HOUSE OF ASSEMBLY

Tuesday 23 March 1999

The SPEAKER (Hon. J.K.G. Oswald) 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:

Criminal Law Consolidation (Contamination of Goods) Amendment,
Livestock (Commencement) Amendment,
Lottery and Gaming (Trade Promotion Lottery Licence Fees) Amendment,
Manufacturing Industries Protection Act Repeal,
Parliamentary Superannuation (Establishment of Fund) Amendment,
Racing (Deduction from Totalizator Bets) Amendment,
Road Traffic (Proof of Accuracy of Devices) Amendment,
Shearers Accommodation Act Repeal,
Stamp Duties (Miscellaneous) Amendment,
Statutes Amendment (Local Government and Fire Prevention),
Statues Amendment (Sentencing-Miscellaneous),
Supreme Court (Rules of Court) Amendment.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. J.W. Olsen)—

South Australian Motor Sport Act—Regulations—Principal

By the Minister for Human Services (Hon. Dean Brown)—

Regulations under the following Acts—
Goods Securities—Fees
Passenger Transport—
Maximum Fares Chargeable by Taxis
Penalties—General

By the Minister for Education, Children's Services and Training (Hon. M.R. Buckby)—

Financial Institutions Duty—Non-Dutiable Receipts

By the Minister for Environment and Heritage (Hon. D.C Kotz)—

Board of the Botanic Gardens of Adelaide and State Herbarium—Report, 1997-98
Border Groundwaters Agreement Review Committee—Report, 1997-98
State Heritage Authority—Report, 1997-98

By the Minister for Industry and Trade (Hon. I.F. Evans)—

Liquor Licensing Act—Regulations
Rules of Court
Magistrates Court Act—Victim Impact Statements
Supreme Court Act—Criminal—Renumbering

By the Minister for Local Government (Hon. M.K. Brindal)—

Local Government Act—Regulations—Superannuation Board—Spouse Contributions.

MURRAY-MALLEE CONSERVATION

The Hon. D.C. KOTZ (Minister for Environment and Heritage): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. KOTZ: For the first time in Australia's history, three States and the Commonwealth have joined in partnership to ensure the future of the unique and important conservation values within the Murray-Mallee region. As Minister for Environment and Heritage, representing the Government and the people of South Australia, I signed this historic memorandum of understanding which launched the Murray-Mallee partnership. The partners to the memorandum of understanding included the Hon. Marie Tehan (Victorian Minister for Conservation and Land Management), the Hon. Pat Rogan (signing on behalf of the New South Wales Minister for the Environment) and the Hon. Sharman Stone (signing on behalf of the Federal Minister for the Environment and Heritage).

This partnership is a commitment to 'remove the borders' in the conservation of the Murray-Mallee country. South Australia's contribution to this partnership includes some 700 000 hectares of conserved lands, which includes the Danggali and Ngarkat Conservation Parks, and the Chowilla Game Reserve and Regional Reserve. Taking into account the land contribution by New South Wales and Victoria, the partnership will cover more than two million hectares. The MOU commits Victoria and New South Wales to join South Australia's example of protecting the vital Murray region. Pest management, biodiversity studies, fire management and regional tourism will all benefit from this united approach.

This partnership is an opportunity for the States to work in cooperation with land managers to achieve responsible and sustainable development within the Murray-Darling Basin, while still recognising the importance of management for biodiversity conservation. There have been some irresponsible statements made in the lead up to the New South Wales election about increasing the River Murray water cap and building more dams. I took the opportunity of reminding the New South Wales representative of the importance of the cap on the ecology and the economy of the region. For conservation to be effective, it requires a committed and concerted effort from all State Governments, landholders and the community. This MOU between the three States and the Commonwealth does just that.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

Mr VENNING (Schubert): I bring up the thirty-first report of the committee, on fish stocks of inland waters, and move:

That the report be received.

Motion carried.

PUBLIC WORKS COMMITTEE

Mr LEWIS (Hammond): I bring up the ninetieth report of the committee, on the rehabilitation of the Loxton irrigation district, and move:

That the report be received.

Motion carried.

Mr LEWIS: I bring up the ninety-first report of the committee, on the Southern Expressway stage 2, and move:

That the report be received.

Motion carried.

The Hon. R.G. KERIN (Deputy Premier): I move:

That the reports be printed.

Motion carried.

QUESTION TIME

SCHLUMBERGER RESOURCE MANAGEMENT SERVICES

Ms HURLEY (Deputy Leader of the Opposition): Did the Minister for Government Enterprises mislead this House when, in an answer to a question in another House provided on 2 March this year, he stated that the industry incentive money provided to Schlumberger to relocate its head office to Adelaide was available to all tenderers of the $20 million water meter contract to SA Water? The Minister told ABC radio—

Members interjecting:

The SPEAKER: Order! The Deputy Leader has leave to ask a question.

Ms HURLEY: —on 5 August last year, the day the contract was signed, that 'Schlumberger was offered incentives' to move its head office to South Australia worth 'hundreds of thousands of dollars' when it was awarded the contract to supply 440 000 water meters to SA Water.

A letter to the Opposition from one of the two final bidders for the water meter contract, Davies Shephard Managing Director Mr Rob Campbell, says that he first became aware of the incentives given to Schlumberger while listening to the ABC radio interview on that day. Mr Campbell said that he had written to the then CEO of SA Water, Mr Ted Phipps, twice in July 1998—a month prior to that interview—seeking information on rumoured incentives, and Mr Phipps wrote back and 'declined to make further comment'.

The Hon. M.H. ARMITAGE: I do not believe that I did mislead the House. I have a clear recollection, which I will check, obviously—because the Schlumberger contract is fantastic for South Australia. It is a contract of which the Government is very proud because it has identified that a major international player is very happy to be a participant in an internationally focused water industry. My recollection is—and I will certainly check it—that indeed—

The Hon. G.M. Gunn interjecting:

The SPEAKER: The member for Stuart will come to order.

The Hon. M.H. ARMITAGE: —the other bidder did not offer economic advantage to South Australia as part of its tender.

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: As I said, I will check it all but my recollection is that that is the case. If that is not the case, I will clearly come back and tell the Deputy Leader.

ELECTRICITY, PRIVATISATION

Mr SCALZI (Hartley): Will the Premier inform the House why ETSA and Optima have been split into a number of different entities? Last week the shadow Treasurer accused the Premier of deliberately splitting ETSA and Optima to ensure that they failed to operate efficiently in a national market. The shadow Treasurer said:

John Olsen has set our power companies up to deliberately fail, I believe, to advance his cause.

The Hon. J.W. OLSEN: I am still waiting for an apology for that statement from the member for Hart because the honourable member, outside this House, has suggested that I would deliberately abuse my office so as to cause power companies to fail in South Australia. That is clearly a defamatory statement. That statement shows the desperation of the Opposition—

Mr Conlon interjecting:

The Hon. J.W. OLSEN: I notice that the member for Elder is tuned in but the member for Hart is not. That statement well demonstrates the lack of real policy on behalf of the Opposition, which has clearly no substance and no policies and, what is being demonstrated as we move forward to this vote, no conscience about where it will position South Australia in the next three to five years—let alone decades after that. The simple fact is—and the member for Hart knows this—that the National Competition Commission in its 1998 submission to the Economic and Finance Committee, of which the member for Hart is a member, indicated that it expected the Government to consider the merit of separating Optima Energy into at least two or more independent and competing businesses. It expected the Government to weigh the benefits from increased competition with the costs of separation in making its recommendations.

A single Optima would have meant that the company retained significant market power and the control of the South Australian market in the absence of extremely interventionist price and capacity regulation. Splitting Optima into a two company duopoly was found to be not the optimal economic solution for creating a competitive market. Splitting Optima into three was found to establish the basis of a long-term competitive market in South Australia.

The National Competition Commissioner endorsed that structural separation, no less. Similarly, the structural reform of the South Australian generation was also put to the ACCC for its endorsement and we got its approval. Why did we go to the NCC and the ACCC: simply to protect the competition payments to the State of South Australia. That is about $1 billion we have at risk coming from Canberra to South Australia over the course of the next 10 years. If we had not undertaken that separation, I have no doubt that it would have been the member for Hart leading the charge saying that we had compromised South Australia's finances by not ensuring that those competition payments came to South Australia. He can have it either way. He tries to have it both ways and that is clear in his public statements to date.

We have protected South Australia's competition payments coming from Canberra. The statement made by the member for Hart last week is clearly inaccurate and wrong; furthermore, he knows better because this submission went to the Economic and Finance Committee, upon which he sits. That demonstrates that this Opposition is prepared to say anything in the public arena in relation to the sale of our power utilities. Members opposite want to ignore the facts and the truth of the matter, and want clearly not to position South Australia and its future. It is playing the man and not the policy. That is what we have got down to with this Opposition: play the man and not the policy. The reason for that is that members opposite have no policy position. They have no ideas and no policy position. That is why Don Farrell from the right is getting very concerned about this Leader.

Members interjecting:

The Hon. J.W. OLSEN: He is the only one keeping the Leader there at the moment: he is backing him in. But he has some concerns from the members for Hart and Elder as to

whether the Leader will bring down their positions on the same basis.

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: Here he comes—the fount of wisdom from the back is at it again. The member for Peake—

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: If the member for Peake has a policy, perhaps he can tell the Leader. At least we would have a position to put down in the House—a policy direction.

Members interjecting:

The SPEAKER: Order! There are too many interjections.

The Hon. J.W. OLSEN: I referred in the last sitting week to the 'Labor Listens' campaign. The member for Ross Smith was inviting people to come to his electorate for a 'Labor Listens' campaign.

An honourable member: And they all came.

The Hon. J.W. OLSEN: No, they cancelled it. I wonder why the member for Ross Smith's meeting was cancelled. Nobody turned up!

Members interjecting:

The SPEAKER: Order! The Leader will come to order.

Mr CLARKE: On a point of order, Sir, the Premier has misled the House: the meeting took place.

The SPEAKER: Order! There is no point of order.

The Hon. J.W. OLSEN: Perhaps the reaction was in response to the statement of the member for Ross Smith Friday week ago when he said:

> I am fed up to the back teeth with the fact that some people swagger around and assume positions of importance, and want to run the Labor Party as if it's their own personal fiefdom.

Who was he talking about? Was it the Leader, the member for Elder or the member for Hart? Whose personal fiefdom is he talking about?

Members interjecting:

The Hon. J.W. OLSEN: Oh, it is the member for Norwood. At last the member for Norwood is awake during Question Time—welcome! The member for Ross Smith is obviously concerned and interested to see such a branch increase.

Mr CONLON: My point of order, Sir, is obvious: the Premier should be answering the substance of the question. He has ranged over who runs the ALP. He is debating a question that is not at all relevant.

The SPEAKER: I uphold the point of order and I ask the Premier to come back to the substance of the question asked.

The Hon. J.W. OLSEN: I guess that they have not developed policy because they have been too busy out there signing up membership for branch meetings, Mr Speaker; that is clearly what is going on. As to the substance of this issue, we would like members of the Opposition to tell us how they plan to reduce the debt for South Australia; how they plan to pay for the pay increases of public servants in South Australia; and how they plan to increase services for South Australians. We are waiting for just one answer, instead of 'No'—no policy, no direction and no idea. Clearly, in proceeding to vote against either a sale or lease of ETSA, members opposite have no conscience about where they are going to position South Australia in the next three to five years. They do not care: they are political opportunists. They do not care how they are going to disadvantage this State.

Let there be no doubt that people will look back in the next five or 10 years upon the decision made by this Leader and the Labor Party. That is why Don Farrell and others have some concern about how they reached this policy decision on ETSA and on one or two other issues that I will not go into. That concern will come back and rest clearly in the lap of the Labor Party. Members opposite are doing a great disservice to South Australians and to young South Australians.

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): Did the Minister for Government Enterprises mislead this House when he told Parliament on 10 February this year that Schlumberger had set up a manufacturing plant to produce water meters for the SA Water contract, and was the Minister correct in saying that 70 per cent of the meter components would be manufactured here in South Australia? The Opposition has been informed that, so far, all the casings for the Schlumberger water meter contract have been manufactured and imported from Victoria and that the vast bulk of the internal workings of the meter are imported directly from Schlumberger's French manufacturing plant.

The Opposition has been informed by the Phoenix Society that it employs eight people to assemble and test all the SA Water meters made for the Schlumberger contract. The Opposition has also been informed that Schlumberger's facility at Wingfield assembles—not manufactures—gas meters.

The Hon. M.H. ARMITAGE: This is yet another example of sour grapes from an Opposition that consistently fails to acknowledge that the water industry set up in South Australia is actually succeeding dramatically. The simple fact of the matter is that a company called Mount Barker Products, as a direct effect of the Schlumberger contract, has set up a new foundry and new machining centre in Mount Barker, with support in tooling and technology transfer from Schlumberger, and they are quickly achieving the quality and quantity targets required. The Deputy Leader of the Opposition talks about the meters coming from overseas.

I am happy to acknowledge that, in the early stages, due to design modification requirements and the set up time for the localised South Australian manufacture, it was agreed that a number of meter bodies would in fact be obtained from interstate. I am happy to note that 1 476 new meters were delivered in February, 333 new meters were delivered on 15 March, 820 were delivered on 22 March, and so on.

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: The Deputy Leader of the Opposition says 'Where were they delivered from?' What the Opposition fails to acknowledge is that, with the requirement of the $15 million contract to supply meters not to Victoria, not to South Australia, but to the United Kingdom—which is clearly evidence of an export focused industry—in the early part of that process there were some dilemmas. Some of the specifications had to be worked on by Schlumberger, which is exactly what I identified before when I said that there was support in tooling and technology transfer from Schlumberger. So, this is clearly, as I said before, a case of a losing bidder being scorned.

I have identified to the House before that by going with Schlumberger rather than the losing bidder the South Australian economy absolutely burgeons, as we would expect it to do. Since then we have had the announcement of the $15 million United Kingdom contract, which was open tender in the United Kingdom. The whole of the world had an opportunity to win that contract, but who won it? South Australia did. I know that that is rotten news for the Opposition. I know that they hate hearing that things are good in South Australia because, frankly, they do not care about the

economy growing. All Labor Party members care about is for the State to be stagnant so that they might sneak over on this side of the Chamber for their own personal aggrandisement. The people of South Australia, particularly the people who have been employed under this contract, and all the hundreds of people who are working in the water industry, which is now an internationally focused one, know that what we are doing is very positive.

STATE DEBT

Mr CONDOUS (Colton): Can the Premier inform the House of the level of debt still owed by South Australia and can he say at what rate that debt level is declining? Yesterday, the Australian Democrats claimed that we can keep debt declining at the same rate as States such as Victoria and New South Wales by simply balancing our budget.

The Hon. J.W. OLSEN: I thank the member for Colton for his question, and the claim, as referred to by the member for Colton, shows how ignorant and inept the Australian Democrats really are. The simple fact is that net debt is $7.5 billion, courtesy of the Australian Labor Party, I hasten to add. The only way that the State Government can reduce principal on debt is to run a budget surplus or get cash from asset sales. There is no other way in which you can reduce debt. If we run up a surplus we can reduce the debt by that surplus, but that is an extraordinarily slow process. If we do not have balanced budgets or a budget surplus, we have to borrow the money.

I put to the House that it took us five years to get into a position of turning a $300 million annual recurrent debt into a balanced budget. It took us five years to get there, but we got there; and it was a Liberal Government that delivered that for South Australians, not this mob opposite. We have now actually got to balancing the recurrent income and expenditure. If we do not have a balanced budget or a budget surplus, we have to borrow money. It is no different from any household budget. If you spend more than you earn, you have to either run down your savings or borrow. If you spend less than you earn, you can use that extra money to pay off the debt.

An honourable member interjecting:

The Hon. J.W. OLSEN: The actor from the back tunes in. One of our loans is for around $30 million, and that has a locked in interest rate of about 15 per cent—and it is all your work. That is 15 per cent on $30 million. That is the fiscal responsibility shown by the Labor Party—

Members interjecting:

The Hon. J.W. OLSEN: —yes, the great economic planners opposite—and we have to clean up this mess that we inherited, with the economy on its knees. The break costs, as with any home mortgage at a fixed rate, would be high. In this case, that $30 million, locked in at 15 per cent by the Australian Labor Party in government, would have up to 45 per cent penalty on the value of the loan. That is one contract, entered into by the Labor Government.

Mr Hanna interjecting:

The Hon. J.W. OLSEN: I can't hear what you're saying.

Mr Hanna interjecting:

The SPEAKER: Order! Interjections are out of order; the member for Mitchell will not interject.

The Hon. J.W. OLSEN: The claim by the Democrats assumes that public sector finances remain in balance and that all infrastructure spending be financed without further borrowing. Just assuming that was possible, we could get net debt down in real terms to $3.4 billion by the year 2030—if we were lucky. Worse still, although the real level of net debt declines in nominal terms, it remains static unless there is a deliberate strategy to pay off the debt, as we have done.

As for comparing New South Wales and Victoria, again, the Democrats have shown their ignorance. In Victoria's case, the net debt to gross State product is 7.9 per cent. It is about one-third of South Australia's level of 19.9 per cent. How they could have put out a press release indicating the levels of debt on GSP defies logic. In the case of New South Wales, net debt to gross State product is forecast to be 7.1 per cent by 30 June 2002—less than half South Australia's estimated level of debt of 17.7 per cent by that same time. In simple terms (you do not have to work it out on calculators: I can tell you), South Australia is bearing a debt burden two or three times greater than are New South Wales or Victoria. That is a statement of fact, and it belies the accuracy of the position put down yesterday.

Access Economics has predicted that as of 30 June 2003 South Australia will have a debt level of $7.25 billion. That means that South Australia, with only 8 per cent of the population, has a debt out of kilter. If New South Wales, for example, were to eliminate its debt, we would have 43.1 per cent of all the States' debt around this country, for 8 per cent of the population. That is a pretty good position to be in for the future! Access Economics states:

> Privatisation would give the State Government considerable flexibility to cut taxes below the State average or raising spending if it desired.

Rebuilding social infrastructure is something we want to do, as well as retiring that debt level, but we are being blocked in our endeavours by an Opposition which is so intransigent, which created the problem and which is not prepared to show any conscience by redressing that which it has served up to South Australians. It is wanting and expecting us to work with one hand tied behind our back. How are we to compete with States such as Queensland, which is looking at abolishing payroll tax?

The Opposition will one day rue the day for this policy direction, and it will not be too far away. We will see major disadvantage to South Australia in attracting new private sector capital investment. As the Minister for Government Enterprises said a moment ago, it is doing it for short term political opportunism, and is not considering or interested in, or has any concern or conscience about, South Australia and its future. It was the Leader who sat around the Cabinet table and lurched us into this economic mess over only a few years but, as we are seeing, it is taking a number of years for us to wind our way out of this dilemma inflicted upon us. It is interesting to note that, when you get onto the substance of the track record and performance of members opposite, the shadow Treasurer goes into the *Financial Review* to demonstrate to the media that he has some expertise. The member for Elder also—

Mr Foley interjecting:

The Hon. J.W. OLSEN: The member for Hart is more than boring with his public statements, where he has shown absolute hypocrisy in his private and his stated public positions on power sales. As the member for Hart goes around talking to private sector business people saying, 'Nudge, nudge: you know where I stand on it, but the Party has a position', effectively undermining his Leader privately, but publicly going out and saying the right thing for his Leader, I just wonder—

Members interjecting:

The Hon. J.W. OLSEN: It happens to be true, because deep down the member for Hart knows that, if this State is to have a future, this is the only course that will free up its debt levels. As for the interjection from the member for Elder, I guess he is still getting over his fortieth birthday bash or whatever it was at the Arkaba Hotel last Friday night—

An honourable member interjecting:

The Hon. J.W. OLSEN: It was his fiftieth? I extend to him my compliments and wish him happy birthday. I note, however, that the Leader was not prepared to take up his invitation. This time the member for Elder asked the Leader to go, but the Leader did not go. One could ask—

Mr CONLON: I rise on a point of order, Sir. The question was about State debt and, while my very young looking 40 may be of interest to some, it is not relevant to the substance of the questions.

The SPEAKER: I have to uphold that part of the point of order and ask the Premier to come back to his answer.

The Hon. J.W. OLSEN: We are interested in who was invited and who actually went to the party. It is clear that this no-policy position of the Labor Party is hurting the Labor Party and its prospects. In addition, it will be shown in the fullness of time that the Labor Party will rue the day that it took an intransigent position on this policy option. It has no ideas and no policy, and what it is now demonstrating is worse: no conscience about the future of South Australia.

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): Will the Minister for Government Enterprises investigate claims by the Managing Director of Davies Shephard that SA Water's negotiating panel for the $20 million water meter contract canvassed the possibility of its new water meters' read-out levels being adjusted upwards in favour of SA Water, and can the Minister guarantee the absolute accuracy of the new water metres in future? Davies Shephard Managing Director, Mr Rob Campbell, has written to the Opposition saying that SA Water's contract negotiation panel raised the known practice of skewing meters at a meeting on 4 February last year. Mr Campbell said:

> The panel believed there was a benefit in adjusting the meter accuracy above the zero line.

Mr Campbell says he wrote to the panel on 20 February last year cautioning SA Water against adopting this approach and enclosed for its information a copy of the UK weights and measures regulations that stipulate that meters shall not be skewed. A 2 per cent adjustment above the zero line could, on the current water rates income, net SA Water an extra $4.8 million in revenue.

The Hon. M.H. ARMITAGE: One of the things that I was advised during the financial phases of this negotiation was that the Schlumberger meters had a benefit for the people of South Australia. That benefit was that they were accurate, so that people were being charged for the water they were using. I am further advised that the 20 millimetre meter offered by Davies Shephard is less accurate at low flows than is the Schlumberger meter. I would have thought the Deputy Leader of the Opposition would commend the Government on getting a contract whereby the meters are more accurate. Surely no-one can complain about that, other than the people who are aggrieved because the contract is working.

Members interjecting:

The SPEAKER: Order! Members will come to order.

The Hon. M.H. ARMITAGE: I would also identify that the source of this questioning from the Deputy Leader of the Opposition—which I previously did not identify but which the Deputy Leader now has—is one of the senior executive directors or something of Davies Shephard. It is important for the House—and, indeed, for South Australia—to know, in relation to a previous question, that Davies Shephard was given the opportunity to reconsider local South Australian manufacture as part of the parallel negotiations but it declined. This great source of negative questions about a contract that is working and an industry that is burgeoning, when offered the opportunity to go to local South Australian manufacture, help our industry grow and employ South Australians, said, 'Uh-uh, not for me.' That is appalling.

