with that nightmare in the same way as shopping hours or the selling of motor vehicle spirits, etc. We do not want to get involved in that again.

I thought that the member for Morphett's contribution was somewhat tame. It was like the lion of Judah without teeth. It was a flapping of the gums and not much else, because by a process of osmosis we will somehow divine what is right or wrong with this Bill before it leaves this place and goes up the corridor. By some process of osmosis Government members believe there is insufficient give on the—

An honourable member interjecting:

Mr CLARKE: I will get to it; the more you interject the more I will go my full 15 minutes, and I have a couple more to go. I point out that in this respect it treats Parliament with contempt, because apparently the nuances and so forth are known only to members of the Government—not to the Party or the public as a whole for debate. I thought that the member for Morphett was appalled by the lack of consultation on the part of the Minister with respect to this legislation, yet he perpetuates it by saying that it is nudge nudge, wink wink, behind closed doors and that Parliament and the public are not supposed to know about it. I think that is an appalling abdication of responsibility on the member for Morphett's part, because if he really wanted to represent his constituents he would get to his feet, as the member for Florey did, lay it on the line and vote on it in this Chamber. If the Minister uses his persuasive charm on some of the more truculent members in another place in your Party room, and they cave in, that is it; all over red rover. I point out to the member for Morphett that this process of osmosis does not matter. The honourable member should have made the point in here as the member for Florey did. If this debate is about the health of not only the general community but the work force, why is the Casino not covered by this legislation? Whilst in the gaming rooms food is not served—

Mr Becker: Not yet.

Mr CLARKE: Yes. The fact is that workers in the Casino gaming rooms who work for 20 hours a day are exposed to customers who blow smoke in their face on a continuous basis. Chain smokers sit by the blackjack tables and blow smoke into the faces of workers and other customers in the area. If this Bill is about health, particularly that of the work force and the general public, the Casino ought to be roped into it at the same time. Why is the Casino excluded from this piece of legislation insofar as it deals with gaming rooms and the rights of workers? I partly support the Minister's argument that the restaurants and the pubs have been too slack and lazy. In the past I have heard about their voluntary codes—

An honourable member interjecting:

Mr CLARKE: Yes, the member for Elizabeth may have had a different experience, but in restaurants I have visited I have asked for the non-smoking area. They say that it is all too hard and too difficult, but it is not. They need to make one area non-smoking, even if it is an open area, and the other area smoking. With the installation of a few extra extractor fans and things of this nature, most of the problem will disappear. Likewise, some of the pubs could do a lot better in this area as well. Self regulation has not really worked, but what will get them moving as far as the hip pocket nerve is concerned is exactly what got the TAB moving.

I heard the TAB's argument that you could not ban smoking in its agencies because it would drive too many people away. As soon as TAB management received it first passive smoking worker's compensation claim, it moved like greased lightning. The TAB had already spent a fortune on extractor fans and so forth, but that was not good enough. As soon as the TAB received the whiff of a compensation and damages claim it moved like greased lightning to ban smoking across the board. Ultimately, that scenario would face the pubs, the restaurants and the Casino. If the Department of Industrial Affairs enforced the occupational health and safety legislation by vigorously enforcing the employer's duty of care with a few decent prosecutions, a lot of this problem would have been fixed not only in the pubs and the clubs but in the Casino and elsewhere where people's health is being ruined.

The other thing that makes this a joke is that the Minister admitted in answer to my question about the enforcement of this legislation that he has five officers with maybe a small increase—I assume one or two or the like—to cover the entire State but it will not be their only functional responsibility. They will be going round trying to enforce this legislation but that is simply not good enough. Either you are dinkum about it or you are not. I will wake up the Treasurer by talking about money because out of this Bill he expects to get $5 million or $6 million and he could give the Minister for Health that money to employ a few more enforcement officers to see whether this legislation, if it goes through, can be properly enforced. Why is this measure being applied only to pubs, restaurants and licensed clubs and the like, while at the Casino where there are some 1 000 employees, and many of them are gaming room staff, they are having smoke put into their faces eight hours a day every day?