It is also important to know, as has been identified—the Deputy Leader told the House—that the Phoenix Society is involved in this process. I well remember this, because in the previous Government I was Minister for Disability Services. In all the discussions about water metering and so on, I was insistent that the Phoenix Society be considered, because it does a wonderful job. It is a fantastic opportunity for people with a disability to do something that is worthwhile because, apart from everything else, it gives them great dignity. As the Deputy Leader of the Opposition I am sure would be happy for me to identify, the Schlumberger contract uses the Phoenix Society to continue—

Members interjecting:

The Hon. M.H. ARMITAGE: Hang on! The Deputy Leader is about to interrupt. I would not want to lose the flow, because the Schlumberger contract uses the Phoenix Society. However, the Davies Shephard proposal did not include the use of the Phoenix Society. That is yet another reason why the Schlumberger contract is far preferable to the opposition bid.

Members interjecting:

The SPEAKER: Order! The Leader will come to order.

ASSET SALES

The Hon. G.A. INGERSON (Bragg): Will the Minister for Government Enterprises advise the House of how the Government expects that any sales resulting from the ownership reviews of Government enterprises would benefit the State?

The Hon. M.H. ARMITAGE: I thank the member for Bragg for a particularly important question which details in essence the value of asset sales and the future benefits they might have for South Australia. As the House would know, last year the Government made a decision to review ownership of a number of Government enterprises, including the Ports Corp., the lotteries, the TAB, WorkCover and SAGRIC. One of the key purposes of those reviews is to assess the risk to Government of continuing ownership. There are risks in a number of businesses, as all businesses would know. Indeed, the reviews that are under way may lead to a decision to sell the assets if the continuing financial and commercial benefits of doing so outweigh the risks of maintaining the ownership, and that may well be the case. It is not the case in WorkCover. The Premier has already identified that we are not continuing with that scoping study.

South Australians are acutely aware of the risks of Government enterprises, because all South Australians would know that we are hamstrung because of the State Bank debacle and the continuing impact of that debt. Why? It is because the then Government failed to listen to the dogs

barking and did not take account of the risks. Hence, all South Australians suffer for its lack of action. Whilst the decision has not been made to sell any of the assets at this stage, any sale would enable some debt to be retired. It would also inject valuable funds for spending on very important services such as health, education, housing, police and so on—all the things that we as members and Ministers of the Government know that Opposition members want, because they continually writes to us to ask for an expansion of these services. I should add that there is never a postscript, 'By the way, we would suggest you fund it this way.' They do not bother to take any responsibility. They try to avoid the responsibility.

I note that the member for Peake is nodding; he does not want to take any responsibility. Unfortunately for the member for Peake, his Leader bears direct responsibility for the debt, because his leader was sitting around the Cabinet table when they got the briefings, each time—the first $1.5 billion. I wonder what was done then. It might be worthwhile asking that question in a Caucus meeting. You could put up your hand and ask, 'Excuse me, Mike; what happened after you lost the first $1.5 billion? Did you do anything about it, or did you let it go?'

An honourable member: He let it go.

The Hon. M.H. ARMITAGE: Of course he let it go. You might like to ask him what he did after the next bail-out was required. Did they make any changes? Who knows. Then again, the honourable member might like to ask him a third question, 'What happened when the third briefing came in?' How did he feel, sitting around a Cabinet table, when presumably his great mate Tim Marcus Clark came in and told him, 'I'm sorry guys, we've blown the State'? You might like to ask him those questions, because they are questions that people in South Australia would like to ask. Of everyone sitting around in the Parliament at present, your Leader is the only one who knew what it was like to get those briefings and to ascertain how it was to be handled. The honourable member might like to ask him what he did. Did he just sit on his hands, or what did he do?

We all know that the services which the asset sale proceeds might fund are important to South Australia. I have identified a number of Government enterprises which we are scoping. Even if all of them were sold, collectively they would not generate anywhere near the amount of funding that a sale of ETSA would secure. That would obviously provide hundreds of millions of dollars for critical services such as health, education, police, transport, roads and all those sorts of things that are so important around South Australia.

It is vital that the Labor Party take account of those issues in its decision. One wonders when the Opposition will wake up to itself and the devastation it has wrought on South Australians. Clearly, the would-be Treasurer has a bad case of amnesia when he addresses these issues. On 24 August 1994 (*Hansard*, pages 284 and 285) he said he is one person who is prepared to look at the issue of private sector involvement and, indeed, privatisation. I would say on behalf of all South Australians that it is about time he reviewed those sentiments because, frankly, South Australians need him to do so. Without it, it is clear that the Labor Party has not learned the lessons of history and, frankly, that the people of South Australia might well be forced to suffer an unnecessary privation as they already have been because of decisions taken by members opposite and members of their Party.

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): Did the Minister for Government Enterprises mislead this House when he told Parliament on 10 February this year that awarding the contract to supply 440 000 water meters to Davies Shephard would have cost the taxpayer $1 million more than the rival bid made by Schlumberger? On 10 February this year, the Minister stated:

> That is why it [Davies Shephard] did not get the contract, because in fact South Australians would have paid $1 million extra.

Davies Shephard Managing Director, Mr Rob Campbell, wrote to the Opposition informing us that his company's tender package was $3 million less than the $20 million contract with Schlumberger announced by the Minister in his media release of 5 August 1998.

Members interjecting:

The SPEAKER: Order! Members will remain silent.

The Hon. M.H. ARMITAGE: The Opposition Leader is incorrect in saying that I misled the House.

Members interjecting:

The Hon. M.H. ARMITAGE: No, the Opposition Leader is quite correct in identifying that in the heat of an answer that is what I said. I am very happy to show the Leader of the Opposition where I corrected it about a day or so later in Parliament. I am very happy to do that. But of course they would not have bothered to look at that because they will try to eke out a little bit of publicity about this. I corrected that in the House, but let me go through it again. I am very happy to do that because this is great news for South Australia. The NPV of the Schlumberger contract in dollar terms—perhaps this is commercially sensitive. I am happy to show the Deputy Leader of the Opposition the figures. What I will identify is that the NPV was a difference of $1.1 million, but that is more than offset by the enormous economic development benefits of the Schlumberger proposal with which I have already dealt. However, because the Deputy Leader wants to raise the matter, we will go through it again.

The Schlumberger proposal, as modelled by the South Australian Centre for Economic Studies, not the Government, actually identified that the Schlumberger proposal provides $35 million additional gross State product over six years compared to the Davies Shephard proposal. This is vital and I am glad that the Labor Party is listening. Members opposite have identified that the 'Labor Listens' campaign is so important to them and so they should listen to this because it is vital. My advice is—and I will read it out—that the Schlumberger proposal provides $35 million additional gross State product over six years compared to the Davies Shephard proposal which reduces gross State product by $13 million over six years.

The Hon. R.G. Kerin: Game, set and match.

The Hon. M.H. ARMITAGE: I would have thought that that, frankly, as the Deputy Premier said, is game, set and match. Why would a Government not take the opportunity to benefit South Australia by $48 million? Why would we not do that? I know that when the Opposition was in Government, like that it blew $3.15 billion but, surely, responsible financial managers would look at a $48 million benefit to South Australia and say 'Yes.' The Deputy Leader of the Opposition, whilst interjections are not in order, might nod if she would take a $48 million benefit for South Australia. Let us talk not only about dollars because we do not want to be seen as a Government interested only in hard cold dollars.

I am informed that the Schlumberger proposal, which the Deputy Leader of the Opposition thinks is a dud because clearly she would rather have gone with her informant—

Ms Hurley interjecting:

The Hon. M.H. ARMITAGE: The Deputy Leader of the Opposition says that it is a dud. It is fascinating that the Schlumberger proposal provides direct employment for 83 people in addition to an extra 260 people in South Australia as a result of the flow-on effects compared to the proposal put by the informant to the Deputy Leader of the Opposition which, with flow-on effects, reduces employment by up to 230. It is absolutely clear that we have done the right thing.

POLICE, POLICY

Mr MEIER (Goyder): Will the Minister for Police, Correctional Services and Emergency Services outline to this House improvements initiated by the State Government to policing in South Australia?

The Hon. R.L. BROKENSHIRE: I thank the member for Goyder for his question. I know that he has a keen commitment to proactive modern policing, as I have seen him demonstrate in his electorate of Goyder on the Yorke Peninsula. Yes, our State Government is preparing policing policy for the next millennium and we are looking forward.

Mr Conlon interjecting:

The Hon. R.L. BROKENSHIRE: The member for Elder says that it does not involve police. I could not have thought, over the past 18 months, of a more comprehensive and transparent opportunity to involve all police in than Focus 21, the new policing direction. We would not expect the member for Elder to come out publicly and say, 'What a very good job the Government is doing in working with the South Australian police force,' as we address all the messes caused by those on the other side. The member for Elder would rather say that this State is in crisis. There is only one crisis in this State, and there it is.

That has been highlighted today and I hope that the media pays attention to this. There is an absolute crisis on the other side—not happy, fighting; barbecues but not inviting; birthday parties, invite, invite, not invite. This is what is happening. A $3.5 billion crisis and not even an apology. Here we have State Bank Mark II being put up in flashing lights and what is happening? No assistance whatsoever.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! There is a point of order.

Mr FOLEY: As embarrassing as it is for the honourable member, he is clearly debating the question and I ask, Sir, that you rule accordingly.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! If the House does not come to order I will start naming people immediately. I uphold the point of order in that the Minister is straying away from his subject. I ask him to return to the question.

The Hon. R.L. BROKENSHIRE: While some are organising barbecues, this Government is working towards modern police practices. We have had a look at different situations, such as Group 4's being able now to transport prisoners. Instead of operational police transferring and transporting prisoners, Group 4 is doing it. Police security officers are now behind cameras. What are we doing? We are redeploying across the State and through all the local service areas more police on the beat. In addition, we are looking at an integrated process of eliminating and continuing to reduce crime. That involves crime prevention and a partnership with everybody other than the Opposition.

It is a partnership among the community, the strategic direction of the Crime Prevention Unit and the police in relation to community policing areas, such as Neighbourhood Watch, Business Watch and many other areas in which our police are doing so well when it comes to a holistic approach to crime prevention. I know that the member for Elder is about to go on his road show and stir up many police right around this State.

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: And he acknowledges that he is about to go around South Australia and stir up the police. If the member for Elder were a responsible shadow spokesperson, he would not be stirring up the police: he would be doing what we are doing and supporting police and the sale of ETSA so that the Government could free up some of its recurrent problems (thanks to the Opposition) and be able to—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: It is not a joke.

Mr Koutsantonis: You're a joke.

The Hon. R.L. BROKENSHIRE: The member for taxis is an absolute joke, but the bottom line is that if we had more money,—

Members interjecting:

The SPEAKER: Order!

The Hon. R.L. BROKENSHIRE: —if we had—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: It is not an embarrassment. The fact is that the honourable member is an embarrassment, because he is not prepared to support this Government in getting on with the job of developing opportunities for police, making the community safer and reducing the debt so that more money can go into police and police capital works programs. We are committed to that; we are doing our best; and we will continue to work with the South Australian police and the department as we free up more opportunities to locate police where it counts—out on the beat.

WATER METERS

Ms HURLEY (Deputy Leader of the Opposition): My question is directed to the Minister for Government Enterprises. Is the Minister concerned that the negotiating panel for SA Water's $20 million water meter contract told bidders that the economic development component of the contract could apply to products that were not manufactured in South Australia but shipped into the State and then straight out again without any value added?

Mr Meier interjecting:

Ms HURLEY: You call this development?

Mr Meier interjecting:

The SPEAKER: I call the member for Goyder to order.

An honourable member interjecting:

Ms HURLEY: Obviously the Minister does. In a letter to the Opposition, Mr Rob Campbell from Davies Shephard says that the negotiating panel said:

> If our company sold products from our South Australian facility to other Australian States the value of such sales would count as

'export' and it would qualify as economic benefit as far as this contract was concerned.

Mr Campbell added:

Put simply, our company could manufacture a product in Victoria, ship it to Adelaide, reship an invoice to a customer outside of South Australia and the value would count as 'economic benefit', even though there was not a single ounce of added value originating from South Australia.

The Hon. M.H. ARMITAGE: The Deputy Leader has answered her own question. That is not what Schlumberger is doing. Maybe that is a proposal for economic development.

Ms Hurley interjecting:

The SPEAKER: Order!

Ms Hurley interjecting:

The SPEAKER: Order! I warn the Deputy Leader for continuing to interject when she has been called to order.

The Hon. M.H. ARMITAGE: Maybe with Davies Shephard putting up such a sham as its economic development proposal, maybe that is how come its proposal reduced our State GSP by $13 million over six years. Maybe that is how it was going to do it; maybe it thought that we would be silly enough to say, 'This is a really good deal and we will let you ship it in' and so forth, and that we would agree with a $13 million reduction in our GSP over six years. We did not; we saw that coming and went for the proposal that has a $35 million additional GSP over six years. Maybe this sort of sham shipping arrangement the Deputy Leader refers to is how come the Davies Shephard proposal, with flow-on effects, reduces employment by up to 230 people. Maybe that is how it was going to do it.

When I got the briefing, I was amazed at how it thought it could win the contract and reduce employment by 230 people: I think I have just found out. I think I have been told. But the fact is that Schlumberger is not doing that. Schlumberger is already taking meters manufactured in Mount Barker and that has been set up since the contract was made. It is identifying Mount Barker Products, which has installed the new foundry, and identified how it will make that work. Not only that; since the contract it has won another $15 million contract to supply meters to the United Kingdom against world competition. Where will they be made? In South Australia!

If the Deputy Leader of the Opposition does not like what is happening, maybe she can go and ask the people in Mount Barker Products, who obviously have a job because of this—

The Hon. J.W. Olsen interjecting:

The Hon. M.H. ARMITAGE: Yes, as the Premier suggests, we will send up the question to all the people at Mount Barker Products who have a job. We will send it to the 23 people already working at Wingfield and, more importantly, we will send it to everybody in the disability services area, because clearly the Deputy Leader of the Opposition is saying that we should not have gone with the contract which employs people with a disability in South Australia. What an absolutely outrageous claim! Of course we were keen on doing that. I wonder how the people at the Phoenix Society will take it when they hear that the Davies Shephard proposal, as I identified before, did not include the use of the Phoenix Society. I wonder how the Phoenix Society, those people with a disability who are proud of their jobs, will take this sort of cant from the Deputy Leader of the Opposition.

I wonder how the people in the disability services arena will take this sort of rubbish and claptrap. These people deserve a job. I struggled on behalf of these people for years when I was Minister in the disability services arena. I know the present Minister for Human Services struggles to get jobs for these people. Here they have got one; we have maintained it in the contract. Yet, this disaffected losing bidder, who will take away State product and decrease employment in South Australia, now spends his time giving fake questions to the Deputy Leader of the Opposition. He was going to say to people with a disability in South Australia, 'We will take away your income—we will pull the rug from underneath you.' We have grander plans than that.

SCHOOL AGE

Mr LEWIS (Hammond): My question is directed to the Minister for Education, Children's Services and Training. What is the community's response to the Government's move to consider raising the compulsory schooling age? Honourable members may not know that it was in this Chamber, for the first time in human history, the first place on earth, that compulsory schooling was introduced as a law. Members will recall two weeks ago the Premier told the House that the South Australian popular community has asked the Government to consider raising the compulsory school age from 15 to 17 years and he said further that this can be incorporated in the recommendations arising from the review of the Education and Children's Services Act that he announced at that time.

The Hon. M.R. BUCKBY: I thank the member for Hammond not only for his question but the facts he brought before the House as well. This is the most important social debate that this community has had in decades. South Australians have welcomed this Government's opening up the Education Act so that people from our community can have an input into the change of the Act. One of the important things that has come up has been whether we should consider a change in the compulsory age of school age children. It has not only come up from the community but also from primary and secondary school teachers. Even the Australian Education Union has agreed that any initiative that can increase the education retention rates of our youth in South Australia should be considered and pursued.

Compare this with forward thinking statements made by the Federal Leader of the Opposition late last week. I am heartened to hear that Kim Beazley is following this Government's lead and recognises and is focusing on the importance of reversing a declining year 12 retention rate. As part of the review of the Education and Children's Services Act, South Australians have asked this Government whether it is time to consider a change in the length of time that young people are in education, in other words, that they should be in education from 15 up to 17 years of age. We are taking a broad approach on this. We are now considering the merits of increasing the age in education. That does not necessarily refer to being at school. It is a matter of whether they be in a TAFE college, whether they undertake an apprenticeship or traineeship or whether they are being provided with private education from the private sector. It is a matter of looking at whether there are benefits for our young people in being retained in some form of training until an older age. That is an important matter to consider. It has been shown that the longer young people stay in training the greater chance they have of gaining employment.

The Federal Opposition also picked out another of our policies: the important role vocational education plays in keeping our children in education longer. I remind the House that in 1996, when this Government brought in vocational

education training, 2 000 students undertook that training and last year in 1998 some 8 000 students undertook that training. Further, the Premier opened the Vocational Education College at Windsor Gardens this year as a further push towards ensuring that vocational education is followed in this State. Further, we are looking to a second vocational college in the southern suburbs in the year 2000 and looking to place one in a regional centre further down the track.

What was the Labor Party's response to vocational education? It closed Goodwood Technical High School in 1991. It considered that it was old hat. Federal Labor has recognised the need for greater private sector involvement, greater industry support, whether that be cash or in kind. It is interesting to note that over $1 million has been currently forwarded to the South Australian education arena by private industry in South Australia. I will give the names as they are impressive: Mitsubishi, Telstra, Microsoft, General Motors, BRL Hardy, Mobil and CIG. I could go on as there are hundreds more, but I will not.

Federal Labor is following the lead of the South Australian Government. It is copying our vision nationally, at least, because it has a vision. But where is the State Opposition's policy? Where is it on education, I ask? 'Where is it?' is a very good question, because there is none. As the Premier said some two weeks ago, the education review is about shaping the future for our children and grandchildren, recognising that education is an investment in skills, in knowledge, in attitudes and in personal drive, and the onus is on us all to be involved.

SHOP TRADING HOURS

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.H. ARMITAGE: As the Parliament would be aware, a major review of shop trading hours was undertaken last year, culminating on 10 December in the passage by the Parliament of the Shop Trading Hours (Miscellaneous) Amendment Act 1998. Those changes attracted significant support by the Opposition and are considered to represent a sound balance in the competing interests in this sector. In effect, the legislation permits the following additional hours of trading by non-exempt shops:

- suburban to 7 p.m. Monday, Tuesday, Wednesday and Friday, plus Sunday trading from 11 a.m. to 5 p.m. on six Sundays per year;
- city to 9 p.m. Monday to Thursday and trading to 5 p.m. on Easter Saturday from the year 2000.

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: Absolutely correct. As the member for Spence says, that is the Saturday before Easter, from the year 2000. There are no changes to arrangements in country areas and the above extensions of hours do not apply to retailers selling motor vehicles or boats. Following the passage of the legislation, I consulted with the Ministerial Retail Trades Advisory Committee and sought its views on an appropriate date for the commencement of the legislation. The Government has now determined, following that consultation, that the legislation to give effect to the new shop trading hours will come into effect on 8 June 1999. I emphasise that these additional trading hours are voluntary.

PORT WATERWAYS

The Hon. D.C. KOTZ (Minister for Environment and Heritage): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. KOTZ: Members of the House would realise that the Port Adelaide waterways are an important environmental, commercial, industrial and recreational area.

Members interjecting:

The SPEAKER: Order! The Minister has been given leave to make a statement. I ask the House to come to order.

The Hon. D.C. KOTZ: The waste water of much of the northern and western suburbs has historically made its way into the Port River waterways. This waste water has traditionally contained many pollutants which, over a protracted period of time—at least the last 100 years—has resulted in a detrimental impact on the local ecology of the area. Despite the abuses of decades of human activity, the ecosystem has proved remarkably resilient. The air is rich in mangrove life and provides an important fish breeding ground, and is frequented by migratory birds, dolphins and other aquatic animals. Therefore, the challenge to clean up is before us. As part of International Sea Week, I launched today a new program outlined in the brochure entitled Cleaning up the Port Waterways, which explains and promotes the cooperative efforts of local and State Governments, in conjunction with the Torrens Catchment Water Management Board, in working to rehabilitate the area.

The brochure, produced by the Environment Protection Agency, provides key information about the Port River, Barker Inlet, North Arm and West Lakes. It details pollutants affecting the waterways and the range of clean-up programs that are now under way. Much is already being done to improve the state of the Port River. However, an important new step outlined today is the implementation of the North West Adelaide Stormwater Pollution Prevention Project. Under this $750 000 three year project, a new task force of six highly qualified environmental officers will work at the coalface of stormwater pollution. Their role will be to visit and assist some 9 000 businesses in the Enfield-Port Adelaide, Prospect and Charles Sturt Council areas in identifying sources of pollution.

They will provide expert technical advice, working closely with authorities such as the EPA and SA Water, and will be working in a region that covers about 50 per cent of Adelaide's industry. The officers will be employed by the Port Adelaide-Enfield, Charles Sturt and Prospect Councils, enabling them to work closely with their respective local communities in this further attempt by this Government, all members of the community and industry to continue to clean up our very important waterways.

GRIEVANCE DEBATE

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

Ms HURLEY (Deputy Leader of the Opposition): The Minister for Government Enterprises, in his answers to questions today, refused to rule out fixing South Australia's water meters. It is worth reading again the Davies Shephard statement. Mr Campbell says:

The practice of skewing meters was discussed at a meeting with the panel on 4 February 1998. The panel believed 'there was a benefit in adjusting the meter accuracy above the zero line.' I cautioned SA Water against adopting this approach and wrote to them on 20 February 1998 enclosing a copy of UK Weights & Measures regulations titled The Measuring Equipment (Coldwater Meters) Regulations 1998 that stipulate that meters shall not be skewed.

And yet the Minister has refused to rule out skewing meters and refused to deny that the panel did discuss this with the tenderers for the contract. The Minister has also gone into great detail about economic developments, and I think it worth reading out Mr Campbell's statement on that. He said:

The involvement of the independent probity auditor appointed by SA Water (Mr Gary McDonnell of Deloitte Touche Tohmatsu, 190 Flinders Street, Adelaide) was something of a mystery. SA Water had previously advised that the probity auditor was to 'ensure the process is open.' I never met Mr McDonnell. He was never present at any of the meetings between SA Water and our company.

That is worth pointing out, because Mr Gary McDonnell of Deloitte Touche Tohmatsu was also the probity auditor used in the process towards the $1.5 billion water management privatisation contract to United Water—the same probity auditor who did not believe he had done anything wrong in leaving the building to go to dinner 3½ hours before the last bid for that contract was received. That is important, because the economic development issue is concerning Mr Campbell. He says:

I cannot answer your question in respect to the manner in which SA Water calculated 'economic development'. This is because the panel appointed by SA Water to negotiate with our company was lacking in expertise in this regard. One of the members of the panel was supposedly an expert in this field. However, he was unable to clarify my questions on this subject.

The following example illustrates how foolish the issue of 'economic development' had become. The panel said that, if our company sold products from our South Australian facility to other Australian States, the value of such sales would count as 'export' and it would therefore qualify as 'economic development' as far as this contract was concerned. This applied whether the products were manufactured in South Australia in the first place or not. . . The terms and conditions of the Request for Proposal contained selection criteria that would be used by SA Water for the selection of the successful proposer. I was very concerned with the terms and conditions, because the panel would not disclose the weightings they intended to apply to the various criteria. . . The panel's refusal to disclose or even discuss this formula meant it would be possible for an excessive loading to be applied to one item, with the balance shared between the other nine points.

This level of secrecy is not consistent with the notion of an open process (that is, appointment of a probity auditor to oversee the negotiations) and lends itself to achieving a predisposed outcome. I did not believe that the RFP would achieve genuine economic development and value adding in South Australia, because of the farcical approach being adopted by the panel as given in the example under item 2. For the reasons set out below, I believe that SA Water did not evaluate the bids in accordance with the criteria set out in the Request for Proposal.

The 20mm water meter to be manufactured and supplied by Schlumberger for this contract: has not been approved by any water utility in Australia; has not been field tested in Australia, which is common practice in the industry; does not conform to Australian standard AS 3565.1, a mandatory requirement; is not fitted with an output pulse facility, also a mandatory requirement.

Mr Campbell goes on to say:

The panel did not conduct the tender evaluation fairly and in a manner that would ensure equal opportunity to our company.

The availability of industry-based incentives was not made known to me and none were offered to our company. I first became aware that Schlumberger had been offered incentives while listening to the ABC radio interview with the Minister on 5 August 1998. I had heard some rumours previously that Schlumberger may have been offered incentives and I wrote to the Chief Executive Officer of SA Water Mr Ted Phipps on 10 and 13 July 1998 seeking clarification of the Government's policy in this regard. Mr Phipps replied to me on 30 July by saying that in his view these matters had been adequately dealt with in previous discussions. . .

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

Mr HAMILTON-SMITH (Waite): I rise to earnestly compliment the honourable Leader of the Opposition on his sudden interest in drug courts. The House would be aware that the ALP Government in New South Wales has recently enacted legislation to introduce such courts, courts which will help fight abuse of illicit drugs and related criminal activity by offering the accused a choice of rehabilitation treatment instead of gaol. It is a very sound idea, building on experience from the USA where a single judge appointed to the New South Wales court is presently receiving training. So I was interested to hear of the honourable Leader's trips in recent weeks to New South Wales, supposedly to study the idea.

The honourable Leader must have overlooked the fact of Her Honour's absence overseas before he decided to book his Government funded travel. Perhaps all that time in Sydney was spent talking to Mr Carr about drug courts, though it is surprising to see that Premier Carr has had so much free time to talk to the honourable Leader about drug courts in the closing weeks of an election campaign. Was the leader really on official business or was it just a bit of freelance electioneering for his comrades in New South Wales? This is a very important question. Who did pay for the travel?

But to return to the point, had the Leader listened during Question Time on 4 March—yes, Question Time, Mr Speaker, that occasion on which the Opposition lambastes us over on this side with all the ferocity of the family chihuahua barking at the garden gnome—he would have heard Premier Olsen's ministerial statement on drug reform, including his commitment to the idea of drug courts. But, then again, the Leader was probably out of the Chamber yet again during Question Time on that day, perhaps puckering up with the member for Hart prior to one of their well-known media spectaculars, which all South Australians have come to love and cherish.

If Mr Rann did not talk to Mr Carr about drug courts for all that time in Sydney, what did they do? Did the honourable Leader discuss Premier Carr's heartfelt passion to see New South Wales' power assets sold to pay off New South Wales' State debt? If only! Perhaps Mr Rann talked to Premier Carr and ALP Treasurer Egan about the ALP's bed tax in that State.

Mr KOUTSANTONIS: On a point of order, Mr Speaker, the member for Waite is continually referring to the Leader of the Opposition as Mr Rann rather than his title of member for Ramsay or Leader of the Opposition.

The SPEAKER: There is a point of order in that members are referred to by their electorates or their titles.

Mr HAMILTON-SMITH: Perhaps the Leader would like to introduce a bed tax here in South Australia. Perhaps the honourable Leader took his scissors and sticky tape to help Premier Carr with his cardboard cutouts of Liberal MPs. Perhaps he helped the ALP to organise their election postcards. Such artistry, such wizardry! I look forward to the Leader's address to the House on drug courts and I genuinely commend him for his interest in the issue; but so many days at the South Australian taxpayers' expense in Sydney during their election campaign. Could not the Leader of the Opposition spend the taxpayers' travel funding researching some of our problems? How to pay off State debt would be a good

start. Could not at least some of that time be spent at home just developing a single policy? Any policy will do. We on the Government benches promise we will listen and we will be nice.

I suppose we may never know what pearls of electioneering wisdom were gifted in recent weeks by the honourable Leader from our fair city of Adelaide to the ALP's Bob Carr in his fair city of Sydney. Two cities—yes, what a tale of two cities. Perhaps the honourable Leader is like the Dickensian hero in the famed novel of that name who proclaimed as he was being led to the Parisian guillotine, 'Tis a far, far better thing that I do than I have ever done.' But he still got his head chopped off. Caution, Sir, caution! By dickens, Mr Speaker, I hope that the honourable Leader had a jolly good time in Sydney!

Ms RANKINE (Wright): I want to take a few moments to tell the House about an initiative of the Modbury Division of the Ambulance Service which will be launched and trialled in the next few weeks.

Mr Atkinson interjecting:

The SPEAKER: Order! The member for Spence will come to order. One of his own colleagues is trying to make a presentation.

Ms RANKINE: As I said, Mr Speaker, I want to tell the House about an initiative of the Modbury Division of the Ambulance Service which will be launched and trialled in the next few weeks in the Tea Tree Gully Council area and which is being strongly supported by the local Rotary service clubs. Very often it is the simplest ideas which are the best, and we are often left wondering why they have not been done before. I think this is one such idea. The Modbury Division of the Ambulance Service has developed an emergency medical information booklet.

The trial of this booklet will in its first stages be targeting the elderly but, clearly, it has the potential for much wider application. The aim of this booklet is not to double up on the concept of Medi-alert but to, in many cases, complement it and provide much needed medical information in emergency situations. An initial trial run of 5 000 of these booklets is to be printed, with approximately 2 500 distributed throughout local retirement villages, with the remainder being distributed amongst local GPs. This booklet, referred to as the green book, because it reflects the colour of the ambulance service, will be contained in a plastic envelope with magnets attached to the back, which enable it to be placed on refrigerators, in clear view of ambulance or other medical officers, should they be called to an emergency.

The support being provided by our local Rotary clubs, the Modbury, Tea Tree Gully and Golden Grove Rotary clubs, is indicative of the worthiness of this project, which I believe, after the initial trial, will be taken up statewide and has the possibility of going national. The booklet is of four pages, about the size of A5 folded in half, and it also comes with some very simple instructions. On the first page the people get to detail their information—their name, address, phone number, date of birth, pension number, ambulance cover number, Medicare number, insurance number, local doctor, next of kin, and a list of emergency contact numbers. On the next page they can list the medications that they are currently taking, the strength they are taking and the date they have been issued—all very vital information for anyone attending an emergency. On the third page they can list their medical conditions in detail and any allergies they have, and then they have a page to list their medical history, their patient history.

I am told that this booklet and the magnetic envelopes will cost approximately 80¢ to produce, and our local Rotary clubs are picking up this cost. I understand that they are also involved in its promotion and distribution. I believe that this is an excellent initiative and I sincerely congratulate Rotary in picking this up and running with it. I also congratulate those ambulance officers involved in the development of the green book. I am sure this trial will be enthusiastically taken up and will be a great success, and I look forward to its launch.

Mr MEIER (Goyder): This afternoon I would like to highlight one of the success stories that has occurred in the electorate of Goyder.

Mr Venning: Not another one!

Mr MEIER: Yes, there have been many success stories, and I hope that I will have the opportunity, if not this week, which is the last sitting week for a few weeks, certainly in the Budget session, to highlight many of them. Today I highlight the mining of harlequin stone at North Beach, Wallaroo. The person who is undertaking that mining is a gentleman by the name of Mr Rick Hill, who manages Adelford Pty Ltd. Mr Hill has located harlequin stone on his property at Wallaroo and over the past two years has endeavoured to develop it. He has had a lot of cooperation from the Mines Department, which is great, and also from South Australian companies which have looked at the quality of the stone. When polished up, the stone is extremely suitable for monumental work, building cladding, floors, tiles and kitchen tops. It is a magnificent stone when it is polished up and the best way to describe it is as a cross between a granite and a marble. In fact, I remember that when Mr Hill first spoke to me about it he said that it is identified as marble, but subsequent tests indicated that it is what is referred to as 'harlequin'.

In simple terms, the mining is carried out through a system where small holes some metres in depth are dug, and then an expandite slurry is put in which can expand up to 10 000 times its volume. Over a period of days or a week, the whole block slowly falls away onto a cushion of tyres. Mr Hill's calculations indicate that some 900 000 cubic metres of stone is available. In the first instance he is sending this material to a firm in Orange, New South Wales, which will produce 10 millimetre thick slices for floor and wall tiles, and material will also be sent to other places for further processing. Hopefully, we in South Australia may be able to tap into that in due course. A further interesting point is that in May and September this year Mr Hill will be going to Italy with several other marble and granite producers and processors. They will exhibit their product in Carrara and Verona, and it would not be surprising if various orders came forth as a result of the exhibition in Italy.

This is another example where we in South Australia are proving it can be done. Certainly, we do not always have the opportunity to find minerals that may have a use overseas, but in this case it seems as though it has happened again. I would hope that on a future occasion I can highlight aspects of the San Remo company which, as the Premier has identified in this House on many occasions, is now sending pasta to Italy. Both the silos that San Remo has for its durum wheat are located in my electorate.

I wish Mr Hill all the very best in his endeavours. He is a man who has turned his ability and talents to many projects over the years, and he seems to have the happy knack of making a success of whatever he turns to. It is great that he

is undertaking this mining venture at Wallaroo and particularly in my own electorate. It is creating employment in the area as well which, all being well, will continue to expand in future years.

Ms BEDFORD (Florey): I acknowledge today the achievements of one of the local schools in Florey. Ardtornish Primary School has been incredibly busy in giving a new meaning to 'patching up the environment' with its environmental quilt, which until recently was on display in Old Parliament House. The quilt project story began at the beginning of the Decade of Landcare, at a time when there was an increasing awareness of the need to care for our environment. Ardtornish Primary School became involved immediately and linked up with Queenscliff Primary School in Victoria to work on designs for the Telecom environmental quilt. Both schools worked together to produce the quilt, which hung at the entrance of Telecom's corporate centre. The quilt was then taken to different States and was on display in the Great Hall of Parliament House in Canberra.

The children's work on Landcare became quite famous, and their ideas spread right across the country. Following the Landcare quilt, Ardtornish decided to make a quilt of its own. The scenes on the quilt would represent eight years of environmental work by the students. The students were fortunate to have an inspirational environmental studies teacher Jan Fitzgerald working with them and coordinating the project. Students spent eight years sketching, painting and stitching the five metre by four metre quilt, with pictures on everything from threatened species to catchment care. Scenes on the quilt were created with fabric, paint and patchwork, and included a rainbow serpent to represent Aboriginal links to the land.

It is a fantastic achievement. The workmanship represents the ongoing commitment the school has to the environment. I think it is very important that from an early age students learn that we have only one chance to look after the environment and to understand that mistakes have been made in the past management of the State's natural resources. It is also important that they acknowledge that we have a commitment to protect and preserve our environment for all to enjoy in the future. Ardtornish Primary School has one of the most impressive commitments to land care. Other important projects that the school has undertaken have been through the Landlink program, when the school was paired with a farm on Yorke Peninsula. Every year during that time the school has grown trees for the farm and now the students visit to see the land care program in action. They have helped to plant shelter belts and create a wildlife corridor. All in all, the outstanding number of 25 000 seedlings have been planted over the years.

As I said earlier, the quilt has been here recently and is still on tour. In the coming weeks it will be displayed by the Patawalonga Catchment Board and at the local environmental expo. I urge all members who have not yet seen the quilt to take the opportunity to look at it at those various places. Glyn O'Brien, the Principal, and her dedicated team of teaching and ancillary staff have recognised that it is important for our students to be involved in community activity. The community is very grateful for that, and today I acknowledge that commitment in the House. The school continues to be involved in many outstanding areas and continues the fine tradition that has been established over the years. It is currently involved in the Jason project, which is being assisted by the EDS group, whereby students will be in touch with Bob Ballard in the rainforests of Peru. This looks to be a very exciting project, and I will update the House later on what has been going on in that regard.

I conclude by commending the fantastic community effort of the Ardtornish School. The parents and families of the children are very involved in all the activities of the school. I am glad they were able to lend their quilt to us and I acknowledge your help, Mr Speaker, in having it exhibited.

The Hon. D.C. WOTTON (Heysen): I want to take these few moments to talk about an industry which is becoming more important throughout the Hills and which I hope will continue to gain importance. I am talking about farm forestry. Farm forestry helps to satisfy competing demands to maintain primary production, protect soil and water, and improve the quality of rural living and landscapes for locals and the tourists who visit the area. It provides superannuation, reduces greenhouse gases, creates employment, improves biodiversity and assists in integrated pest management at the same time. I refer to an article that has appeared under the 'Land care' heading in our local *Courier* newspaper. The aim of farm forestry is to incorporate commercial tree growing and management into farming systems on cleared agricultural land. The benefits (and I might say that there are many) to land holders and the broader community are wood and non-wood production, increased agricultural productivity and sustainable natural resource management.

I was very fortunate to be involved in the launching of the program in the Mount Lofty Ranges, and I am pleased to say that it is becoming well recognised and quite popular. But I hope that even more people will recognise the benefits to be gained to which I have just referred. Of course, farm forestry takes many forms, including timber belts, alleys and widespread tree plantings. It not only offers farmers an alternative source of income but it also improves agricultural production by providing shelters for stock and crops. It can also provide major environmental and production improvement by lowering the water table, reducing salinity and protecting recharge areas.

The article states that plantations provide significant carbon sinks for greenhouse gases, and that is something I support very strongly, because it helps Australia to meet its international obligations to reduce greenhouse gas emissions. Forest and plantation areas on cleared land also create significant increases in biodiversity and bioactivity. Of course, they do this by creating environmental edges in the same way as reefs do in the ocean. These edges attract more insect and bird species and often maintain populations of pest predators, which may provide a cost-free source of pest control for other crops. There is consistent evidence that forestry/crop combinations produce higher returns than if the land were sown to crop alone. The shelter effect for stock and reduced evaporation of valuable soil moisture are other ongoing benefits to be gained. Planned layout of forestry belts across paddock contours can make strip grazing easier and assist in maintaining and managing the best return from pastures.

The farm forestry program, managed by the Plantations and Farm Forestry Section of the Forests Division within the Department of Primary Industries and Energy, is seeking to integrate commercial tree growing with other agricultural land uses, and I would suggest that it is doing an excellent job. Under the Natural Heritage Trust, $41 million has been provided to farm forestry over four years, and nearly $17 million was allocated to farm forestry under the wood

and paper industry strategy. I am also pleased to say that Primary Industries and Resources South Australia received $80 000 to implement the Mount Lofty Ranges regional farm forestry industry development program, and the objectives of this project are to form and support a regional farm forestry management group and to conduct a study of the potential for developing an agro-forestry industry.

I am delighted with the progress being made with this industry. I would like to commend the department and the Government for the support that they are providing in this important area. It is an area that I hope we will hear a lot more about not only through the Mount Lofty Ranges but throughout the whole State.

SELECT COMMITTEE ON WATER ALLOCATION IN THE SOUTH-EAST

The Hon. G.M. GUNN (Stuart): By leave, I move:

That the committee have leave to sit during the sittings of the House this week.

Motion carried.

YEAR 2000 INFORMATION DISCLOSURE BILL

The Hon. W.A. MATTHEW (Minister for Year 2000 Compliance) obtained leave and introduced a Bill for an Act to encourage the voluntary disclosure and exchange of information about year 2000 computer problems and remediation efforts; and for other purposes. Read a first time.

The Hon. W.A. MATTHEW: 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 the introduction of this new legislation is to encourage the voluntary disclosure and exchange of information about Year 2000 date problems, remediation efforts and readiness as outlined in the attached Bill.

This legislation will provide limited protection from civil liability for any Year 2000 disclosure statements.

The Bill is intended to encourage 'Good Samaritan' activity allowing for information to be passed from one organisation to another, in particular large businesses to smaller businesses and Government organisations.

Any information/advice companies/organisations may have in relation to the Year 2000 problem and which is released could be of mutual benefit.

The Year 2000 problem presents a number of challenges and if auditing, testing and where necessary rectification action is not taken, it has the potential to cause malfunctions not only in computer based operations but also in some of the embedded chips in equipment and machinery used by Governments, businesses and the community. The Year 2000 problem, also known as the 'Millennium Bug', poses a major risk management problem for those groups.

This problem has arisen because many of the world's existing software and hardware uses 6-digit storage formats for dates (rather than eight) and does not recognise the implied century component of the date. In order to save storage space and data entry time, many computer programs were designed to use two digit year notation, so 1972 was recorded as 72, 1997 was recorded as 97 and so on. When the date changes from '99' to '00' in the year 2000, many computers may calculate the new year to be 1900 rather than 2000 and software applications may not work or they may provide inaccurate information.

The solution to the Year 2000 date problem is for organisations and Governments to not only understand the readiness of their own internal systems, but to also examine inherent supply chain issues which all organisations and Governments face. It is also therefore imperative that knowledge regarding the level of compliance of products and services is shared.

The purpose of this Bill is to encourage the open and frank disclosure of Year 2000 preparedness by giving limited protection from civil liability, statements made in good faith to other organisations. The legislation does not aim to protect anyone from making false and misleading statements in relation to these matters. The Bill will become a mechanism to encourage information exchanges so crucial to achieving Year 2000 readiness and will do this by offering limited protection from civil liability for any Year 2000 disclosure statements.

It would obviously have been preferable to have introduced this legislation to this Parliament earlier, however the legislation which the Government has prepared substantially mirrors the Commonwealth Information Disclosure Legislation which was only passed by both Houses of Parliament on 18 February 1999. However, it is certainly not too late to make use of the provisions of the proposed legislation as it is far more advantageous to promote disclosure and discussion and communication within the State about the Year 2000 date problem and its effects and implications at this late stage, rather than neglect to do so at all. In addition, a major benefit of the existence of such disclosure legislation is that it will assist Government and organisations with their contingency planning processes, which are currently in their most crucial stages. The only substantive differences between this legislation and the Commonwealth Act is that this measure will provide clearer protection to consumers of goods and services, and protect statutory warranties.

The proposed Information Disclosure Legislation would not set a precedent. It is unique, effectively has a sunset clause and has the sole aim of assisting all South Australians by facilitating an appropriate environment for the sharing of information which is vital to preparation and contingency planning for the Year 2000 date problem for all South Australians.

Explanation of Clauses

Clause 1: Short title

This clause is formal. The short title of the legislation will be the same as the short title of the Commonwealth Act.

Clause 2: Commencement

The measure will be brought into operation by proclamation. It is proposed to include the option to bring the legislation into operation retrospectively so as to coincide with the date on which the Commonwealth Act came into operation. This would allow the scheme to be established by the Commonwealth and State legislation to apply uniformly from the commencement of the Commonwealth Act.

Clause 3: Interpretation

This clause sets out the definitions to be used for the purposes of the Bill. Words and expressions used in the Commonwealth Act and this measure have the same meanings in this measure as they have in the Commonwealth Act, except to the extent that the intention, context or subject matter otherwise appears, indicates or requires.

Clause 4: Crown to be bound

The measure will bind the Crown in right of the State and also, so far as the legislative power of the State extends, in all its other capacities.

Clause 5: Year 2000 disclosure statements

Clause 5 provides that a Year 2000 disclosure statement will include both original and republished Year 2000 disclosure statements.

Clause 6: Original Year 2000 disclosure statements

Clause 6 provides that a Year 2000 disclosure statement is a statement that—

- relates solely to any or all of the following:
  - Year 2000 processing;
  - the detection of problems relating to Year 2000 processing;
  - the prevention of problems relating to Year 2000 processing;
  - the remediation of problems relating to Year 2000 processing;
  - the consequences or implications for the supply of goods or services of problems relating to Year 2000 processing;
  - contingency planning, risk management, remediation efforts or other arrangements for dealing with the aforementioned consequences or implications;
  - the consequences or implications, for the activities or capabilities of a person, of problems relating to Year 2000 processing;
  - contingency planning, risk management, remediation efforts or other arrangements for dealing with the aforementioned consequences or implications for the capabilities of a person;

- includes words to the effect that the statement is a Year 2000 disclosure statement for the purposes of the Act or a corresponding law;
- includes words to the effect that a person may be protected by the Act or a corresponding law from liability for the statement in certain circumstances;
- is made after the commencement of the clause and before 1 July 2001 (it is recognised that remediation of non-business critical systems may continue through the 2000/2001 financial year);
- identifies the person who authorised the statement; and
- the statement is either made in writing, in a data storage device (such as a computer disk) which is capable of being reproduced in writing from that device (with or without the aid of any other article or device), or the statement is made by way of an electronic communication of writing.

For the avoidance of doubt, subclause (2) provides that the subparagraphs of subclause (1)*(a)* do not limit each other.

While these words are not compulsory, subclause (3) deems the following sentences to comply with the form requirements in subclause (1)*(b)* and *(c)* relating to the legal status of the statement:

> "This statement is a Year 2000 disclosure statement for the purposes of the *Year 2000 Information Disclosure Act 1999*. A person may be protected by that Act from liability for this statement in certain circumstances."