The Hon. M.H. ARMITAGE: There is a mild degree of schizophrenia in what the Deputy Leader of the Opposition is saying. I identified earlier in relation to restaurants, eating areas and enclosed public dining or cafe areas that one of the concerns that I thought the Opposition would have been interested in was supporting workers who were potentially subject to this problem. However, I was met with a resounding 'No' on the votes. I was disturbed by that but, as I have indicated, I am pleased that the Opposition is going to contemplate this whole legislation and I am interested in contemplating an amendment which might come back following the Party room.

Mr BECKER: The provisions proposed by the Minister throws a whole new light on the hospitality industry in South Australia in relation to passive smoking. In South Australia, two-thirds of our restaurants already provide for smokers and non-smokers. Such moves have been and will probably continue to be largely driven by patrons' preferences for smoking and non-smoking areas in dining venues. Restrictive legislation on this issue is not warranted. The same can be said for the hotels because, being business people, they pay very close attention to the needs of their clientele and they are very mindful of what the people seek.

In my area alone, several hotels in the Thebarton and Hindmarsh area are struggling. Then there is the revamped Henley Beach Road. The Main Street program has totally transformed that area. In Torrensville the Royal Hotel has been refurbished. That hotel provides several eating venues, isolated bars and an outdoor area. It is interesting to note that the campaign about environmental tobacco smoke or passive smoking has already forced many of these organisations to provide outdoor eating facilities.

In the City of Glenelg, now Holdfast Bay, restaurants in the main part of Jetty Road pay $500 per table per year and, in other less populated areas, they can pay as little as $55 per table per annum. There is a sliding scale, but it depends on the location. By voluntarily providing outdoor eating areas, which are not covered by this proposal, restaurants and hotels are starting to pay substantial fees to local government. Local government has cashed in on the voluntary aspects of what hotels and restaurants are doing.

The member for Colton would know—indeed, he may have been responsible for it—that the Adelaide City Council has three areas: the central business district; the frame area surrounding the central business district; and the residential area. In the central business district, for each table with up to four chairs, a restaurateur pays $60 per table per annum; in the frame area, $40 per annum; and in the residential area, $20 per annum. If the tables are fixed to the pavement, another $20 per table is added.

We have seen the resurgence and the redevelopment of the east end of Rundle Street. I spent quite some time down there as the manager of a branch of the Bank of Adelaide and it is a delight to see that that area is being redeveloped. When the markets were located there, people would arrive at 3 or 4 o'clock, conduct their business, and go to the local hotels for breakfast. It was a very important part of the east end of Rundle Street. It was delightful.

The member for Unley would be interested to learn that the Unley council charges $120 for two tables and four chairs per annum. After that, the cost is $120 per table and two chairs. They are not allowed to be fixed to the pavement. The City of Unley has some magnificent eating areas, outdoor as well as indoor, and it is a wonderful tribute to what that council has done, but it has capitalised on this voluntary component.

Mr Brindal: It is a pity they don't have an equally good council.

Mr BECKER: The member for Unley can comment on that but I cannot. The Marion council does not charge anything. It has a by-law which prohibits people from trading without exemption and I am not aware of anyone who has an

exemption at the moment. That is enforced only on a complaint basis. The Port Adelaide City Council was unable to provide me with any information at the time of my inquiry. The City of West Torrens and Thebarton, the new council, charges $100 per annum for two tables and four chairs. So, that is the information I have been able to obtain from local government in my area in relation to outdoor eating areas.

We have heard much about the debate on environmental tobacco smoke, and I would like to quote a publication entitled 'Clearing the Air for all. Environmental Tobacco Smoke. Another side of the story', which was produced by the Tobacco Institute of Australia. It states:

> Scientists have difficulties measuring ETS in everyday situations, partly due to the fact that most of the chemical components of ETS are also provided by many other sources totally unconnected with smoking.

Nothing annoys me more than to drive my car down to Lonsdale, around my electorate, or into the city—and I do not always go around in a chauffeur-driven car—when you are behind someone else's motor vehicle and you have to breathe in the terrible fumes emitted by the car in front of you. Nothing seems to be done about that at all, and those fumes would be more cancerous than anything else I know. The report continues:

> In addition, some of these components are difficult to detect because they are at present in such small quantities. Nicotine, because it is almost unique to tobacco, is often used to estimate non-smokers' exposure to ETS. These estimates, sometimes presented as 'cigarette equivalents', only provide a rough guide.