Clause 7: Republished Year 2000 disclosure statements

Clause 7 provides that a republished Year 2000 disclosure statement is a statement that—

- consists of the republication, transmission, reproduction, recital or reading aloud of the whole of an original Year 2000 disclosure statement;
- is made after the commencement of the clause and before 1 July 2001 (it is recognised that remediation of non-business critical systems may continue through the 2000-2001 financial year); and
- the statement is either made orally, in writing, in a data storage device (such as a computer disk) which is capable of being reproduced in writing from that device (with or without the aid of any other article or device), or the statement is made by means by way of an electronic communication of writing or an electronic communication of speech.

Clause 8: Protection from civil actions

Clause 8 sets out general liability protection with respect to Year 2000 disclosure statements, subject to the exceptions in clause 9.

Subclause (1) protects a person from civil liability arising out of the making of a Year 2000 disclosure statement. The Bill removes civil liability which might otherwise exist under several causes of action including negligent misstatement, defamation and trade practices and fair trading legislation.

Subclause (2) provides that a Year 2000 disclosure statement will not be admissible against a person who made it. Under this provision, for example, a Year 2000 disclosure statement which discloses that goods or services supplied by the maker of the statement are not Year 2000 compliant will not be admissible in a civil action against the maker of the statement as evidence that a failure of the goods or services was actually caused by Year 2000 related difficulties. This would not prevent evidence of the matters contained in the Year 2000 disclosure statement being adduced through other sources.

Clause 9: Exceptions

Clause 9 provides exceptions to the protection from civil liability provided in clause 8.

False and misleading statements

A Year 2000 disclosure statement which is materially false and misleading will not be protected where the person seeking to rely on clause 8 knew that the statement was materially false or misleading, or was reckless as to whether the statement was materially false or misleading. This exception operates in conjunction with the explanatory statement requirement contained in clause 10.

A Year 2000 disclosure statement will be made recklessly where the consequences of the person making the statement are not so substantially certain that he or she must be taken to have intended them but the person is so indifferent to the likely consequences that he or she must be taken to have foreseen them (see *The Laws of Australia*, The Law Book Company Limited, Vol. 33, Torts, 33.8[8], 1998).

Pre-contractual statements

A Year 2000 disclosure statement made to another person will not be protected in a civil action where the statement was made in connection with the formation of a contract (including as a warranty) and the other person concerned, or a representative of the other person (such as an executor, liquidator, receiver or administrator), is party to the civil action which relates to that contract. A Year 2000 statement made as part of pre-contractual negotiations whether by person who subsequently becomes a party to the contract or by some other party such as a manufacturer, for example, will not be protected in a civil action relating to the subsequent contract.

Statements made in fulfilment of an obligation

A Year 2000 disclosure statement will not protected where the statement was made in fulfilment of an obligation under a contract or a law of the Commonwealth, State or a Territory. A statement will not be protected, for example, where the terms of an existing contract require reports or notices to be provided to the party and the statement is provided for that purpose.

Statements made to induce consumers to acquire goods or services

A Year 2000 disclosure statement will not be protected in a civil action where the statement has been made to induce consumers or a particular consumer to acquire goods or services, and the consumer concerned, or a representative of the consumer concerned (such as an executor, liquidator, receiver or administrator), is party to the civil action which relates to the goods or services acquired by the consumer.

Restraining injunction or declaratory relief

Liability protection will not be given to a Year 2000 disclosure statement in a civil action to the extent that it consists of proceedings for a restraining injunction or for declaratory relief. A person may, for example, obtain an injunction to prevent the further publication of a defamatory Year 2000 disclosure statement.

Proceedings instituted in the performance of a regulatory function or power

Liability protection will not be given to a Year 2000 disclosure statement in a civil action to the extent that it consists of proceedings by a person or body under a law of the Commonwealth, a State or a Territory in the performance of a regulatory or enforcement function or the exercise of a regulatory or enforcement power.

Intellectual property rights

Liability protection will not be given to a Year 2000 disclosure statement in relation to a civil action solely based on the infringement of a copyright, a trade mark, a design or a patent. A person will be liable in an action which is based on a Year 2000 disclosure statement containing material which breaches an intellectual property right of another person.

Clause 10: False or misleading statement exception—explanatory statement to be given

In order to gain the protection of the clause 8 liability protection, a person who made the Year 2000 disclosure statement must, in the course of a civil action, provide the other party with an explanatory statement which sets out the belief that the Year 2000 disclosure statement was *bona fide* and not reckless.

This explanatory statement may be used by the other person in deciding how (or whether) to proceed, but will not be admissible as evidence in any civil action except for determining whether subclause (1) has been complied with.

The person instituting the civil action will be able to waive compliance with subclause (1).

Clause 11: False or misleading statement exception—imputed knowledge

Clause 11 sets out how the knowledge requirements contained in clause 9(1)*(a)* may be imputed in relation to corporations and persons other than corporations.

Clause 12: Presumption against amendment of contracts

Clause 12 provides that a Year 2000 disclosure statement is taken not to amend, alter or vary a contract unless either the parties to the contract have expressly agreed to the amendment, alteration or variation in written form or the contract expressly provides for the amendment, alteration or variation by way of making the Year 2000 disclosure statement. Parties cannot affect the operation of statutory conditions or warranties.

Clause 13: Exemption from section 45 of the Competition Code

Section 45 of the *Competition Code* prohibits certain anti-competitive contracts, arrangements or understandings. Some commentators have suggested that the exchange of information about Year 2000 computer problems and remediation efforts might give rise to liability under section 45. Clause 13 permits contracts, arrangements or understandings made or arrive at, or proposed to be made or arrived at, which might otherwise breach section 45 of the *Competition Code*, to the extent to which the contract, arrangement

or understanding provides for the disclosure and/or exchange of information, by any of the parties to the contract, arrangement or understanding, for the sole purpose of facilitation any or all of a number of specified Year 2000 issues.

Clause 14: Regulations

This is a standard regulation-making provision.

Ms HURLEY secured the adjournment of the debate.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. I.F. EVANS (Minister for Industry and Trade): 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 a number of amendments to the *Listening Devices Act 1972*.

Since the *Listening Devices Act 1972* was passed there have been significant advances in technology. The development of visual surveillance devices and tracking devices facilitates effective investigation of criminal conduct. Also, there have been a number of court cases which have raised issues about the operation of certain provisions of the *Listening Devices Act 1972*. As a result, the Police are experiencing some practical problems in using all forms of electronic surveillance to their full potential in criminal investigations.

This Bill updates the provisions of the Act taking into account technological advances. It makes a number of other amendments aimed at overcoming some current practical problems in the *Listening Devices Act 1972* and at increasing the protection of information obtained by virtue of this legislation. It also increases the level of accountability to accord with other similar legislation.

Electronic surveillance, encompassing listening devices, visual surveillance devices and tracking devices, provides significant benefits in the investigation and prosecution of criminal activity. Electronic surveillance as a whole was significantly praised by the Royal Commission into the New South Wales Police Service. The Royal Commission considered its use of electronic surveillance the single most important factor in achieving a breakthrough in its investigations. In the Report from the Royal Commission (the Wood Report), released in May 1997, the Royal Commission stated that the advantages of using electronic surveillance included—

- obtaining evidence that provides a compelling, incontrovertible and contemporaneous record of criminal activity;
- the opportunity to effect an arrest while a crime is in the planning stage, thereby lessening the risks to lives and property;
- overall efficiencies in the investigation of corruption offences and other forms of criminality that are covert, sophisticated, and difficult to detect by conventional methods;
- a higher plea rate by reason of unequivocal surveillance evidence.

Currently, the *Listening Devices Act 1972* allows for an application by a member of the police force or by a member of the National Crime Authority ('an investigating officer') to a Supreme Court judge for a warrant to authorise the use of a listening device. However, the definition of a listening device does not extend to video recording and tracking devices. While the use of visual surveillance devices and tracking devices is not currently illegal, the Act does not contain a provision to allow for entry onto private premises to set up a video recorder or tracking device.

In view of the limitations of the current legislation, it has been the practice in South Australia to only install video cameras where there is permission to be on particular premises, or where the activities can be filmed from a position external to the premises. However, criminal activity, by its nature, is often conducted in private resulting in there being an area where criminal activity occurs but where devices that have many investigative and evidentiary advantages cannot be used. The Government considers that investigating officers should be in a position to use up-to-date surveillance technology to detect and prevent serious crime. Therefore, this Bill will allow investigating officers to obtain judicial authorisation to install video surveillance devices and tracking devices (collectively referred to in the Bill as 'surveillance devices').

In extending the range of surveillance devices, the Government acknowledges that the legislation must seek to balance competing public interests.

During debate in the other place, provisions to create an office of Public Interest Advocate were inserted into the Bill. The stated intention for the creation of the office is to ensure that an individual is protected from unnecessarily intrusive police investigation. However, the Government believes that the creation of the office of Public Interest Advocate will not effectively strengthen the protection provided to the suspect or the public. As a result, the Government proposes to move an amendment to delete from the Bill all provisions relating to the Public Interest Advocate.

The Government believes the Bill, without the office of Public Interest Advocate, strikes a balance between an individual's right to be protected from unnecessarily intrusive police investigation on the one hand with the need for effective law enforcement techniques on the other.

The existing Act envisages obtaining information and material by use of a listening device in 3 ways—

- illegally, in contravention of section 4;
- in accordance with a warrant; and
- in certain circumstances, where the person records a conversation to which he or she is a party.

The disclosure of the information or material obtained by such use of a listening device is currently restricted by existing sections 5, 6A and 7(2) respectively. The Bill will delete these existing sections and insert new disclosure provisions.

The amendments are required for several reasons. Existing section 5 makes it an offence to communicate or publish information or material obtained by the use of a listening device in contravention of the Act, and there are no exceptions to this rule. The Act does not provide for the information or material to be communicated to a court in prosecutions for illegally using a listening device or communicating the illegally obtained information in contravention of the Act. This has raised some concern and can make these offences potentially difficult to prove. New section 5 will restrict disclosure to relevant investigations and relevant proceedings relating to the illegal use of a listening device or illegal communication of the illegally obtained material or information. It will also allow communication of the information to a party to the recorded conversation, or with the consent of each party to the recorded conversation.

Existing sections 6A and 7(2) are problematic in that they make it an offence for the persons involved in recording the conversation to disclose information or material obtained through the legal use of a listening device except in limited circumstances. However, if the information is legally communicated to another person, it is not an offence for this person to communicate or publish the information to another party.

Clause 9 of the Bill inserts new sections to make it an offence to communicate or publish information derived from the use of a listening device except in accordance with the Act. New section 6AB will also make it an offence to communicate or publish information or material derived by use of a surveillance device installed through the exercise of powers under a warrant, except as provided.

Under new sections 6AB and 7(3), communication will be permitted to a party to the recorded conversation (or activity in the case of new section 6AB), with the consent of each party to the recorded conversation (or activity) or in a relevant investigation or relevant proceedings. The new sections also allow for disclosure of material in a number of other circumstances, including where the information has been received as evidence in relevant proceedings.

In the Bill, 'relevant investigation' has been defined as the investigation of offences and the investigation of alleged misbehaviour or improper conduct. The definition of 'relevant proceedings' includes a proceeding by way of prosecution of an offence, a bail application proceeding, a warrant application proceeding, disciplinary proceedings, and other proceedings relating to alleged misbehaviour or improper conduct.

Clause 8 amends section 6 of the Act to allow a judge of the Supreme Court to authorise the installation, maintenance and retrieval of surveillance devices on specified premises, vehicles or items where consent for the installation has not been given. This will improve the ability of investigating officers to conduct effective investigations into serious criminal activity.

Except in urgent circumstances, an application for a warrant must be made by personal appearance before a judge following lodgement of a written application. This Bill requires the Supreme Court judge

to consider specified matters, such as the gravity of the criminal conduct being investigated, the significance to the investigation of the information sought, the effectiveness of the proposed method of investigation and the availability of alternative means of obtaining the information. In this way, the Bill seeks to balance the public interest in effective law enforcement with the right to be free from undue police intrusion.

During debate of this Bill in the other place, a provision was inserted to also require the Supreme Court judge to consider the extent to which the privacy of a person would be likely to be interfered with by use of the type of device to which the warrant relates. This provision appears to create an anomaly because the judge will be required to consider the extent to which the privacy of a person would be interfered with by use of surveillance device when the warrant is only required, in respect of a surveillance device, for the installation of the surveillance device. The Government will be moving an amendment to overcome this anomaly.

Clause 8 (which amends current section 6 of the Act) also makes it clear that the judge may authorise the use of more than one listening device or the installation of more than one surveillance device in the one warrant, and that the judge may vary an existing warrant. Currently, a separate warrant must be issued for each device, and a new warrant must be issued if the terms of a warrant are to be altered. No greater protection is offered by requiring the judge to fill out a separate warrant for each device to be used or installed, as the case may be, nor is there greater protection in requiring a judge to fill out a new warrant when he or she is satisfied that an existing warrant should be varied.

Until the High Court case of *Coco v The Queen* (*Coco*), it was assumed that a legislative provision which empowered a judge to authorise the use of a listening device also authorised the installation, maintenance and retrieval of that device. However, the Court in *Coco* held that the power to authorise the use of a listening device did not confer power on the judge to authorise entry onto premises for the purpose of installing and maintaining a listening device in circumstances where the entry would otherwise have constituted trespass. New section 6(1) will make it clear that a Supreme Court judge has the power to authorise entry onto premises for the purpose of installing, maintaining and retrieving a listening device and surveillance device. New section 6(7b) will operate in conjunction with new section 6(1) to make it clear that the power to enter premises to install, use, maintain and retrieve a listening device will also authorise a number of ancillary powers. While some may consider that new section 6(1) already authorises the exercise of ancillary powers, it is considered beneficial for the purposes of clarity to specify the ancillary powers that may be exercised.

New section 6(7b) will make it clear that, subject to any conditions or limits specified in the warrant, the warrant authorises the warrant holder to—

- enter any premises or interfere with any vehicle or thing for the purpose of recording the conversation of a person specified in the warrant who is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence;
- gain entry by subterfuge;
- extract electricity;
- take non-forcible passage through adjoining or nearby premises;
- use reasonable force;
- seek and use assistance from others as necessary.

A comprehensive procedure for obtaining a warrant in urgent circumstances has been inserted by clause 9 of the Bill. Under existing section 6(4) of the Act, a warrant may be obtained by telephone in urgent circumstances. New section 6A will provide that an application for a warrant under section 6 may be obtained in urgent circumstances by facsimile machine or by any telecommunication device. (The definition of 'telephone' includes any telecommunication device.) The new section also provides that where a facsimile facility is readily available the urgent application must be made using those means. Facsimiles provide an instant written record of the application and the warrant, if issued. This reduces the opportunity to misunderstand the grounds justifying the application or the terms of the warrant. However, for the purposes of flexibility, an urgent application can still be made by any telecommunication device where a facsimile is not readily available.

This Bill makes significant improvements to the recording and reporting requirements under the Act and will insert an obligation on the Police Complaints Authority to audit compliance by the Commissioner of Police with those recording requirements.

Existing section 6B requires the Commissioner of Police to provide specified information to the Minister 3 months after a warrant ceases to be in force. The Commissioner is also required to provide specified information to the Minister annually. The Minister is required to compile a report from the Commissioner's report and information received from the National Crime Authority, and to table it in Parliament.

While the existing Act imposes a reporting requirement on the Police, it does not specify that the information forming the basis of the report must be recorded in a particular place. New section 6AC will specify that the Commissioner must keep the information, which will form the basis of the report under section 6B(1)(c), in a register. The information to be recorded on the register includes the date of issue of the warrant, the period for which the warrant is to be in force, the name of the judge issuing the warrant, and like information.

New section 6B(1b) will require the Police to provide specified information about the use of a listening device or a surveillance device that is not subject to a warrant, in prescribed circumstances. The additional reporting requirements are based on similar reporting requirements in the *Telecommunications (Interception) Act* (Cth). Under that Act, the report to the Minister must contain information relating to the interception of communication made under sections 7(4) and 7(5) of that Act, which provides for the interception of communications without obtaining a warrant in certain circumstances.

There is no suggestion that police are inappropriately using listening devices in accordance with section 7, nor is there any suggestion that police are inappropriately using surveillance devices. However, the additional reporting will increase police accountability in using a listening device or installing a surveillance device without a warrant, and so guard against improper use. An example of a prescribed circumstance may be where police use a declared listening device in accordance with section 7.

As the Bill now stands, new section 6C has two purposes. Firstly, subsection (1) will require the Commissioner of Police and the National Crime Authority to keep, and control access to, a copy of each application for a warrant and each warrant issued. Secondly, new subsection (2) will regulate the control of information or material obtained by use of listening or surveillance devices by investigating officers.

New section 6C(1) was inserted into the Bill during debate in the other place. Besides being unnecessary, because the Commissioner of Police and the National Crime Authority already keep such information, the provision is inflexible. The provision states that the records must be kept and that access to those records must be controlled and managed in accordance with the regulations. However, there is no provision for the destruction of the records when the investigation in relation to which the warrant was issued has been completed. The Government will consider moving an amendment to delete this subsection.

Subsection (2) of new section 6C was in the Government's original Bill. The Government recognises that the police currently adopt a comprehensive procedure to deal with information and material derived from the use of listening devices. However, this is largely a procedural rather than a legal requirement. 6C(2) will allow the regulations to prescribe a procedure for dealing with the material and information derived from the use of a listening device under a warrant or the use of a surveillance device installed through the exercise of powers under a warrant. It is proposed that a number of recording requirements relating to the movement and destruction of information and material obtained under the Act will be inserted in the regulations. 6C(2), when coupled with regulations, will allow for stricter controls over the information than the current legislation requires.

The increased recording and reporting requirements in the Bill are also prompted by the decision to require the Police Complaints Authority to audit the records kept by the Commissioner of Police.

Under the *Telecommunications (Interception) Act* (Cth), police are obliged to keep registers of warrants, which are audited biannually by the Police Complaints Authority in South Australia to ascertain the accuracy of the records and ensure that they conform with the reporting requirements. The Government believes that it would be appropriate for police records relating to warrants obtained under the Act to be independently audited by the Police Complaints Authority. 6D will require the Police Complaints Authority to inspect the records kept in accordance with the Act once every 6 months and report the results of the inspection to the Minister. 6E will set out the powers of the Police Complaints Authority for the purposes of the inspection.

Clause 12 will insert a new section 7(2) to extend the exemption from section 4 of the Act, which makes it an offence to use a listening device. Subsection (2) will prevent prosecution of any other member of a specified law enforcement agency who listens to a conversation by means of a listening device being used by an officer of that law enforcement agency in accordance with section 7 of the Act. On occasions, police officers involved in undercover operations will have a device hidden on them which transmits conversations for monitoring by nearby police. Courts have previously held that those officers monitoring the conversation are not direct parties to the conversation, and are therefore not covered by the exemption under section 7. However, this practice is used to help ensure the safety of the officer. The procedure should therefore be permissible under the legislation.

Current section 8 makes it an offence for a person to possess, without the consent of the Minister, a type of listening device declared in the Gazette by the Minister. As a result of the debate in the other place, existing section 8 will be replaced by a new provision, in clause 13 of the Bill, that will also make it an offence for a person to possess, without the consent of the Minister, a type of tracking device declared by the Minister.

The Government does not believe that the new provision is necessary or will have any practical effect. Section 8 was enacted to prohibit possession of listening devices that did not have any inherent legal use. Section 4 of the Act makes it an offence to use a listening device except in accordance with a warrant issued under the Act or in accordance with section 7 of the Act. The listening devices that have been declared by the Minister to date do not have an inherent legal use.

It is not an offence to possess a tracking device. Therefore, a tracking device will not be declared by the Minister on the basis that it has no inherent legal use. At this stage, the Government has not been informed of any problems with specific tracking devices being used indiscriminately or inappropriately. Consequently, at this time, there appears to be no justification for declaring a tracking device or class of tracking devices for the purpose of making it an offence to possess such a device.

Clause 14 will repeal the existing section 10 of the Act, and insert new sections 9 and 10.

The repeal of section 10 will remove the right of a defendant charged with an offence against the *Listening Devices Act 1972* to elect to have the offence treated as an indictable offence. This right, which is currently provided for in existing section 10, is inconsistent with the *Summary Procedure Act* which classifies offences into summary offences, minor indictable offences and major indictable offences. Summary offences are defined to include offences for which a maximum penalty of, or including, two years imprisonment is prescribed. The offences created by the *Listening Devices Act* fall within that definition.

Existing section 11 empowers a court before whom a person is convicted for an offence against the Act to order the forfeiture of any listening device or record of any information or material in connection with which the offence was committed. However, the South Australian legislation currently does not provide for the police to search and seize the record of information or declared listening device. This can impact on the effectiveness of sections 8 and 11. 9 of the Act will authorise a member of the police force to search for, and seize, a declared device which is in a person's possession without the consent of the Minister, or information or material obtained through the illegal use of a listening device.

10 will allow the Commissioner of Police or a member of the National Crime Authority to issue a written certificate setting out relevant facts with respect to things done in connection with the execution of a warrant, such as the fact that the device was installed lawfully. In the absence of evidence to the contrary, the matters specified in the certificate will be taken to be proven by the tender of the certificate in court. Such certificates will be used in connection with the prosecution for an offence in which evidence to be used in court has been obtained by use of a listening device, or a surveillance device where a warrant was issued to allow the installation of that device. A similar provision has been enacted in the *Telecommunications (Interception) Act* (Cth).

The Bill will also make a number of other minor amendments to the *Listening Devices Act 1972* including the insertion of definitions, review of penalties, rewording of sections to include references to surveillance devices, general rewording for the purposes of drafting clarity, and statute law revision amendments.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of long title

The current Act regulates the use of listening devices. However, the effect of these amendments is to also provide for surveillance devices and hence the long title is to be amended to reflect the new purpose of the Act.

Clause 4: Amendment of s. 1—Short title

As a consequence of the proposed amendments, it is appropriate to amend the short title of the Act to be the *Listening and Surveillance Devices Act 1972*.

Clause 5: Amendment of s. 3—Interpretation

This clause sets out a number of definitions of words and phrases necessary for the interpretation of the proposed expanded Act. In particular, the clause contains definitions of listening device, surveillance device (which means a visual surveillance device or a tracking device), tracking device and visual surveillance device, as well as definitions of relevant investigation, relevant proceeding and serious offence.

Clause 6: Amendment of s. 4—Regulation of use of listening devices

The proposed maximum penalty for contravention of section 4 is 2 years imprisonment (as it is currently) or a fine of $10 000 (up from $8 000).

Clause 7: Substitution of s. 5

5. Prohibition on communication or publication

New subsection (1) provides that a person must not knowingly communicate or publish information or material derived from the use (whether by that person or another person) of a listening device in contravention of section 4 (maximum penalty: $10 000 or imprisonment for 2 years).

However, new subsection (2) provides that new subsection (1) does not prevent the communication or publication of such information or material—

- to a person who was a party to the conversation to which the information or material relates; or
- with the consent of each party to the conversation to which the information or material relates; or
- for the purposes of a relevant investigation (*see s. 3*) or a relevant proceeding (*see s. 3*) relating to that contravention of section 4 or a contravention of this proposed section involving the communication or publication of that information or material.

5A. Public Interest Advocate

There will be a Public Interest Advocate.

5B. Appointment of Public Interest Advocate

The Governor may appoint a legal practitioner to be the Public Interest Advocate and a legal practitioner to be a deputy Public Interest Advocate. However, none of the following persons are eligible to be appointed as the Public Interest Advocate or a deputy Public Interest Advocate:

- the Director of Public Prosecutions;
- a person assigned to work in the Office of the Director of Public Prosecutions;
- a member of the police force;
- an employee in the Public Service of the State.

5C. Term of office of Public Interest Advocate, etc.

The Public Interest Advocate will be appointed for a term of office of five years and, on the expiration of a term of office, is eligible for reappointment.

5D. Function of Public Interest Advocate

The function of the Public Interest Advocate is to appear at the hearing of an application for the issue of a warrant under this Act to test the validity of the application and, for that purpose, to present questions for the applicant to answer and examine or cross-examine a witness and to make submissions on the appropriateness of issuing the warrant.

The Public Interest Advocate is not subject to the control or direction of any Minister or other person in the performance of the function of the Advocate.

5E. Public Interest Advocate's annual report

The Public Interest Advocate must give to the Minister a report on the activities of the Advocate (and any deputy) during the year ending on the previous 30 June. The report must not contain information that discloses or may lead to the disclosure of the identity of any person who has been, is being, or is to be investigated or that indicates a particular investigation has been,

is being, or is to be conducted.

5F. Public Interest Advocate must keep and deal with records in accordance with regulations

The Public Interest Advocate must keep as records applications for warrants, affidavits verifying the grounds of those applications and any warrants or duplicate warrants issued under this Act provided to the Advocate and control and manage access to those records and destroy them in accordance with the regulations.

5G. Confidentiality

It is an offence for a person who is or was the Public Interest Advocate or a deputy Public Interest Advocate to record, use or disclose information obtained under this Act that came to the person's knowledge because of the person's function under this Act, the maximum penalty for which is a fine of $10 000 or imprisonment for 2 years.

However, proposed subsection (1) does not apply to the recording, use or disclosure of information in the performance of his or her function under this Act.

A person who is or was the Public Interest Advocate or a deputy Public Interest Advocate cannot be compelled in any proceedings to disclose information obtained under this Act that came to the person's knowledge because of that person's function under the Act.

Clause 8: Amendment of s. 6—Warrants—General provisions

The amendments proposed to this section are largely consequential on the proposal to expand the current Act to include surveillance devices.

Amendments to the section provide that a judge of the Supreme Court may, if satisfied that there are, in the circumstances of the case, reasonable grounds for doing so, issue a warrant authorising one or more of the following:

- the use of one or more listening devices;
- entry to or interference with any premises, vehicle or thing for the purposes of installing, using, maintaining or retrieving one or more listening or surveillance devices.

Such a warrant must specify—

- the person authorised to exercise the powers conferred by the warrant; and
- the type of device to which the warrant relates; and
- the period for which the warrant will be in force (which may not be longer than 90 days),

and may contain conditions and limitations and be renewed or varied.

An application for a warrant must be made by personal appearance before a judge following the lodging of a written application except in urgent circumstances when it may be made in accordance with new section 6A (*see clause 9*).

The applicant for a warrant must—

- notify the Public Interest Advocate of the time and place of the hearing; and
- provide the Public Interest Advocate with a copy of the application and affidavit verifying the grounds of the application,

so as to enable the Public Interest Advocate to carry out the Advocate's function under this Act.

Subject to any conditions or limitations specified in the warrant, a warrant authorising—

- the use of a listening device to listen to or record words spoken by, to or in the presence of a specified person who, according to the terms of the warrant, is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence (*see s. 3*) will be taken to authorise entry to or interference with any premises, vehicle or thing as reasonably required to install, use, maintain or retrieve the device for that purpose;
- entry to or interference with any premises, vehicle or thing will be taken to authorise the use of reasonable force or subterfuge for that purpose and the use of electricity for that purpose or for the use of the listening or surveillance device to which the warrant relates;
- entry to specified premises will be taken to authorise non-forcible passage through adjoining or nearby premises (but not through the interior of any building or structure) as reasonably required for the purpose of gaining entry to those specified premises.

The powers conferred by a warrant may be exercised by the person named in the warrant at any time and with such assistance as is necessary.

Clause 9: Substitution of s. 6A

6A. Warrant procedures in urgent circumstances

6A provides that an application for a warrant under section 6 (as amended) may be made in urgent situations by facsimile (if such facilities are readily available) or by telephone. The procedure for an application by facsimile or by telephone is set out.

6AB replaces current section 6A.

6AB. Use of information or material derived from use of listening or surveillance devices under warrants

6AB prohibits a person from knowingly communicating or publishing information or material derived from the use of a listening device under a warrant, or a surveillance device installed through the exercise of powers under a warrant, except—

- to a person who was a party to the conversation or activity to which the information or material relates; or
- with the consent of each party to the conversation or activity to which the information or material relates; or
- for the purposes of a relevant investigation; or
- for the purposes of a relevant proceeding; or
- otherwise in the course of duty or as required by law; or
- where the information or material has been taken or received in public as evidence in a relevant proceeding.

The maximum penalty for contravention of this proposed section is a fine of $10 000 or imprisonment for 2 years.

6AC. Register of warrants

There is currently no register of warrants required to be kept under the Act. 6AC provides that the Commissioner of Police must keep a register of warrants issued under this Act to members of the police force (other than warrants issued to members of the police force during any period of secondment to positions outside the police force) and sets out the matters that must be contained in the register.

Clause 10: Amendment of s. 6B—Reports and records relating to warrants, etc.

Section 6B deals with the reports and information relating to warrants issued under this Act that the Commissioner of Police and the National Crime Authority are required to give to the Minister as well as the report (compiled from the information provided to the Minister) that the Minister must lay before Parliament. The reports given to the Minister by the Commissioner of Police must distinguish between warrants authorising the use of listening devices and other warrants. The information for the Commissioner's report will be obtained from the information contained in the register of warrants (*see new s. 6AC*).

New subsection (1b) provides that, subject to the regulations and any determinations of the Minister, the Commissioner of Police must also include in each annual report to the Minister information about occasions on which, in prescribed circumstances, members of the police force used listening or surveillance devices otherwise than under a warrant. The Commissioner must provide a general description of the uses made during that period of information obtained by such use of a listening or surveillance device and the communication of that information to persons other than members of the police force.

Clause 11: Substitution of s. 6C

6C. Control by police, etc., of information or material derived from use of listening or surveillance devices

The Commissioner of Police and the National Crime Authority must keep as records a copy of each application for a warrant under this Act and each warrant issued, and control and manage access to those records, in accordance with the regulations.

The Commissioner of Police and the National Crime Authority must also—

- in accordance with the regulations, keep any information or material derived from the use of a listening device under a warrant, or the use of a surveillance device installed through the exercise of powers under a warrant, and control and manage access to that information or material; and
- destroy any such information or material if satisfied that it is not likely to be required in connection with a relevant investigation or a relevant proceeding.

6D. Inspection of records by Police Complaints Authority

In the current Act, there is no provision for the Police Complaints Authority to monitor police records relating to warrants and the use of information obtained under the Act in order to ensure compliance with the Act.

This new section provides that the Police Complaints Authority must, at least once each 6 months, inspect the records

of the police force for the purpose of ascertaining the extent of compliance with sections 6AC, 6B and 6C and must report to the Minister on the results of the inspection (including any contraventions of those sections).

6E. Powers of Police Complaints Authority

The Police Complaints Authority is given certain powers of entry, inspection and interrogation so as to be able to conduct properly an inspection in accordance with new section 6D.

A person who is required under new section 6E to attend before a person, to furnish information or to answer a question who, without reasonable excuse, refuses or fails to comply with that requirement is guilty of an offence (maximum penalty: $10 000 or imprisonment for 2 years).

It is also an offence for a person, without reasonable excuse, to hinder a person exercising powers under new section 6E or to give to a person exercising such powers information knowing that it is false or misleading in a material particular (maximum penalty: $10 000 or imprisonment 2 years).

Clause 12: Amendment of s. 7—Lawful use of listening device by party to private conversation

Proposed subsection (2) extends the exemption from section 4 (Regulation of use of listening devices) given (in section 12(1)) to a member of the police force, a member of the National Crime Authority or a member of the staff of the Authority who is a member of the Australian Federal Police or of the police force of a State or Territory of the Commonwealth, in relation to the use of a listening device for the purposes of the investigation of a matter by the police or the Authority to any other such member who overhears, records, monitors or listens to the private conversation by means of that device for the purposes of that investigation.

New subsection (3) sets out the circumstances in which a person may knowingly communicate or publish information or material derived from the use of a listening device under section 7 as follows:

- when the communication or publication is to a person who was a party to the conversation to which the information or material relates; or
- with the consent of each party to the conversation to which the information or material relates; or
- in the course of duty or in the public interest, including for the purpose of a relevant investigation or a relevant proceeding; or
- being a party to the conversation to which the information or material relates, as reasonably required for the protection of the person's lawful interests; or
- where the information or material has been taken or received in public as evidence in a relevant proceeding.

A person who contravenes new subsection (3) may be liable to a maximum penalty of a fine of $10 000 or imprisonment for 2 years.

Clause 13: Substitution of s. 8

8 is substantially the same as current section 8 except that new section 8 includes references to declared tracking devices.

8. Possession, etc., of declared listening or tracking device

The Minister may by notice in the *Gazette* declare that this section applies to a listening or tracking device, or a listening or tracking device of a class or kind specified in the notice.

A person who, without the consent of the Minister, has in his or her possession, custody or control a declared listening or tracking device is guilty of an offence and liable to a fine of $10 000 or imprisonment for 2 years.

The Minister may at any time revoke a consent under this section and, on revocation, the consent ceases to have effect.

Clause 14: Substitution of s. 10

Current section 10 is repealed as a result of classification of offences and time for bringing prosecutions now being dealt with in the *Summary Procedure Act 1921*.

9. Power to seize listening devices, etc.

9 provides that if a member of the police force, a member of the National Crime Authority or a member of the staff of the Authority who is a member of the Australian Federal Police or of the police force of a State or Territory of the Commonwealth suspects on reasonable grounds that—

- a person has possession, custody or control of a declared listening or tracking device without the consent of the Minister; or
- any other offence against this Act has been, is being or is about to be committed with respect to a listening device or information derived from the use of a listening device,

the member may seize the device or a record of the information.

Certain powers are given to such a member for the purposes of being able to carry out the power given to the member under this proposed section and there is provision for the return of such seized items in due course.

10. Evidence

In any proceedings for an offence, an apparently genuine document purporting to be signed by the Commissioner of Police or a member of the National Crime Authority certifying that specified action was taken in connection with executing a specified warrant issued under this Act (as amended) will, in the absence of evidence to the contrary, be accepted as proof of the matters so certified.

Clause 15: Insertion of s. 12

There is currently no provision for the making of regulations for the purposes of the Act but such a provision has become necessary as a consequence of the proposed amendments.

12. Regulations

The Governor may make such regulations as are contemplated by the Act including the imposition of penalties for breach of, or non-compliance with, a regulation.

Clause 16: Further amendments of principal Act

The Act is further amended in the manner set out in the schedule.

Schedule: Statute Law Revision Amendments

The schedule contains amendments to various sections of the Act of a statute law revision nature.

Ms HURLEY secured the adjournment of the debate.

SOIL CONSERVATION AND LAND CARE (APPEALS TRIBUNAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 March. Page 1146.)

Ms HURLEY (Deputy Leader of the Opposition): This Bill varies the constitution of the Soil Conservation Appeal Tribunal. The tribunal is a body that responds to appeals against conservation orders issued by the Soil Conservation Board. I am advised that, in the 10 years that the Act has been in operation, only four orders have been issued, and one of those orders is being appealed and is before the current tribunal. As I understand it, one of the reasons for the introduction of this Bill is that there is difficulty in getting together sufficient members of the panel to hear that appeal, and it has revealed a problem in the make up of the persons constituting the tribunal. This Bill seeks to rectify that problem. The current structure of the tribunal—that is, three members, two of whom are appointed by the Governor, the other being a District Court judge—is to be replaced. The method of replacement is a panel system, with certain qualifications outlined in the Bill. The members of that panel will be lay members available to attend the hearing when that is so determined by the judge.

There is provision for a judge to allow the tribunal to continue hearing an appeal, even if one of the selected members becomes unavailable during the hearing. Obviously, the Opposition perfectly understands that, when you are dealing with people who have ability, expertise and experience with soil management and conservation, it is sometimes difficult to call those people at short notice and it can often be difficult to get them together; for example, farmers who are out looking after their crops are often not able to attend meetings easily, and this has created a problem. The Opposition has no problem with the intent of the Bill.

We have some questions to ask about the selection process for members of each panel—how the selection process will be undertaken, whether the positions will be advertised and what sort of consultation the Minister will have with interested groups—before deciding on the make-up of these panels and, indeed, how many members would constitute a panel. This is to ensure that the correct people are appointed on the

panel. I am sure that we will be presented with ongoing issues in soil and water conservation and land care generally. It is a matter of increasing importance. It is well understood by conservation groups and by primary industry practitioners that soil conservation, land care, land management and water management are important issues.

I believe that these issues are being addressed very seriously. It is important to have a coordinated approach to these issues and to appoint people who have the right qualifications to examine these issues. I believe that it is important for the tribunal to include not only a judge, of course, who is able to decide the issues, but people who have expertise in soil conservation and land care. The tribunal should include people who have not only an academic background but who are involved in the industry—the farmers whose every day work is involved with the soil and land care. The Opposition is keen to ensure that farmers, the people who work on the land, are properly represented on these tribunals and that adequate consultation is undertaken with all interested parties to ensure that we get the best outcome.

The Hon. D.C. WOTTON (Heysen): I support this Bill strongly and I commend the Minister for the speed with which he has dealt with this issue. The case to which the Deputy Leader of the Opposition has referred is in my electorate; it is a matter with which I have been involved for some time. I realise that it is not appropriate in this debate to go into the pros and cons of that case, other than to say that it is a matter that has caused me a considerable amount of anguish. One major concern is that the people involved in that case feel very strongly that they should appeal, and they have been frustrated for some time in attempting to have an appeal heard.

The case rests with the Central Hills Soil Conservation Board and I certainly recognise the ability of all the people serving on that board. It is always a difficult situation when a board, consisting of a number of local people, must make judgment against property owners who are also local. All sorts of different circumstances relate to this case, but the major problem has been the risk of potential conflicts of interest and that is what this Bill seeks to minimise. As has already been said, the tribunal is currently comprised of three members, two of whom are appointed by the Governor and the other being a District Court judge.

Should one of the appointed members not be available for service then the tribunal cannot be convened. Of course, that is the case at present in relation to the situation about which I have referred. That was the recent example where the disqualification of the PIRSA member of the tribunal, through a perceived conflict of interest, came about. Without this member the tribunal cannot convene and the appeal cannot be heard. This legislation, I am pleased to say, therefore proposes to establish two panels of lay members, one panel comprising persons with practical experience in land management, the other comprising persons with formal scientific training.

Panel members who are available at the relevant time will be selected by the judge to sit on the tribunal for a particular appeal to deal with deadlocks caused by the non-availability of a lay member. Once a tribunal has commenced to hear an appeal the Bill provides that the tribunal may continue with the judge and the remaining lay member provided that the judge so allows. I believe that that will very effectively overcome the problem that is being experienced at present. I certainly commend the legislation to the House.

Mr VENNING (Schubert): I support this Bill and commend the Minister and the land care movement for introducing it. It is an important issue which is relevant to my electorate. Again, I declare my interest as a landowner and a previous Chairman of the Animal and Plant Control Board.

An honourable member interjecting:

Mr VENNING: It is all to do with the same thing; the honourable member is correct. I believe this Bill is a positive step, quite straightforward (as outlined by the member for Heysen) and gives scope to make the appeal process workable. In the past the appeal process was thwarted far too often by so-called conflicts of interest affecting people sitting on the tribunal, with the outcome being that the appeal was quashed—not continued with. Once that happened the landowner had no further avenue to pursue it and had to endure the original decision that was made which, in many cases, was incorrect and unfair.

This revised process is far fairer and should allow all parties greater scope in hearing an appeal. I have consulted with a number of my constituents who have been involved with these issues and the land care movement over many years. I note that Mr Clyde Hazel and Mr Robert Tilley are very prominent within the land care movement, as well as a personal friend from my previous electorate of Custance, Mr Kevin Jaeske, who is also well known. He was acknowledged as Farmer of the Year last year for his work and dedication to land care and soil boards. Those people have advised that the Bill is worthy of support.

It gives the whole process more flexibility, particularly when conflict of interest issues are raised. I must say that, in the past, conflict of interest issues were often raised, particularly by those people who were not successful at the tribunal. I am advised that, in addition to the judge, the panel should consist of six people: three people who have tertiary qualifications and three people who have practical experience. However, I indicate to the Minister that I hope that the three members with practical experience will be selected from differing farming enterprises so as to alleviate seasonal demands and clashes that may occur when called to the tribunal. For example, those three members should not all be vignerons, grain growers or graziers, as they could all be unavailable at certain times of the year to sit on the tribunal.

They should come from different primary production pursuits to allow the flexibility needed to hear these appeals. Furthermore, once the tribunal has been formed from the panel and the appeal commences, those tribunal members should not change for the length of the appeal: they should remain on that particular tribunal from start to finish. I think all members would agree that is commonsense and for the good of the continuity and success of the board. I believe that the Bill should be supported taking into consideration those matters I have raised. The Bill is a positive step forward, giving landowners their true rights.

The land care movement in South Australia is really achieving, in preserving our most valuable asset—our land. Many years ago when driving along our highways we would see land degradation, soil erosion and generally very bad practice but today, as a result of the land care movement, we see lovely stands of trees, contour farming and areas now grassed that were once wasteland. Certainly the land care movement has been very successful. The change of public perception towards our land care boards has been very

commendable. Our boards certainly have got it right. I congratulate all those involved with the land care movement and I support this Bill.

The Hon. R.G. KERIN (Minister for Primary Industries, Natural Resources and Regional Development): I thank members for their contributions and certainly thank the Opposition for its cooperation to enable this Bill to move through the system so quickly. As mentioned—

Mr Clarke: Maybe you'll answer more questions tomorrow, instead of the five—

The SPEAKER: Order!

The Hon. R.G. KERIN: That was relevant!

Mr Clarke: You want cooperation but you give us only five questions—

The SPEAKER: Order! I caution the honourable member for continuing to interject when he has been called to order.

The Hon. R.G. KERIN: The urgency of the Bill relates to one particular case in which, as has been pointed out, a conflict of interest occurred. Certainly, the member for Heysen has been very strong in his representation of the constituent who is left with that uncertainty. Again, I thank the House for its agreement to proceed with this Bill quickly.

A couple of questions were raised during the second reading contributions about the size of these panels. Having been caught last time with too small a panel, which was not apparent before because of the low number of appeals, we would look at putting four or five people on each panel, which would cater for the situation that the member for Schubert raised about a range of different interests. If we had four or five people on each panel, it would be up to the judge as to which person from each panel sits on any particular appeal. That would allow him to choose the right areas of expertise. That goes for both panels.

On the first panel you would need a range of expertise. We would be looking at approval of both panels from the various stakeholders such as SAFF and the Soil Conservation Council to ensure we have a balance, but the judge having the choice of who sits on each case would be a fair safeguard, anyway. The Bill is designed to fix one situation we have at the moment, but we take the opportunity to improve the system by giving it a greater range of expertise and give the judge the choice of who sits on each appeal so the correct expertise is there to hear each case. I thank members for their concurrence.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

Ms HURLEY: This clause is the constitution of the tribunal and stipulates that the District Court judge will choose members from the panel, as outlined by the Deputy Premier. I have no problem with that and no problem with the description of the first panel of persons who should have tertiary qualifications in agricultural science, soil science, land management or any other appropriate field. Of course it is essential that appropriate scientific knowledge be represented on the panel.

The second panel is described as a panel of persons who have extensive practical experience in soil conservation or land management. Why was the definition changed from the previous definition, which is 'one will be a person who is an owner of land used for agricultural, pastoral, horticultural or other similar purposes'? I ask this question as it seems to me that the proposed wording allows the judge to appoint a person who is not actually a farmer—someone who might have practical experience in soil conservation, but not extensive experience in managing the land as a farmer. There is no substitute for that sort of practical experience.

The Hon. R.G. KERIN: I thank the Deputy Leader for her question. The Deputy Leader has no problem with the part of the panel provided in subclause (2a)(a). Paragraph (b) refers to a panel of persons who have extensive practical experience in soil conservation or land management. To restrict it to the owner of land is rather restrictive in several ways as some very good practitioners these days do not actually own the land. You have various modes of ownership in South Australia at the moment with people who lease land or work as managers. The wording picks up on what we need. There may be people who have retired off the land and who shift to Adelaide and they would be a lot more conveniently placed for the judge to call in at short notice.

We have opened up the definition to embrace a wider group of people, but we have maintained that they have extensive practical experience in soil conservation and land management. That is where the crux of the matter lies. If we go down to ownership of land it may exclude either good land managers or those who have moved on from the ownership of the land and may be available with the correct expertise.

Ms HURLEY: I accept the Minister's explanation in that case. Certainly it comes down to how those persons on both panels will be appointed. How will the selection process for the members of each panel be undertaken? I am concerned that these positions should be widely advertised and the Minister should consult widely with the interest groups so that we have as rich and varied a pool as possible from which to choose suitable members from each panel.

The Hon. R.G. KERIN: I take on board what the Deputy Leader says. We are looking to give the judge a pool of suitably qualified people. Certainly consultation with the various groups is important. Advertising will sometimes attract those who have a very set view, and they are not necessarily the people we want from outside the spectrum. Advertising is not perhaps the way to go, but certainly extensive consultation and making sure there is a degree of agreement across the board about whom we put on these tribunals is necessary, and at the end of the day the judge will have the final say of who sits on each appeal.