It sounds a bit like Simon Chapman's statistics. It continues:

> For example: Workplaces. It has been estimated that in a workplace that permits smoking, it would take between 260 and 1 000 hours for a non-smoking worker to be exposed to the nicotine equivalent of a single cigarette. One could estimate that a worker might be exposed to between two and four cigarette equivalents in a full year at work.
>
> Aeroplanes. Based on data from a 1990 study of air quality on commercial aircraft, it can be estimated that a person would have to take 11 round trips from New York to Tokyo (about 250 hours) in the non-smoking section of a Boeing 747 to be exposed to the nicotine equivalent of one cigarette. In some cases, the level of ETS in parts of the non-smoking section of aeroplanes is even below the detection limits of sophisticated monitoring equipment.

So good has been the air-conditioning components in aircraft—and I believe I have done enough travelling to know—that those who want to enjoy a cigarette have never bothered me in an aeroplane. It goes on:

> Restaurants. It has been estimated that it would take 300 hours of dining in a restaurant that permits smoking, to be exposed to the nicotine equivalent of one cigarette.
>
> Taverns/Bars. Based on data from a number of studies, it can be estimated that a non-smoker would have to spend all day and all night in a poorly ventilated smoky bar to be exposed to the nicotine equivalent of one cigarette. Other scientific and technical research indicates that adequate and properly maintained ventilation can drastically reduce the levels of ETS in indoor air.

I think that is a pretty fair assessment of the situation. Let us be honest: much research has been undertaken by the Tobacco Institute and by the tobacco companies. The three major tobacco companies in this country have contributed a considerable amount of moneys to scientific research in this area. I quote from the letter that I received from the Philip Morris Group:

> Extreme legislative measures are usually implemented to deal with an obvious serious risk. A measure as extreme as total smoke bans must be predicated on the notion that a serious health risk attaches to exposure to environmental tobacco smoke. However, this notion is inconsistent with the findings of many eminent scientific authorities. For example, the current President of the New South Wales Australian Medical Association, Dr Julian Lee, who convened a group of eminent Australian physicians, statisticians and scientists to undertake a review of over 500 scientific papers in the area of environmental tobacco smoke, has publicly stated that: 'Our review has led us to the conclusion that the data in relation to "passive smoke" and adverse health effects is weak and inconclusive.'
>
> With respect to exposure of adults to 'passive smoke' Dr Lee summed up the group's opinion as follows:
>
> 'There's very little data supporting the view that environmental tobacco smoke has long-term harmful effects in adults either in the workplace or in the home.'
>
> Accordingly, we believe that the health risks from exposure to environmental tobacco smoke are not so serious as to warrant such extreme measures as legislated smoke bans. Effective alternatives to total smoke bans should be pursued, such as educating venue operators as to effective ventilation methods in order to minimise exposure to environmental tobacco smoke.

As I have said, I have noted in—

Mr Brindal interjecting:

Mr BECKER: If the member for Unley says he has a hair appointment tomorrow at eight o'clock, it would be a search and rescue job. I recently went to Sydney, and I note that hotels there are providing smoke rooms on a voluntary basis for those who wish to participate in this pleasure. If they do, they go into a special room that is designated as a smoke room. A lot of the older Sydney hotels have outdoor eating areas, beer gardens and balconies, so they are able to accommodate those who wish to dissociate themselves from those who want to smoke. I fully support that move. This should be done on a voluntary basis, as we in the Liberal Party propose, and have always proposed, to do it. We are an organisation that believes in free or private enterprise, in giving people a fair go and in believing that those who make the decision should be free to do so; and we also believe very strongly in freedom of choice.

I thought that we were a Party that insists not on regulation but on deregulation. For that great reason, we have gone too far at this stage, in a very hurried fashion, in endeavouring to force upon those in the community who believe in the freedom of choice the wishes of others who are using flawed information and bodgie statistics, and who are trying scare the people into giving up something that they can in many cases handle in their own fashion. I consider that there is no basis for this. No-one has come to me and demanded that we should take this measure.

I support the Minister in his endeavours to consolidate the two Acts, the Liquor Licensing Act and the Tobacco Products Act. I do not support him on his tar tax, because that will be subject to a challenge and could be costly for the State. Again, it may cause problems in that respect. It is certainly a discriminatory tax and could lead to bootlegging. The banning of smoking in eating areas, restaurants and so forth is totally unwarranted and goes across all the beliefs that we in the Liberal Party hold very dear and close.