Ms HURLEY: I am somewhat reassured, although I am not sure how much. We will need to see how it works in practice. How long will be the tenure of each member of the panel? Will we get a constant flow of people with the right experience and qualifications to deal with the changing nature of soil conservation and land care?

The Hon. R.G. KERIN: The Bill leaves that to the discretion of the Minister. If we put four or five people on each panel, we should be looking at a longer time scale than we might normally look at for a panel. We need to discuss this, but I would say that three years would be the approximate time scale. We will have reasonably sized panels and hopefully not have a large workload for this tribunal, anyway. So, if it is different from three years, I will let the Deputy Leader know. That is the time scale we would be looking at. It gives people the opportunity to be called up at least once and in that time there may be a need to replace people on an on-going basis as they may resign or pass away. I would consider three years to be an appropriate time scale.

Mr HILL: I refer to subclause (2a)(a) which refers to the qualifications for members of the first panel. As this is a soil conservation and land care Bill, why have not conservation

qualifications, particularly environmental/conservation qualifications, been included in this provision?

The Hon. R.G. KERIN: As the honourable member points out, what we have there are tertiary qualifications in agricultural science, soil science, land management or any other appropriate field. Many of our very best conservationists with the best understanding of soil conservation would have soil science or agricultural science degrees. If we look through the tertiary institutions, we would find many people who would be considered as extremely good environmentalists who come out of those fields. So, that covers it reasonably well. 'Any other appropriate field' can cover a broad range. A person's actual expertise might not always reflect their actual field of study, because much of that is picked up in the field itself. But we are looking for a balance. In soil science particularly, I think you will find many people who have a very good environmental responsibility who would be available for such a job.

Mr HILL: I am not really persuaded by that argument, but we will need to wait and see, according to the appointments that the Minister makes. Nowhere in this Bill can I see that it provides how big each of the panels will be, although the Minister said four or five. What is there to provide us with confidence that there will be a reasonably large panel? I am thinking that the Minister could appoint only one or two people, which would restrict the choices made by any District Course judge who had to nominate members to serve on the tribunal.

The Hon. R.G. KERIN: That takes it back to the crux of why this is here. Unfortunately, we had only the very restrictive panel, which led to the current problem, and we do not want that problem again; it creates enormous difficulties for us. We are taking this opportunity to make available to the judge a range of expertise that he can call on. The member for Schubert made the point earlier that we should make sure that each of the panels contains a range of expertise. That is what we will do, and to do that I can assure the member that we are looking at four or five on each panel.

Mr HILL: Does that mean that if you established a panel of, say, four or five, you could make additions to it, that you do not have to wait until the end of that term for those members?

The Hon. R.G. KERIN: My understanding is that the way it has been drafted leaves it open for us to do that. If we lose one all of a sudden, there is no need to replace them straight away. We can go out and consult to make sure we get the right range of expertise on the panel. We are trying to make it pretty flexible. It is a situation where you may well have people serving a three year term without ever having to appear. It is a rather large panel for the number of appeals we have, but we are looking for flexibility to enable us to give the judge the best choice. Unfortunately, we have learnt the hard way over the past couple of months with the inability of the tribunal to sit on the current appeal.

Clause passed.

Remaining clauses (4 and 5) and title passed.

Bill read a third time and passed.

BARLEY MARKETING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 1091.)

Ms HURLEY (Deputy Leader of the Opposition): Again we have before us some issues about barley marketing. This is becoming a very important issue and has some very important lessons for us with regard to national competition policy. In fact, last week I received from the National Competition Council (the NCC) its January 1999 report on National Competition Policy: Some Impacts on Society and the Economy. It is a very opportune time for this report to come out, because it has some interesting things to say that have direct application to the Bill before us. The Barley Board is a statutory marketing authority (SMA), and the NCC gives a definition of SMAs that is a very good one. It notes:

> The review of SMAs is important because arrangements underpinning them are *prima facie* anti-competitive. Typically, they include centralised marketing boards with powers to compulsorily acquire or vest the entire crop, set quality grades and prices, and act as the single seller of the acquired product on either or both the domestic and export markets. In short, producers can sell their product only to the marketing body and the customers can buy the product only from the marketing body.

The NCC goes on to list the benefits that are argued for SMAs. In fact, they have very direct application, again, to the barley marketing arrangements. The barley marketing arrangements have worked very well for South Australian barley growers, and barley growers have strongly supported both the domestic and the export single desk for barley marketing. The growers have been very practical, as is their fashion, and conceded that they will need to relinquish the domestic single desk market. They have accepted that, and we have passed that legislation.

The Bill before us relates to the export market for barley, and there we have rather more of a problem, because the benefits outlined in this publication are very real. Barley growers in South Australia export a great deal of their product. Australia is a major player in the global barley marketing system and does very well in that system. It does very well against very heavily subsidised product from several countries. It does very well against quite skewed marketing practices in other countries, and by banding together it has been able to create a strong and unified market. It has achieved good prices and good quality, and has been able to achieve a stability for growers in growing their product, in selling their product and in being able to have some confidence in the market in future.

As is pointed out, there are some anti-competitive aspects to that proposal. The NCC says that freeing up compulsory marketing structures can offer significant potential benefits to both rural and urban communities, including—

Mr Venning interjecting:

Ms HURLEY: This is very good: you should listen. It includes freedom for primary producers to choose how, when and to whom they sell their crops, and freedom to negotiate sale prices. This is a bit like the union issue that we will be negotiating later with the industrial relations matter. The Government is trying to give workers freedom to negotiate their own contracts and sale conditions, but the workers—just like the barley growers—do not want it. They do not want that particular freedom, so we are advised. Included among the benefits are:

> greater control by farmers over their production, marketing and risk management decisions;
>
> reduction in the share of a farmer's income soaked up in administration costs;
>
> greater incentives and opportunities for individual farmers and rural communities to undertake more innovative marketing and to invest in higher-value post-farm production;

potential growth in industries which are major consumers of agricultural products such as food processing; and

benefits to consumers through wider choice of supplier.

The NCC does appear to be very keen to give overseas consumers the benefit of cheaper prices and a wider choice of suppliers, but it seems that our barley producers are not quite so keen to give them that choice, and the Opposition very much understands that position of barley growers. There may indeed be some barley producers who would take up innovative marketing practices, who would like to take on the marketing and risk management decisions, but I cannot believe that there are too many barley farmers who are willing to take on the risk themselves, who are willing to spend the time and energy on doing the marketing, the negotiating and their own administration. The Opposition's understanding is that the farmers are willing to pay administration costs in order not to spend that time and effort and their own income in doing that. That is a very understandable position, and one which seems extremely practical.

It appears under this Bill that they will only have that until 2001, and we have to ask ourselves why that is so. It appears that the Victorian Parliament and the Victorian Premier, Mr Jeff Kennett, are very keen to see a deregulated export industry, that they do not want the single desk. The Victorian barley producers make up a quite small percentage of the total barley exports out of Australia. South Australian farmers are by far the largest exporters and therefore, one would think, have the greatest say in what goes on. But it appears that that is not the case; it is the Victorians who are setting the agenda for this, who have insisted that the single desk be phased out in 2001, and all the time we have the single desk Wheat Board existing to 2004, and we have other industries where there will not be this insistence at all. The NCC, as part of the report, says:

Recent independent reviews into SMAs indicate that there is no single best approach to marketing agricultural goods. The reviews to date have proposed a range of approaches to reform, targeted to the circumstances of each industry, with benefits to both rural communities and consumers generally.

For example, recent reviews of marketing arrangements for rice and sugar recommended retaining a single marketing board's exclusive right to trade the commodity on export markets.

A little further down, though, the NCC states:

However, a review of barley marketing found that farmers and consumers would benefit most by giving farmers freedom of choice as to how they sell their crops on both local and export markets.

We have to ask ourselves why this is so. How was it proved that farmers would benefit as well as the overseas consumers from having freedom of choice? Who says this and how was it proved? I understand that there are some differing views about this. We have to ask how it is that the NCC accepted the case for rice and sugar and not for barley, and one has to ask the question whether the producers of rice and sugar and their Government representatives made a stronger, forceful case for that to be so. Did the Queensland and New South Wales Governments, which have the major producers of rice and sugar, respond much more forcefully to the Federal Government and the NCC in insisting that their industries be exempted from this competition policy? We know that the New South Wales Government said with respect to rice, 'No, we will not have this national competition policy imposed on us, even if it means that we will lose some of the competition policy payments.' They took an extremely strong stand on this issue.

In this State we find that we have the debate being led over the border by small percentage producers and their Premier, Jeff Kennett, in leading the charge to deregulate, to accept national competition policy and to have a single marketing desk by 2001. It is at their insistence that this happens, even though a closely allied industry, the wheat industry, has its single desk going until 2004. The Opposition finds this extremely difficult to fathom, I must say.

The Hon. R.G. Kerin interjecting:

Ms HURLEY: Yes, I will be very interested to hear this dry economic theory explanation. I would be very interested to see it given to some barley farmers. So, Kennett insists and the South Australian Government follows suit. Next week there is a meeting of the South Australian Grains Council and, presumably, we will get the industry view. In the meantime, the Opposition does not want to jeopardise the process by which the Barley Board, by June this year, turns into a private company and the barley growers organise that structure and get allocated the equity in that company, which will come into effect on 1 July this year. This company will then have the opportunity up to 2001 and, hopefully, possibly 2004, to organise their structure, to develop the capital and the marketing arrangements which put them in the strongest position to be able to continue the good work that they have been doing in barley exporting.

This company will have all the assets, liabilities and the staff of the Australian Barley Board given straight over to a grower owned successor, which is ABB Grain Limited. The Opposition does not want to jeopardise this. We understand that the barley producers have agreed among themselves that that is a good structure to operate under. They are about to get the equity in that structure and organise the voting rights and how that company will work. We want to do nothing which will jeopardise that, and I understand that the Bill is in the Victorian Parliament which closes the single desk by June 2001, and, unless the South Australian legislation is passed, we understand that Mr Jeff Kennett threatens to pull that legislation and not cooperate with that. That has some risks, we understand, for the barley industry, even though they are small exporters; there may be some difficulty with marketing arrangements. There may or there may not. It may be worth the risk, it may not. This is the view we want to get from the South Australian Grains Council.

So, at this stage the Opposition is prepared to cooperate with support for the Bill but we put the Government on notice and assure the barley producers that we would be prepared to revisit this issue in the Legislative Council, depending on the views of the industry and our view of whether the benefits of national competition policy are going to be evident to South Australian farmers and South Australian consumers, and to the South Australian economy generally.

In closing, I would raise one minor issue. Oats are included under the provisions of this Bill. I understand that most of the oats are produced on Eyre Peninsula, mainly by small growers, and that the single desk benefits them particularly, because they have such small output, which needs to be aggregated in order to have saleable quantities for the export market. If that saleable quantity is not present, those oats producers may well suffer substantial costs in marketing their own product and exporting it overseas. In fact, it is possible that, unless they get together in some other form, they will not be able to sell their produce overseas, because it is not of sufficient quality or in any other way in sufficient demand that export buyers will take small portions of that oats production. So, it really needs to be aggregated. I would be very interested to hear the views of the member for Flinders on that in her representations for the oats

producers on the Eyre Peninsula. I call upon the Minister to address this problem in his reply.

Mr VENNING (Schubert): I declare my interest as a barley grower first and foremost, as are many of my constituents. I also pay tribute to Minister Kerin. In my previous life when I delivered barley. I would go to the silo in the truck, and it was a great honour to uncover the load and to meet the Minister standing on the platform: he sampled the barley, because the Minister was then the Australian Barley Board operator in Port Pirie. Some of my constituents still affectionately refer to the Minister by his nickname 'Silo'. He will probably not bless me for that. The previous involvement of both the Minister and me in this industry should put us in good stead to have a good, constructive look at this sort of legislation.

I commend the member for Napier, the Deputy Leader of the Opposition, for the comments she made, particularly in relation to the perception that some provisions of this legislation cause concern amongst the growers. They certainly do; and they think it is change for the sake of change. The system has worked well for many years, and farmers and the industry are wondering why we would mess with it.

I see this legislation as inevitable. It is one step closer to the deregulation of our export grain marketing, but I hold many reservations about that. I know that deregulation is one of the focuses of the global village operating in the world market but, when it comes to the grain industry, we are not all on an equal footing. I have said this before and I will say it again: we must be very cautious in our approach to dismantling the single desk export marking policy. It has served the industry well over many years, giving the growers strength and unity to market their product, particularly in exporting it overseas. The industry believes that deregulation may have to come one day, and with this legislation it is proposed to direct the newly formed Australian Barley Board Export Ltd—the privatised company—to continue the single desk arrangements for exports to 30 June 2001. I have been talking to some very senior people on the South Australian Farmers Federation Grains Council who say they are reluctant to change the single desk arrangements, which should be kept at least until 2004, when the Wheat Board goes the same way.

In relation to the national competition policy report, I am opposed to the principle that we change industry direction because of conflict with the principles of the national competition policy. What is more important: decisions made by the industry for its own future or a decision made for some overarching principle? I believe that principle is only a fad of this decade and will disappear into the wilderness, where it came from. I am sure that in time we will go back on many of these principles, but putting back our marketing boards such as the Australian Barley and Wheat Boards will not be so easy.

My constituents have no problem with the privatisation of the Australian Barley Board. A tremendous amount of effort has been put into getting this far and, if we do not move it ahead, the Australian Barley Board will be put under extreme pressure. As the Deputy Leader just said, that is particularly so if Jeff Kennett decides to pull out of the Australian Barley Board and we have to go it alone. That could put real pressure on, to the extent that the whole thing might collapse. But we would like to take it on because, as the Deputy Leader said, we are by far the partner that grows the most barley—a lot more than our Victorian counterparts—and we could probably try it on, but with the way the market is I do not think it would be wise.

If the Victorians are the smaller growers; why has Jeff Kennett decided to make a stand about 2001? I am not sure about that. I have been talking to several Victorian MPs, one of them being a Minister. Jeff Kennett originally wanted a limit of 1999, but we have talked him into 2001. Maybe after the Victorian election we can persuade him again to go to 2004. I live in hope, and we will certainly put in some effort in that regard. The Victorians have a better position in relation to domestic markets. They have a much higher population than we do and they have many feed lots that use a lot of feed barley. I know that much of our own barley from the South-East goes over the border to the feed lotters in Victoria. I believe the tail is wagging the dog in relation to which side of the border should have the most say.

Considerable pressure has already been put on us by overseas countries, but they have only one objective and that is to gain a competitive advantage for their growers and traders. We already see a huge imbalance in comparison with the United States and the European Union. In addition, for generations overseas traders have tried to circumvent our single desk for barley and wheat. They have tried to buy the best product at the cheapest price. They have tried to divide producers to get around them, as we see in relation to so many other commodities. Our single desk has been the best orderly marketing tool and has been the envy of producers all over the world but, of course, it has been spurned by the traders. The US Freedom to Farm Act results in handsome subsidies to farmers, and in Europe farmers are paid for not putting in crops; they are paid by the Government to leave paddocks fallow, that is, laid aside. Last season growers in the US received more money from subsidies than all the Australian growers received from the sale of their product. If that is not an imbalance, I do not know what is.

I believe we should continue with our Government's policy of industry self determination. The South Australian Grains Council is to hold its AGM on 30 March (and I will be attending) where some hard decisions will have to be made about the future directions of this industry. We should be guided by those decisions, and certainly I will be there getting them first hand. The council wants the growers to be heavily involved in determining its future, and I know they would like some direct input into this legislation. This will happen if and when the Bill reaches the Upper House. In the recess over the next seven weeks I will be out there seeking industry and grower direction. If anyone wishes to ring me, any other rural member or even the Minister, I urge them to do so, because it is very important for the sake of our industry.

Furthermore, if the single desk is eventually dismantled, I believe we should be looking at forming an Australian grains marketing board in which all States would be involved and which would encompass all our grain exports, particularly barley and wheat. We should see the Australian Barley Board join the Australian Wheat Board when it goes to a single desk in 2004. The other commodities—oats, rice, sugar, pulses, oil seeds and all the other grains that Australia produces—should be involved too under the new Australian Grains Marketing Board. In an open market we should at least try to maintain some orderly marketing.

The situation today is very concerning. I am very lucky that our farm is being run by the younger generation. If I was back there, I would have great difficulty indeed keeping up with what goes on today. The young farmer of today drives a harvester with one hand and has a mobile phone in the other, trying to work out where the market is, who is buying, at what price, when they want it and what grade.

The Hon. M.R. Buckby interjecting:

Mr VENNING: Yes, apart from talking to his girlfriend, as the Minister for Education just said. Certainly, it is a very involved and complicated business.

An honourable member interjecting:

Mr VENNING: Certainly not that. It is a confusing and complicated business today to be a grain producer, because you are also expected to be a marketer. You pay for advice from market consultants, who send information in the form of many miles of fax paper. To keep up with it is not a small job, as the Minister would know. I am so pleased that our farm is now managed by my son, Mark, the younger generation, who have been brought up with this technology, and not by me—and I am only at the right royal age of 53 years. It is very difficult.

How are those farmers who are not so lucky, being my age or even older, to keep up? Do they just take the price as being given? We know how the price fluctuations; for example, the price one gets for lupins can vary $50 to $60 overnight. Unless you are really up with the latest information, you and your neighbour could both be delivering grain the next day, but your neighbour could be getting up to $50 a tonne more than you, simply because he has more information. It certainly pays big dividends. It does not give me much joy to know that a lot of farmers today are very concerned that they now have to worry about being not only a grain producer but also a grain marketer.

The overseas growers want our industry divided so they can pick off the individuals, piece by piece, grower by grower. Our single desk policy was envied, particularly in Canada, where they are trying to reinstate the single desk system after its having been deregulated. One of the largest grain growing countries in the world is envious of us, and that is not a bad position to be in. I do not understand why we want to go down this track.

I support the Bill, but I believe that the industry should have a big say in what happens in the future. I warn the Parliament to take cautious, gradual steps toward protecting our growers through this period of immense change. This is a time of great change and is a cause of some anxiety and confusion in our grain industries. We had the most stable and successful industry since the 1930s, where growers were price takers, not generators. They did not know what price they would receive until they arrived at the grain receival depots and, on their running the gauntlet of the several traders' huts that were lined up there, the contacts were agreed to on the spot. It is certainly a difficult way to farm, and it would be difficult to try to forecast to your banker the prices you thought you would receive for your crop.

Why change something that has worked well for generations and has stood the test of time? I note the Minister's amendment, the purpose of which is to recommend that the Barley Marketing (Miscellaneous) Amendment Bill be amended such that all assets and liabilities referrable to the export pool business be transferred to the Australian Barley Boards Grain Export Ltd. I understand that that is purely a facilitating amendment to make sure that the intention of the Bill is carried out.

I want to pay tribute to our Australian Barley Board—and I say 'our' very affectionately. I pay tribute to the Executive Officer, Mr Michael Iwaniw, for years of good service to our industry. I also pay tribute to the farmers of Yorke Peninsula, and no doubt the member for Goyder will want to make a contribution to this debate because he represents arguably one of the greatest barley growing areas of the world. He has many constituents who are active in barley marketing, for example, Anthony Honner, who has been involved with barley for many years.

I also mention the late Herb Petras, whom we referred to as Mr Barley. He was a fantastic worker for our industry. I am concerned about the way we are going. This Bill is inevitable, and I support it for the time being. However, after Parliament has risen, I will ask industry for its input on any final amendments to the Bill before it is passed in the other place. I support the Bill.

The Hon. R.G. KERIN (Minister for Primary Industries, Natural Resources and Regional Development): I thank members for their conditional support of the Bill. At the outset, I give notice that I will move amendments in Committee to close a loophole: as of the date of the transfer from the Australian Barley Board to the privatised company, given the way the Bill was drafted, all the assets and liabilities referable to the export pool business would not have been transferred to ABB Grain Export Ltd. That is some housekeeping, and I will move those amendments in Committee.

This Bill is a result of an enormous amount of consultation and negotiation over a long time—well in excess of 12 months. There has been a lot of negotiation between us and the industry, and certainly my staff and the department have been involved in that. In this case, industry has largely involved the South Australian Farmers' Federation Grain Council, the Australian Barley Board and, in many cases, individual growers who have wanted to have some input as to what was going on.

Also, there has been an enormous amount of consultation between the South Australian and Victorian industries, both on the restructure and what will happen with the single desk, and on other issues. Certainly, because the Victorians' attitude to deregulation is quite different from ours, enormous negotiation has occurred between the South Australian and Victorian Governments. That has very much involved my staff, Pat McNamara (Deputy Premier and Minister for Agriculture and Resources in Victoria) and his staff. I thank Pat McNamara for being a very patient listener to the points we have put. He has had a far more difficult task in convincing the Victorian Government that 2001 was an option rather than going straight away. That has been appreciated. To cap off all those consultations and negotiations, we have had meetings of all the parties together to try to get through some of the contentious points.

The two major contentious points have involved the structure of the ABB and the single desk for export. Today the Deputy Leader raised the issue of oats. That matter was raised only about a week or so ago for the first time since the very early days, and we have had good agreement on that. Perhaps a little bit of nervousness is involved. The matter has not been raised with me, but I am told that it was raised in passing with my office in the past week or so. The thing with oats is that it is not a big crop. The Eyre Peninsular pulls together about 20 000 tonnes. It is true that it is needed as one group to make it worthwhile, and that is why the ABB will in effect probably finish up with an export monopoly anyway, as the natural market force of trying to arrange a shipment of small quantities will just not be viable. That one will basically look after itself.

Industry has been extremely understanding about the structure of the ABB. The member for Schubert asks, 'Why change things?' and so on. I suppose initially that might have been the reaction of a few people. However, they have seen

what has happened with the Australian Wheat Board and with various other statutory authorities. You must make sure that you do two things: as you move forward, you make sure that the people who own these bodies through their involvement with them over the years are able to identify their equity in those bodies; also, we really need to look at the fact that these bodies are now competing in an extremely competitive international market, and it is important that they are well and truly structured to handle whatever comes into the future. They have understood that and we will go ahead with the structure.

In terms of the issue of single desk for export, we should remember—and the Victorians keep pointing it out—that it is not about removing it in June 1999 but about getting us well and truly to 2001. My second reading explanation states:

> The single desk powers are likely to continue in this State until it can be clearly demonstrated that it is not in the interests of the South Australian community to continue the arrangement.

It is not that we are throwing out single desk. The structure is really about maximising the value of the board to growers. Some suggestions have been made that the board lacks critical mass in terms of the international market and that it should merge with other bodies, and the Wheat Board and several others have been mentioned.

While that is an option it is an option that does not guarantee the South Australian grain growers the ability to maximise the value they have in the board. Before we go ahead and look at any mergers, takeovers or anything else it is very important that we restructure the board to ensure that we do maximise its value to the growers. As I said, it is very much about competing in the international market. I certainly congratulate the industry on the proactive move towards a new structure. A lot of work has been done by the grain councils in both States. Certainly the members of the Australian Barley Board well and truly identify the need to move ahead quickly and, all going well with the legislation, that will take place on 30 June.

In terms of single desk the Australian Wheat Board has given an assurance until 2004. That board is constituted quite differently to the Barley Board in that it is a Federal board and is therefore not answerable to the Competition Council in the same way as the States. Many growers in South Australia would ideally prefer 2004. The issue of rice has been raised several times. In recent times the press has mentioned how rice has been given an effective single desk beyond 2001 but, when one looks at and understands the rice market a little more, the effectiveness of that single desk is probably the real question.

It is a bit like one State having a single desk: across the border trade cannot be stopped. The effectiveness of single desk on rice will be very interesting to watch. Certainly some of those who understand that market say that it will not be an effective single desk but, I suppose, time will tell. The reality is that, while some people might prefer 2004, the best result for South Australia and the South Australian grain grower has been negotiated. It is no secret that the Premier of Victoria and the Victorian Government would have preferred to go in June 1999, which is a major problem for South Australia and I will talk about that in a moment.

We have been able to negotiate Victoria out to 2001 and, with Victoria's agreement, we have included in the second reading explanation an extension beyond that time and, from where we have come, that is a very good result. The effects of Victoria's deregulating in June 1999 need to be well and truly understood. I feel that would have an enormous effect on South Australia in two respects: first, remembering that it operates in both South Australia and Victoria, it would have an effect on the viability of the Barley Board as a trader, remembering that it is currently restructuring.

The more worrying aspect is what would happen with across the border trade because, at the end of the day (and we hear the story of the tail wagging the dog), it would not matter if Victoria stopped growing barley and that no barley was produced in Victoria: we would still have to take some notice of what that State did in terms of any regulation about who can export grain out of that State. The member for Schubert earlier said that a lot of South Australian barley already goes over the border into Victoria. We are faced with the situation that private traders can come into South Australia, buy either malting or feed barley and export it out through Portland.

This year a New South Wales trader came into the mallee and bought barley domestically, and we observed the impact and disturbance that that caused within the industry. That instance showed what could happen if no single desk applied in Victoria. After talking to the Victorians there is no way that we can guarantee that we will get the single desk in that State beyond 2001. That gives the Barley Board two years to sort out its restructure and to get its reserves right, merge, or enter into a joint venture, or some other joint corporate mix, with another body.

If Victoria went in 1999 I can see that we would put enormous pressure on a Barley Board that is starting from reasonable but not substantial reserves. It could really open it up to being targeted from one of the big traders through across the border trade. Someone mentioned that this was about standing up to the NCC. In many of these issues the NCC starts to become somewhat irrelevant. The NCC might find that none of us should go to 2001. Who knows. That might be the result and that is when we must stand up to it. To point out how irrelevant the NCC can become I mention that the Australian dairy industry has been heavily regulated for a long time. The Governments and dairy industry leaders of New South Wales and Queensland have been telling their dairy farmers for quite a while that they have absolutely no worries and that farm gate pricing and the regulation of the dairy industry will extend to various dates well beyond what we are talking about here.

The problem is that those people have just ignored reality. Some of the press releases out of New South Wales and Queensland, from both politicians and industry leaders, have been totally misleading and have ignored the reality that the Victorian industry was making it patently clear that it would deregulate in June 2000. If Victoria deregulates in June 2000 no-one in the adjoining States can afford to not follow its lead because they will get absolutely slaughtered in the market-place. So, the ability to stand up to the NCC becomes irrelevant and I am annoyed that industry leaders and politicians in New South Wales and Queensland have not been totally truthful with their growers. They have not shown the leadership they perhaps should have: they have been too interested in telling the growers what they wanted to hear instead of the reality of the situation. We could well and truly have fallen into the same trap by burying our head in the sand and saying, 'We will go to 2004', and that would have resulted in Victoria's going in June 1999 and, believe me, Premier Kennett means it.

I look forward to talking with the Grains Council shortly. It is very important. The same applies to the dairy industry which would love to be told—and it would cheer you out the

door—that we will retain deregulation. The reality is that that is not achievable in the dairy industry. In terms of the grain industry it is very important that we have an informed debate and that the growers understand the choices. In this case the choice of going to 2004 is only marginally better than 2001, with the assurance given in the second reading explanation of going beyond if there is no community benefit by deregulation. I do not feel that it is marginal for Victoria to go in June 1999 versus June 2001. The absolute risks South Australia would run by any amendment to this Bill or changing our tune and bearing the consequences from Victoria would be devastating to the industry.

One thing people must realise—and the member for Schubert is not present—is not whether we have a single desk. If we had a single desk but an ineffective Barley Board as a result of commercial pressure that is not a lot of protection for anyone. The bottom line of this whole debate is that we have a strong grower controlled barley market. If one talks to a lot of the farmers they are scared of going back to their father's days when they were left at the mercy of grain traders who paid them what they wanted to pay them. You could have that situation if you do not have a strong grower controlled body. With the direction we are heading here, by 2001 that will be in place and hopefully beyond that stage we can still keep single desk here.

I thank members for their contributions. I am well aware of the grains conference next week. We will see what comes out of that as to where this goes in the Upper House, but I would be very strong on the fact that any change to this Bill would be at far greater cost than any benefit change will bring about. I thank members for their contributions.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. R.G. KERIN: I move:

Page 2, after line 16—Insert:

'pooled grain' means barley of a season commencing before 1 July 1999 delivered to the Board that became part of a pool established by the Board;

Ms HURLEY: The Opposition has only just received this amendment, but I understand from the Deputy Premier that it covers all of the pooled grain that is possible to transfer from the current board into the new company and also accounts for transactions which are not quite finalised. It ensures that all of the assets of the Barley Board are transferred into the new company. We would certainly support that situation.

Amendment carried.

Mr MEIER: In relation to the definition of 'authorised receiver', where it provides that it 'means a person authorised under Part 4 to receive barley on behalf of the ABB Grain Export Ltd', will the Minister identify which companies would currently fit under that definition?

The Hon. R.G. KERIN: I take that to mean the various receivers of grain around the place. As the member knows, ABB does not run any storage installations itself or it is rare for it to do so, although it could do so under legislation. Certainly SACBH is the main authorised receiver of grain, but under legislation it could go broader than SACBH to other storers, as we got rid of that Act last year. That is the meaning of that.

Clause as amended passed.

Clause 4.

Mr MEIER: Clause 4, under 'Application of Part 4', states:

Part 4 applies to barley harvested in the season commencing on 1 July 1993 and each of the next seven seasons but does not apply to barley grown in a later season.

Why are we going as far back as 1993 for a Bill that is before us in 1999?

The Hon. R.G. KERIN: These provisions were drafted by the Victorian Parliamentary Counsel. The initial Bill referred to 1 July 1993 and each of the five seasons following. This is an extension for a further two seasons to take it from 1999 to 2001. It simply reflects what was in the Act before and makes the alteration from five to seven seasons, being the extra two seasons.

Clause passed.

Clause 5 passed.

Clause 6.

Ms HURLEY: I refer to oats on the Eyre Peninsula. The 'she'll be right' attitude enunciated by the Deputy Premier is not terribly convincing. I understood that he was saying that the oats growers would be forced to deal through the ABB company in any case and in effect it would be a single desk. But on the other hand he says that if we do not keep the single desk in the barley market they will go in opposite directions and people will come in and we will all be ruined. There is some inconsistency in that argument. I do not confess to knowing a great deal about oat farming, but it may be that other marketers may come in and take the better quality oats or the lower quality oats at a cheap price and leave the oat producers without sufficient quantity for that single desk to be able to market them effectively. I am still concerned on behalf of the Eyre Peninsula oat farmers.

The Hon. R.G. KERIN: I appreciate the Deputy Leader's concern for oat growers. At the moment there is no single desk on domestic oats anyway. There is no difference between domestic oats and export oats. There may be some quality differential at the end of the day, but when you put in a crop it could be for either. The varieties are for both. So, that competition is there already. If you were to remove the export single desk for oats, it would probably have no impact because the size of consignment that anyone can put together to send oats offshore is somewhat limited. It would not be viable to put together 2 000 tonne of oats and send them off.

The Barley Board is still in there and, whether we are talking barley, oats or whatever, unless someone comes in and offers the farmers a very good price the Barley Board will maintain the majority of it. The other buyers are in the market buying domestic oats. It is only if they paid an excellent price and put together a big tonnage that they would be able to consider export. If they could do that, it would be in the growers' interests anyway, because for anybody to outbid the Barley Board on a large number of oats to go into the export market they would have to pay a good premium, which would be in the growers' interests.

Ms HURLEY: I am concerned that the Deputy Premier says that he has only just this week been made aware of this problem. I wonder whether he has been able to consult the growers or talk to the member for Flinders about this issue and get advice on how they see the problem.

The Hon. R.G. KERIN: We have been involved in I would hate to say how many meetings on this and the issue of oats was resolved early in the piece. I only became aware that the matter was raised with my office last week and that was in passing. It has not been a contentious issue. One must understand the size of the oat market and the fact that it is not

a monopoly for the Barley Board—it only has a monopoly on exporting and not on buying. I do not see it as a real problem. With the whole Bill there is further consultation to go on before it goes through the Upper House in late May or early June. I am happy to talk to the people again about oats, but any concern on oats may be somewhat of an isolated concern. I do not think it would be as particular a concern for growers as perhaps it may be for the Barley Board itself.

Mr MEIER: My question relates to clause 6(e), paragraphs (b), (c) and (d). I take it, Minister, that those paragraphs specifically exclude those areas from single desk selling, namely, barley sold or delivered for consumption in Australia, and barley which does not meet the standards as determined by ABB Grain Export Ltd, but I am not quite certain what is meant by (b) 'barley purchased from ABB Grain Ltd'. Are other companies allowed to purchase grain that possibly was for export?

The Hon. R.G. KERIN: That needs to be read in with the rest of section 33, concerning the delivery of barley. Basically, what the member asks is correct, that if ABB Export sells a consignment to a particular trader, and that is very often the accumulator of the grain, which is then sold to a trader, and that is the path that the grain follows, that abides by the Act.

Mr MEIER: That has been occurring, by and large, to date. Would that be correct, Minister?

The Hon. R.G. KERIN: Yes, but the point at which it has changed ownership I am not sure of in all cases. But in some cases the Barley Board has been acting as an accumulator of grain for other traders.

Clause passed.

Clause 7.

Mr MEIER: I seek from the Minister an assurance that clause 7, and I would also refer to clause 8, gives the categorical assurance that single desk selling is guaranteed for export barley by ABB Grain Export Ltd, that that is the basis of clauses 7 and 8.

The Hon. R.G. KERIN: Yes, that is certainly the intent, with a couple of exemptions. There are allowances for small quantities of exempt exports of barley in bags and containers up to 50 tonnes in weight, which is for servicing of minor niche markets overseas. That is the exception to that, but in general the intent is as the member has put forward.

Mr VENNING: I understand also that a derivative of the board would also be in that position, because we know that into the future the Australian Barley Board will not exist exactly as it is now, and no doubt they will implement their own changes. I presume, whatever happens, that the powers would go to that new board, whichever is vested the Australian Barley Board. Also, as to 2001, I presume that there will be a major movement towards getting a partner for our Barley Board.

The Hon. R.G. KERIN: Yes, that is correct. That power lies with ABB Grain Export Limited, which is the export arm of what will be the restructured Barley Board. As far as what happens beyond the privatisation of the board, that is very much up to industry. I think that is an area where industry need to make their decisions. From all the discussions we have had with industry, certainly a merger or joint venture seems to be the way that they would like to go. There are several prospects for that to actually happen. Certainly, we will get a variation of views as to which way they should actually go.

That is why I have been very keen to ensure that the privatisation took place first so that the barley growers of South Australia do get the full value by going into the share issue side of it. If you had a merger before that actually happened with, say, the Australian Wheat Board, you would always have some doubt as to whether the South Australian grain grower actually got his value out of the transaction, because you would just have it disappearing into something that has 10 times the shareholders, and a lot of interstate shareholders picking up what might have been value which really did belong to the South Australian grain growers. It is important to get the privatisation sorted out. One you have that and the growers have their correct value for the board, that really does open the way in whatever merger does occur for South Australian grain growers' interests to be looked after.

As far as the preferred way ahead from there is concerned, I think that is very much up to the industry and we will continue to talk to them about it. I think it is important for them to have the leadership in relation to who they will merge with, joint venture with, or, alternately, an option for them is to go it alone as ABB Grain Export, if, in fact, they can get their reserves sorted out. They would be a small trader if that was the case. But that is an option, and obviously one of the options they should keep in mind.

Mr VENNING: In relation to this legislation, Minister, I gather we will not be revisiting this again. This legislation sets it all up. For the sake of this legislation that single desk is vested with the Australian Barley Board Export Limited and they will always have that control, they or a derivative. There is no area for a takeover or anything else, because it is vested with them. Even if they changed their name would it have to come back to the House to recommit that single desk to the new trader?

The Hon. R.G. KERIN: I would think that that would be the case if there was a change of name from ABB Grain Export. Of course, it is always open to the House to revisit any legislation. It is up to Parliament what it wants to revisit. In this case if in fact it was a major one we may have to consider it and bring it back, but the intent would be that we would keep the single desk to 2001 as long as any partner mirrored the grower control situation that we have at the moment. It would be highly unlikely that they would move in another direction. But, as I said, what industry does once they are privatised is somewhat outside of our control as far as who they might join with. What is within our control are the marketing arrangements while we have single desk.

Mr VENNING: Therefore, what would happen with the scenario if the Australian Wheat Board, as it is already marketing barley, were to seek this power to operate the single desk along with their own? First, is it an option and, secondly, how would we handle that?

The Hon. R.G. KERIN: I think that would probably be the easiest scenario to actually look at. Certainly, in a case like that the intent would be that we may have to change the name, depending on what structure they may well set up. My thinking is that that does not change the issue of single desk, because we still have a grower controlled entity. It would certainly mirror what they do with wheat, so I would not have a great problem with that.

Mr Venning interjecting:

The Hon. R.G. KERIN: No, 2001 does not become 2004. I am sure the Victorians would have a fair old say about that and may well deregulate overnight if we tried a stunt like that. What is in the legislation is what stays in the legislation, that is, 2001. As was spelt out clearly in the second reading

speech, unless it is shown to be against the community benefit, that would extend to 2004.

Clause passed.

Clauses 8 and 9 passed.

Clause 10.

Mr MEIER: My question relates in particular to the implications of the maximum penalty of $10 000, which I believe is a significant increase in the penalty that applied. Will the Minister identify the exact implications of this penalty, the need to ensure that the declaration of the season for barley delivered is accurate and the implications that could apply if that were not adhered to?

The Hon. R.G. KERIN: Yes; as the honourable member identified, it is a significant rise, from $1 000 previously. The declaration of season of barley is reasonably important, given the pooling system with the Barley Board, and particularly before we had cash pricing, where the pool it came out of determined the price. There is a range of reasons why you must identify the correct season, and the honourable member is very aware of one of them, because we have had some major problems at Wallaroo over the years. That is where farmers have done a bit of a clean-up before harvest and early in the piece delivered old season's grain. Quite often you get a range of problems with that, not the least of which has been pickled grain, and that has caused some absolutely enormous problems. So, it is important that they correctly identify which season it is from, hence the increase in the penalties.

Clause passed.

Clauses 11 to 16 passed.

Clause 17.

The Hon. R.G. KERIN: I move:

Page 5—
Lines 21 to 23—Leave out the definition of 'residual grain or' and insert:
pooled grain or which relate to pooled grain or in
Line 32—Leave out 'the residual grain' and insert:
pooled grain
Lines 34 and 35—Leave out paragraph (a) and insert:
(a) the property and rights of the Board, wherever located, in pooled grain or which relate to pooled grain vest in ABB Grain Export Ltd; and

Page 6—
Line 1—Leave out 'the residual grain' and insert:
pooled grain

Amendments carried; clause as amended passed.

Clause 18 and title passed.

Bill read a third time and passed.

DRUGS COURTS

The Hon. M.D. RANN (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.D. RANN: I was going to raise a matter of privilege but, given that the member of Parliament concerned is somewhat raw, if not courageous, I thought it would be better to make a personal explanation. Earlier in an address to the House in the grievance debate, the member for Waite spoke about my visit to New South Wales to look at the drugs court, and he said:

> The honourable Leader must have overlooked the fact of Her Honour's absence overseas before he decided to book his Government funded travel. Perhaps all that time in Sydney was spent talking to Mr Carr about drug courts. . .

and so on. Later, he went on to say:

> . . . he would have heard Premier Olsen's ministerial statement on drug reform, including his commitment to the idea of drug courts.

He then made various other asides. I want to advise the member for Waite that if you are a member of this Parliament you cannot intentionally mislead the House, and he did so in a number of respects in his comments. In New South Wales on Thursday at 11 a.m. I departed for the Parramatta Drugs Court for an appointment with the Registrar, Project Manager and Policy Adviser on the New South Wales initiative, Ms Anita Anderson. Following some considerable time with her, I was then admitted into a closed session of the New South Wales Drugs Court, which was presided over by Judge Gay Murrell. If the member for Waite would like me to give him the judge's or the judge's associate's telephone number to confirm this fact, I am prepared to do so following Parliament today.

Following sitting in on sessions of the New South Wales Drugs Court, I had a private meeting with Judge Murrell to discuss the initiative there. I moved from Parramatta at 2.20 to arrive just after 3 p.m. for an extensive meeting with the Hon. Jeff Shaw, MLC, the Attorney-General in New South Wales, about his drugs court initiative and his knives initiative. Following that meeting I had more than an hour's meeting with the Premier, Bob Carr, also discussing the drugs court, knives and other New South Wales initiatives. It is really important that, before young members make a fool of themselves, they check the facts. That could easily have been achieved by walking over and asking, 'Did you actually meet with Judge Murrell?'

The DEPUTY SPEAKER: Order! The Leader is straying away from his explanation.

The Hon. M.D. RANN: Sir, I think it is very important to correct it. This is an outrageous accusation. He goes over the trench with a great deal of abandon but, when it comes to the push, he blinks all the time. He says he does not want exposure; he whinges and bitches all the time, and I think this should be made mention of.

The DEPUTY SPEAKER: Order!

The Hon. M.D. RANN: It certainly is outrageous.

The DEPUTY SPEAKER: The Leader is straying away from a personal explanation.

STATUTES AMENDMENT (COMMUTATION FOR SUPERANNUATION SURCHARGE) BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 1036.)

Mr FOLEY (Hart): This piece of legislation has arrived from the Upper House and it deals with parliamentary superannuation, police superannuation, the Judges Pensions Act and public servants covered under the Superannuation Act. It deals with the issue of the superannuation surcharge and addresses those members of the scheme, the vast majority of whom are public servants under the old pension scheme, who are affected by the parliamentary surcharge. This Bill is a mechanism by which a commutation factor can be worked through for an appropriate amount of surcharge to be paid by each superannuant and it then provides a mechanism by which that surcharge can be extinguished by the person involved. It involves all public servants paid by the taxpayer. It involves police superannuation, the parliamentary superannuation scheme and a very large number—I would imagine many thousands—of State public servants who are under the old pension scheme.

Given the nature of the surcharge and defined benefits schemes, as one would appreciate, it is difficult and requires

a more complex and complicated structure with which to work out the amount of surcharge that is required. Given that these are pension schemes, a way of discharging that obligation to the Australian Commonwealth Taxation Office requires a further mechanism. I understand that this is consistent with the mechanism put in place in Canberra. The legislation has passed in another place, and the Opposition supports its passage through this House.

The Hon. M.R. BUCKBY (Minister for Education, Children's Services and Training): I thank the member for Hart for his support for this Bill. As he has said, this is the consequence of the imposition by the Commonwealth of the superannuation surcharge, that charge being 15 per cent. Public servants, members of Parliament, police or judges can pay that as they are employed along the way or can defer that payment until retirement. Of course, we are advised that the problem is that often the amount of the surcharge may not be known for 18 months after the person has actually retired, and by that stage they would already have worked out their superannuation entitlements and whether or not they would commute a lump sum, or whatever arrangement they have come to.

This amendment allows public servants and others under the superannuation scheme to be able to commute a certain amount of money which they believe would cover that superannuation surcharge and then have access to the balance of their pension so that, when the debt is finally settled, those people suddenly do not have to find a large amount of money out of their own resources. As I said, I appreciate the support of the member for Hart and the Opposition for this Bill and recommend it to the House.

Bill read a second time and taken through its remaining stages.

LOCAL GOVERNMENT BILL

In Committee.

(Continued from 11 March. Page 1164.)

Clauses 248 to 252 passed.

Clause 253.

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

Page 178, line 27—Leave out 'after the commencement of this section' and insert:

under this Act.

This amendment is purely technical to clarify that by-laws made under this Act will expire on 1 January the year following the year in which the seventh anniversary of the date of the by-law is made.

Amendment carried; clause as amended passed.

Clauses 254 to 262 passed.

Clause 263.

Mr CONLON: I have a number of questions about the powers of authorised persons. It is an extraordinary set of powers for authorised persons to have, and I know that the answer will be that they are contained in other legislation such as the development or planning Acts. I would go so far as to say that the powers of authorised persons under this legislation probably exceed those of the National Crime Authority, and certainly the privilege against self-incrimination is, I understand, preserved in the exercise of the powers of the National Crime Authority, which is a good example. How far does the legislation extend with regard to using abusive, threatening or insulting language to an authorised person? Given the powers of an authorised person, if I came home and found one breaking my window and asked, 'What the bloody hell are you doing?', I would like to be assured that I would not be subject to the penalty prescribed in this clause.

The Hon. M.K. BRINDAL: I would agree with the shadow Minister on the face of it. It would be extraordinary if any person who, purely by the use of abusive or insulting language—especially insulting language—to an authorised person or a person assisting an authorised person, was guilty of an offence for which a penalty of $5 000 was applicable. That is why you have competent jurisdictions to investigate these matters. As members know, the penalties are maximum penalties, and a court would only ever contemplate applying those in the most extreme cases. I draw the member's attention to subclause (6)(a) which provides that if, without reasonable excuse, a person hindered or obstructed an authorised person to the point where some real harm or real danger of harm was caused to a person, other persons or property, a maximum penalty in that order was probably warranted.