The Hon. FRANK BLEVINS: It was rather sad to hear the member for Peake describing just to what depth the once great Liberal Party has come to in its support of small business and private enterprise and the rights of the individual to go to hell in his or her own way. I know that the member for Peake will be glad to see the back of them all, if he holds such strong views on how the Liberal Party ought to be. Of course, the member for Peake knows that it is now nothing like that at all. From the honourable member's point of view, I suppose that is rather sad. Still, that is his problem.

More than one restaurant is totally non-smoking in its eating areas, and in at least two restaurants there is a foyer

where they have a bar, in which smoking is allowed. People come out of the restaurant when they feel the need for a cigarette or whatever, and they go to the bar. It is still in the same building, but it has nothing to do with the dining area. It always struck me as being not only sensible but also somewhat compassionate to have that arrangement, so that people who wanted a cigarette after a meal did not have to go outside and stand outside in the cold, on the footpath, in dark alleys or whatever.

There could be a civilised place in which they could have a smoke in quite congenial surroundings without their interfering in any way with those rooms where people were dining. I know that a couple of restaurants have made those arrangements. I thought those arrangements were excellent. I thought they did take into account people's preferences and the smokers annoyed no-one. In fact, quite the reverse was the case. Will the Minister advise whether that very civilised and sensible way of dealing with the problem will be allowed to continue or, because it is licensed as a restaurant, must those quite civilised practices stop?

The Hon. M.H. ARMITAGE: Restaurants as defined are encompassed by this legislation.

The Hon. FRANK BLEVINS: So, this very humane and civilised arrangement they have made, interfering with no-one who is eating or dining, and their being nowhere near food or diners, can no longer continue? What is the purpose of that? Is that just punitive? It cannot be to have a smoke free environment for the diners because they are supplying that. Is it just that the Minister wants to persecute these people? What is the purpose?

The Hon. M.H. ARMITAGE: It is because, under the restaurant licence, their primary purpose is the consumption of food.

Mr MEIER: Certainly, I have considerable interest in this amendment because I have more than 75 hotels, clubs and restaurants in my electorate, and several of them have approached me about the proposals that we are discussing tonight. There is no doubt that many of the concerns of some hotels and restaurants have been accommodated in the amendments before us and, in fact, I highlight a few of those. The hours of smoking was a concern; when will it be a curtailment on dining and when will it not be? There was also a concern about clients' relaxing at the front bar. Again, the Minister has clearly stated that smoking will be allowed in that area and it will not part of the legislation.

The other issue relates to exemptions for saloon bars. Whilst the front bar is specifically excluded, where there is a saloon bar which is literally on the other side of the front bar and which is a much more appropriate place to which to take one's spouse or companion, is it possible for a hotel actually to have the front bar and saloon bar areas where smoking is permitted?

If a hotel has, say, four or five bars, surely an exemption for two areas would not be unusual. There are 75 different establishments in my electorate, and one can imagine that each one is different. Therefore, I believe that the amendments foreshadowed by the member for Unley should be given serious consideration, because I would not want to see a situation where some of the peculiarities involving bars are not accommodated by this legislation.

Because of the hour, I will not highlight the survey results, but they seem to indicate extremes in one way or another. Surveys have been undertaken to show that people support the banning of smoking, whilst at the same time other surveys show that people are not in favour of it. I will not go into that, but the important thing is that, as this legislation is before us, it should accommodate most cases. As an ex-smoker, I do not like to have anyone smoke near me when I partake of a meal. From that point of view, I think this legislation is a step in the right direction. My personal preference would be more towards self-regulation, but that will not occur here. However, at least there will be some flexibility in the provisions relating to front bars. A letter from a restaurateur in my electorate states, in part:

> Let me quickly tell you that I am a non-smoker for nearly 30 years and would love to see the whole world non-smoking. But one has to be a realist and this will only happen when people see the light and are ready to quit. In my restaurant we have the large main dining room set aside as non-smoking. The smaller room and bar area have been designated smoking. We still have a lot of people who do smoke, especially in the 25 to 40 age bracket. Incidentally, they are also the ones who seem to spend the money a little more freely.

That restaurant proprietor has written me a three-page letter which details many problems. I am pleased that the Minister has indicated that he can accommodate this particular restaurateur's concerns of having one of two rooms put aside for smoking. The Minister said that it must be a room with a bar. In this case, I think the restaurant meets that condition.

In the case of a restaurant which has two rooms, one of which the proprietor wants to make a smoking room but which does not have a bar, can that request be accommodated? I believe this is a realistic request. Why should we discriminate against a restaurant that happens to have a bar in the room where the proprietor wants no smoking rather than *vice versa*? Many of the hotel keepers in my electorate will be pleased that at least the front bar is exempt from smoking and that there has been a reasonable amount of discussion and many of their concerns accommodated, although I acknowledge that not all their concerns have been addressed by this legislation.

The Hon. M.H. ARMITAGE: The member for Goyder asked, if there were two or more separate enclosed areas, was more than one of those able to be designated smoking. That is covered under subclause (3)(a), which quite clearly says 'one (and only one) of those areas that is a bar or lounge'. The honourable member's second question was: what if there were two areas in a licensed restaurant? Again, under subclause (3)(a), one of those areas that is a bar or lounge is within licensed premises other than a licensed restaurant.

The Hon. FRANK BLEVINS: I find this a most extraordinary amendment, to the extent that I am not sure I can believe what I am reading. It seems to me on reading this that the Minister will have the absolute right, without apparently giving any reason or measuring against any criteria, to say, 'You are exempt', 'Those premises are exempt', or 'That room is exempt.' It seems to me that that is one of the most extraordinary provisions I have ever seen in any Act. If within this new clause there were some criteria, some procedure or something to constrain a Minister, then perhaps it would be a sensible provision and the Minister would have some flexibility.

Members can bet their bottom dollar, to coin a phrase, that the lawyers will find all kinds of extraordinary circumstances bobbing up almost on a daily basis. Therefore, some flexibility by the Minister would be sensible, but for the Minister to have an absolute open go and to be able to point the finger at any particular premises, room, or anything at all is extraordinary. Will the Minister tell us of what criteria he is thinking?

The Hon. M.H. ARMITAGE: It is not my amendment.

The Hon. FRANK BLEVINS: But the Minister is accepting it.

The Hon. M.H. ARMITAGE: You do not know that yet.

The Hon. FRANK BLEVINS: Well, I am sorry. Will the Minister state the position of the Government on this amendment before we vote on it? I have not heard the Minister on it at all and it is an extraordinary provision. I am not against the Minister's having some flexibility.

The CHAIRMAN: The question is that the amendment moved by the member for Unley be agreed to.

The Hon. FRANK BLEVINS: If the Minister is not going to answer, then he can at least—

The CHAIRMAN: The member for Giles is now making his fifth contribution, whereas members are expected to make three.

The Hon. FRANK BLEVINS: Not on this amendment: it is my first on this amendment.

The CHAIRMAN: The whole of the debate has centred around all amendments.

The Hon. FRANK BLEVINS: This is my first contribution on this amendment. All I am asking is for the Minister to indicate, that is all.

The CHAIRMAN: All amendments are before the Chair. The Chair allowed the Minister and the member for Unley, with the concurrence of the Committee, to place all amendments before it and the Committee has been debating all the amendments. The member for Giles has spoken five times to all of the issues placed before us, so the member has been dealt with quite leniently.

The Hon. Frank Blevins: Standing Orders allow me to.

The CHAIRMAN: Standing Orders do not permit interjections of this nature honourable member.

Mr Brindal's amendments negatived.

The Committee divided on the Hon. M.H. Armitage's amendment:

AYES (23)

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

NOES (9)

Atkinson, M. J.	Bass, R.P.
Becker, H.	Blevins, F. T.
Clarke, R. D. (teller)	De Laine, M. R.
Rossi, J.P.	Stevens, L.
White, P. L.	

PAIRS

Venning, I. H.	Hurley, A. K.
Caudell, C. J.	Geraghty, R. K.
Scalzi, G.	Rann, M. D.

Majority of 14 for the Ayes.

Amendment thus carried; new clause inserted.

Progress reported; Committee to sit again.

ADJOURNMENT

At 2.27 a.m. the House adjourned until Thursday 6 March at 10.30 a.m.