However, as the honourable member knows, the maximum penalty is the extent to which a court can go. A court is not obliged to go the full extent of the maximum penalty, and we would expect that commonsense would prevail. If I were one of those authorised persons, and if I went to the honourable member's house and used a few expletives in letting him into the property, I would be severely disappointed if it really ever got to the stage of an offence at all. If it was a shade worse than that and it got to an offence, I would hope the courts would apply a reasonable penalty commensurate with the offence. I repeat that the maximum penalty is there only in the case where the breach is such as the court would consider it to be serious and, therefore, consider that it would warrant the imposition of such a penalty.

Mr CONLON: Where else does the offence of using insulting language apply?

The Hon. M.K. BRINDAL: I can tell the honourable member without any fear or hesitation that the Education Act is such a place. A parent who goes to school and uses such words as 'Get stuffed!' to a teacher is guilty of a similar offence and can be prosecuted under the Education Act.

Mr CONLON: The last time I read this I was of the view that there was a weakening of the powers against self-incrimination. Is that the case? Is this weaker than it is in the current Act?

The Hon. M.K. BRINDAL: Stronger than in the current Act, I am advised.

Members interjecting:

The CHAIRMAN: Order! There seems to be a little confusion.

The Hon. M.K. BRINDAL: I want to say to the honourable member that I note his comments about the breadth of the provisions and I note that, on talk-back radio, some scare tactics have been raised. It is interesting and the honourable member might—

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: Certainly not by the honourable member. Apparently three people, who for their own reasons choose to remain anonymous, when this Bill was introduced, contacted people such as Jeremy Cordeaux and Bob Francis and said that this is the end of the world as we know it and pointed out that they perceive them as draconian powers. I point out to the honourable member in passing that the provisions are not drawn so much from other Acts as from

the existing Act. They are powers that are there. I agree with the honourable member that, read on their own, they appear to be somewhat broad and far reaching.

However, the fact that they have been in the Local Government Act for the past 65-odd years and have never caused any ripple would support my contention and the contention, I presume, of this House to leave them there. They are extraordinary provisions for extraordinary circumstances: natural disaster and real need, the same sort of circumstances which allow police or service authorities to be able to enter property generally for the protection of others.

Clause passed.

Clause 264 passed.

Clause 265.

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

Page 191, line 11—After 'duty' insert:
that applies to persons as members of councils

This amendment clarifies that the grounds for complaint upon which a disciplinary action can be taken under these provisions are confined to the conduct relevant to their membership of councils.

Amendment carried.

Mr CONLON: I address my comments to the clauses that make up this Part, clauses 265 to 270. The regime established in clauses 265 to 270 does strike me as being very odd and quite onerous on individuals. The Minister may be able to explain this in a moment but clause 265 refers to conduct which is unlawful or fails to comply with the duty imposed by this or another Act or fails to comply with the provisions of this Act. It is quite plain in administrative law that there is behaviour which is not criminal and not punished by sanction and which would amount to a failure to comply with a provision in an Act to carry out a duty. Such matters are correctable at administrative law.

It is also plain that any person who has a statutory duty or some statutory rights can also be corrected by the criminal law where they use such powers to gain improperly an advantage for themselves or someone else or to act improperly. The burden of proof in the two instances is different and certainly the outcome is very different. The courts will correct a breach of administrative law. The courts will punish by a different standard of proof a breach of the criminal law. The clause appears to run together the two concepts, which I think is extremely dangerous.

It appears that, on my reading of these provisions, it is conceivable that a member of a council could face a sanction that is a punishment of a description or a disqualification, however one would like to describe it, for what might essentially be an administrative matter. I have very serious concerns about that and about the whole Part, and I signal that we are opposed to it. The Minister may want to address this but at what wrong is it aimed? I have not heard of anything that is going so egregiously wrong in the running of councils that they need what is considered to be a quite dangerous regime governing their behaviour.

I will leave my comments at that because, if the matter survives, I have a number of other questions. I indicate our opposition. I ask the Minister to explain why it has been necessary and whether there is a regime like this anywhere else because I have not seen one.

The Hon. M.K. BRINDAL: The shadow Minister spoke about this in another forum on Friday, and I have considered it and sought advice on the matter. I will need to draw a few threads together if members will indulge me. It actually relates to the capacity of local councils, not so much to function as a forum democratically elected, as this Parliament does, but as an executive as the Cabinet does. It seeks to address matters related to breaches by way of an alternative mechanism for the Cabinet. With a Cabinet if this House detects a breach in what is appropriate behaviour for the Minister it can put pressure on the Premier, who is then inclined or otherwise to sack his Minister; or if the Premier himself discovers some breach in conduct or code within the Cabinet the Premier will either sack or demand the Minister's resignation.

Because councillors and the mayor are democratically elected at large there is no sanction which the group can impose on the mayor—and I would like to talk to the honourable member later because there is a very interesting case at present that I do not want to detail to the House—as the principal elected member or the mayor, as the principal elected member, can propose back on the group. The provisions of this Bill seek to address those sorts of complaints.

In essence it is not to address so much what is wrong as what should be seen to be right. If that does not make sense I explain to the honourable member that, at present, what will often happen in local government is that an elector or a group of electors or other councillors will come to the Minister and say that they wish redress over a matter. The Minister will look at the matter or, more correctly, have his officers look at the matter, and sometimes have Crown Law look at the matter. At present the only way of dealing with it is to go into a court procedure in which the elements must be proved beyond reasonable doubt.

Sometimes it is quite clear that a breach might well have occurred but it might be a reasonably minor breach and therefore to invoke the full panoply of the law, beyond reasonable doubt and all of those things is too much to do; or, as is sometimes the case, while there may be plenty of smoke and smell, there is not necessarily the absolute evidence that you would have for beyond reasonable doubt. What often happens is that simply nothing happens. What then is the effect in the community? The community then will generally write back to the Minister accusing him of siding with local government again, that the whole system is corrupt and that no-one will do anything to address this wrong.

It is merely to address disciplinary type issues. As has been pointed out to me, this Part is most specifically—and this is where it comes up most often—directed at breaches in the conflict of interest provisions.

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: Rather than have the Opposition entirely determined to gut this provision, between here and the other place we would be prepared to entertain accommodating reasonableness. If we can agree on what we are trying to achieve, we would then be quite prepared to talk about those sort of things. For instance, I note from the honourable member's comments that he was talking about double jeopardy.

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: We can raise it later, but if he wishes we could contemplate an amendment to ensure that persons acquitted of criminal charges under the abuse of public office provisions of the Criminal Law Consolidation Act were not then exposed to disciplinary action on the same Acts. I thought that is what he was talking about the other day. I will leave it there and, if the honourable member seeks to ask more questions, I will try to explain it in bits.

Mr CONLON: That is one of the difficulties and that can be sorted out. My real problem—and I stress it again—is that the Part makes no distinction between matters which would amount to something unlawful at civil law, that is, something unlawful under the statute, which are not unlawful at criminal law. If it corrects, however, making no distinction between the types of behaviour, it offers the single regime for correcting them. Suppose it had provisions that simplified some sort of prohibitive or injunctive remedy for those matters that are wrong at civil law and had a different set of provisions for offences which are an offence which should be punished rather than corrected, if the Minister understands the distinction I am making. I am trying to make the distinction that there are matters which are unlawful in the sense that they are not unlawful in the criminal law but unlawful in the sense that one commits a tort of negligence, which is corrected and compensated.

There are matters that can be unlawful by statute which would be corrected by civil law merely by correcting the wrong and not by punishing the wrongdoer. There are other matters that are unlawful in the criminal sense in that the State has an interest and the wrongdoer is punished. There is no distinction made in my view in this entire Part. As far as the Minister's comments about dealing with conflict of interest, although I cannot cite them off the top of my head it seems to me that there are provisions in the Bill elsewhere making it an offence not to deal with the register of interest or declaration of an interest, as is appropriate.

Unless the Minister can convince me that in some way this Part makes a distinction between things that are merely administratively wrong or unlawful, in that they are merely a breach of the statute which should not attract a penalty, and matters in which the State has an interest in levying a punishment, I will not be convinced. If they are matters in which the State has an interest and for which one should be punished, the punishments that can be imposed in the later sections are very severe.

I would have thought that being fined $5 000 or being disqualified from council is a very severe punishment that can be imposed. I think the Minister will have a tough job convincing me that this is an appropriate regime to deal with the behaviour of members of council, let alone the point later where it can be applied to mere employees or members of committees or subsidiaries.

The Hon. M.K. BRINDAL: To deal with the current law first, it presently has a fine of up to $10 000, so if the honourable member thinks that the current proposition of a fine of $5 000, that is, half the present fine—

Mr Conlon: For doing what?

The Hon. M.K. BRINDAL: For conflict of interest provisions.

Mr Conlon: There are provisions there for that.

The Hon. M.K. BRINDAL: Up to $10 000 for conflict of interest. This Part encapsulates conflict of interest in the new Act and therefore it will halve the maximum penalty, even for conflict of interest, which is why it is a maximum fine of up to $5 000. Going back to the honourable member's points—and I accept all that he said—we would argue that there is a third category of offences and they are breaches of a statutory duty which should, in the expectation of this Parliament, and more particularly in the expectation of those who elect councils, be subject to disciplinary proceedings. That is the third category the honourable member did not deal with.

Mr Conlon: They are set out—

The Hon. M.K. BRINDAL: In this Act?

Mr Conlon: No, but they should be.

The Hon. M.K. BRINDAL: My understanding is that they are. They are set out in previous chapters of this Act, but having set out what is the nature of the offence you have to set out the mechanism for dealing with the offence and in chapter 13 the mechanisms by which offences in previous chapters can be enacted, otherwise you simply have 'this is a breach' in the earlier chapters and no way of proceeding on those breaches.

Mr CONLON: I would like to be convinced about this because it would be useful to have an easier remedy for council behaviour than we have at present. The Minister confirms some of my worst fears. This is talked about in the same breath as are offences, although it makes no distinction about offences. It refers to people who have failed to comply with the provisions of this Act. I am unconvinced about this being an appropriate or usual thing to do. In my experience Acts set out those provisions which are mandatory, which should be abided by and which impose a duty; if you fail to comply with a duty you have committed an offence. They usually then refer to the appropriate court. If chapter 13 did that, that is all it would do, but it does not just do that. It creates an at large range of breaches of the statute that may or may not make one susceptible to a penalty for an offence.

If this is to deal with offences, we should set out the provisions of the statute that must be abided by and state what is the offence. You cannot create what section 265 creates, namely, the likelihood of an offence to crystallise out of some mere breach or a failure to comply with the provisions of a statute.

The Hon. M.K. BRINDAL: As I say to the local member, between Houses we can ensure that this is clarified. The main purpose we are trying to aim for in this provision, whether it be perfect or imperfect, is that there is a general perception out there that somehow local government at times can be slightly on the nose, that improper practice can occur and that there are no penalties. This Bill seeks—and we hope we have the support of the Opposition in so doing, however it comes out after its passage through both Houses—to enact a simpler way by which those who pay rates can be absolutely satisfied that—

Mr Conlon: You wouldn't not do this—

The Hon. M.K. BRINDAL: The honourable member interjects, 'You would not do this to you, would you?' The answer is 'No.' The point I need to explain to the honourable member is that an Executive Government is entirely accountable and answerable to this House, and can be sanctioned by this House in any way this House chooses. This Parliament also has an Executive Government set up in a way that the head of that Executive Government, the Premier, has many more powers that are detailed under this Act. We are dealing in this Bill with a whole level of government and in that level of government there are different provisions.

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

Mr McEWEN: When speaking to clause 265 the shadow Minister directed some general remarks at clause 265 through to clause 270 inclusive, and I think he made a number of valid points when he questioned the necessity for Chapter 13 at all. The question that now faces us is whether we simply knock it out or whether we ask the Minister to reconsider a number of matters in relation to clause 265 through to clause 270 in the hope that it can be revised before it is dealt with

in another place. I am suggesting that the latter option is probably the preferred one, because the alternative is that it actually goes to the other place—

The Hon. M.K. Brindal: Gutted.

Mr McEWEN: 'Gutted', to use the Minister's language, which then leaves us totally out of control, particularly if the Opposition does not wish to put in some amendments in the other place.

Mr Atkinson interjecting:

Mr McEWEN: As the shadow Minister says, then it will come back to this place and at that stage the only alternative that the Minister will have will be to introduce the clauses as they stand. I guess what I am saying is that, although at this stage I am not prepared to support a motion to completely knock it out, that notwithstanding, I do believe there are some problems with the clauses as they stand.

Mr Conlon interjecting:

Mr McEWEN: You are absolutely right. I have spoken against it before. I just want a whole new approach—

Mr Conlon interjecting:

Mr McEWEN: Can I have some protection from the interjections, Mr Chairman?

The CHAIRMAN: Order!

Mr McEWEN: I am going to the water committee in a minute and there will be an opportunity to discuss some issues there. The Minister is aware of what I am talking about. He is also aware that local government is still consulting on alternatives to Chapter 13 as it stands. Again, I hope that the Minister would take the outcome of that consultative process into account before he considers some further amendments. Having said all that, I am still somewhat sympathetic to the Minister saying that there is a gap at the moment. There is actually a gap in the process whereby if somebody is breaching the Act in a number of minor ways you either make a whole lot of draconian measures or you turn a blind eye to it. I think there have been a number of examples in relation to which the Minister could well argue that this is an intermediary course.

To that end I am sympathetic to what the Minister is saying, but I still have concerns about the way it is structured here, particularly when it refers in clause 265(1)(c) not only to this Act but to other Acts. I am mindful of the fact that this is relating to the actions of an elected member, the actions of an individual, not the actions of the council as a whole or the administrative processes from which council takes advice. The shadow Minister is right, when it goes on to subcommittees and subsidiaries. As I have said earlier, I have some major difficulties now with subsidiaries. We actually have to deal with them in a different way. The Minister has already indicated earlier that he will take that on board and look at some amendments in that regard. At this stage I am not comfortable with it but, by the same token, I am not comfortable sending this to another place without anything in its place.

The Hon. M.K. BRINDAL: I acknowledge the points made by the honourable member for Gordon. Before the dinner adjournment I acknowledged the points made by the shadow Minister. I repeat what I said to the member for Gordon just briefly before we left the Chamber. We are prepared not only to consider how better to change these provisions to make them better provisions as they come into the other place but we are also quite prepared to discuss in the interregnum with the shadow Minister and with the member for Gordon, and with anybody else, the particular concerns and the way we can make better provisions. But I thank the member for Gordon for his enlightened contribution. No-one here doubts his commitment to local government and that he only seeks in this Bill to do the best thing by the House, and I think in this case his counsel is indeed wise counsel, and I would suggest that the Opposition follow him dutifully on what is a matter of commonsense.

The committee divided on the clause as amended:

AYES (24)

Armitage, M. H.	Brindal, M. K. (teller)
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Condous, S. G.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Ingerson, G. A.
Kerin, R. G.	Kotz, D. C.
Lewis, I. P.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Scalzi, G.	Such, R. B.
Venning, I. H.	Williams, M. R.

NOES (17)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Conlon, P. F. (teller)
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Key, S. W.	Koutsantonis, T.
Rankine, J. M.	Rann, M. D.
Stevens, L.	Thompson, M. G.
Wright, M. J.	

PAIR(S)

Evans, I. F.	Ciccarello, V.

Majority of 7 for the Ayes.

Clause as amended thus passed.

Clause 266 passed.

Clause 267.

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

Page 191, after line 35—Insert:

or

(d) that there is some other good reason for not allowing the matter to proceed under this part.

The amendment ensures that the District Court is not hampered in any way from disposing of vexatious or trivial proceedings at the earliest point. This seeks in some way to address the points made earlier by both the member for Elder and the member Gordon.

Amendment carried.

Mr CONLON: I will futilely make some points about the problems I have with this rather absurd provision. Will the Minister explain how the District Court will go about determining whether the matters alleged in the complaint constitute grounds for action? There appear to be no particular criteria anywhere in this provision. How will the court determine that?

The Hon. M.K. BRINDAL: In regard to a member, there must first be a duty in the Act on which the breach is alleged.

Mr CONLON: Why is the duty not created earlier by this provision, where it refers to a member who has contravened or failed to comply with a provision of this Act? Why is the duty not created there in regard to any provision of this Act, and what do I have wrong?

The Hon. M.K. BRINDAL: The duties are created earlier in the legislation under, for example, the conflict of interest provisions.

Mr CONLON: I then want to know why the earlier clause 265 refers at large to a member who has contravened or failed to comply with a provision in this or other Acts. If it only applies to particular sections of the Act or prescribed offences or provisions that impose a duty, why does clause 265 exist at all?

The Hon. M.K. BRINDAL: That is a point which the shadow Minister made earlier and which the member for Gordon raised. We said we would look at exactly the point you are making now. The duties are expounded particularly in Chapter 5, which deals with the elected members. That is where the duties are found.

Clause as amended passed.

Clause 268 passed.

Clause 269.

Mr CONLON: I come to the difficulty I talked about earlier with this mixture of administrative and criminal law. All the matters set out in clause 269 look like offences, and I see there is no criteria to determine what sort of breach of a provision results in what sort of punishment. I am aware, and I am sure that the Minister is aware, of the *Briginshaw vs Briginshaw* case, which dealt with the consequences of a matter conditioning the way a tribunal might have to find itself satisfied as to the proof of a matter. What is the burden of proof in this, and how could *Briginshaw vs Briginshaw* be any protection when the penalties that might arise from a completed offence seem to range dramatically?

The Hon. M.K. BRINDAL: As the honourable member can see from this clause, the Bill provides levels of penalty appropriate to the seriousness of the breach, ranging from a reprimand to the disqualification of members. In operation, the main difference is that a civil disciplinary jurisdiction requires a civil burden of proof—the balance of probabilities—rather than a criminal burden of proof, which as the honourable member knows is 'beyond reasonable doubt'. In this regard, courts have acknowledged that, in a disciplinary jurisdiction, the more serious the matter, the more convincing the evidence must be to establish on balance of probability that a breach of duty has occurred.

I am not aware of *Briginshaw vs Briginshaw*, but I think the shadow Minister was talking about that sort of provision. I am sure that in Gilbert and Sullivan's *Trial by Jury* one of the choruses says, 'Let the punishment fit the crime', which is the same thing here. Notwithstanding that, under the present provisions, the criminal court requires proof of each element of an alleged offence beyond reasonable doubt, and penalty is solely by way of fine. It is important that each element must be proved in the criminal court, and the penalty is only by way of fine. In the disciplinary jurisdiction, the more serious the allegation, the more convincing the evidence has to be.

Mr CONLON: I am so grateful that the Minister referred to the punishment fitting the crime, because my difficulty with this whole provision is knowing what the crime is. Any breach of any provision of the Act by a member of the council as it relates to his or her duties might be something that draws the attention of a complainant and thus the District Court under this provision. Those sorts of things are not offences until they have somehow crystallised in the mind of the District Court.

As I have said all along, an offence should be a breach of a clear provision of the Act which is stated to be a provision that must be obeyed. I do not see how you can say that the penalty will fit the crime until you can actually determine whether or not something is a crime—and that has been my difficulty with this all along. I earnestly recommend that you go away and redraft this from top to bottom. I am not sure you need it at all, but I give you this undertaking: we could not get the Independents to stick to what they intended to do today, but I am very confident that we will get the other place to knock out this ridiculous regime.

The Hon. M.K. BRINDAL: It is a matter of whether the other place chooses to conduct itself in a manner conducive to the better governance of local government or act like a mob of butchers.

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: I am not sure whether we are entirely happy with this provision, but I have said to you earlier and I repeat that we are open to any reasonable and sensible suggestion. What we are not open or amenable to is allowing the sort of stench that sometimes pervades the allegation that local government is somehow corrupt simply because it cannot be dealt with. After working on it for nearly three years, this is what we believe is the best step forward. If members opposite or any members of this House can suggest a better regime, I am interested to hear it. I can only keep repeating: if anybody opposite or on this side of the House has a better idea, let them put it forward and, if it is a better idea, we will consider it.

I have already acknowledged, and I will again acknowledge, the shadow Minister's point that, as the provision reads strictly at present, somebody could be dragged into court for anything at all in the Act that could be construed as an offence, and it could become ridiculous. We will need to look at that: we will look at it. It may be that we need to include, as the shadow Minister says, that the offences must be prescribed by regulation, which would give this House the right to disallow them and which would mean we would then have to go through the Act and say, 'These are the provisions that are covered by this chapter.' That is what I believe the shadow Minister is getting to. All I can say to him is that we do not have that set of amendments ready. I cannot gallop in and draft stuff on the run. Before the Bill is debated in the other place we will look at it, and I think that will address many of the shadow Minister's concerns.

If the ladies and gentlemen in the Upper House, in their elegant refinement with their superior intellects, can come up with something better, good. It will be good that they contribute something useful to the processes of this Parliament. If they cannot, I will not be very happy, and I would not expect this House to be very happy if they come back with a gutted and dissected Bill without having the intellectual rigour to come up with a better suggestion.

Clause passed.

Clause 270.

Mr CONLON: Under this Bill, can the council appoint employees or non-council members to committees or subsidiaries? If that is the case—which is a worry, given this regime—can it require employees to operate in committees and subsidiaries? If so, why should employees be subject to this regime, which the Minister says is all about the fact that, unlike Cabinet, councils are not corrected by Parliament? If they are not members of Parliament, on your reasoning why should this regime extend to them?

The Hon. M.K. BRINDAL: I suggest that the shadow Minister consult about this. My understanding of this is that these employees, if they are members of the subsidiary board—if they run it or something like that—are subject to the same conflict of interest provisions as is any other member of the board. This treats them as a member of the

board rather than an employee. I ask the shadow Minister to consider that, were they to be treated as an employee for the purposes of this—

Mr Conlon: And then you can rectify the council.

The Hon. M.K. BRINDAL: No, they can then also be charged—and we must remember that we are dealing with conflict of interest provisions—with abuse of public office, which is a criminal offence and much more serious. They are unarguably a paid employee of the council; therefore, they could be subject to the rigour of abuse of public office which, as the shadow Minister would know, is fairly serious. What we say is 'No.'

Mr Conlon interjecting:

The Hon. M.K. BRINDAL: Hopefully it does. The member says it does not. I would hope that it does. At present—and I have said this before—you either go down the draconian path under the current law or you take no path at all. I would put to the member that public pressure would be such that, if it was a servant of the council, they would expect them to be put down the draconian path. This allows the involvement of a lesser process—and it can be just a reprimand—for people who do not deserve to be put through that process just simply because they work for the council.

Mr CONLON: Earlier the Minister explained why this sort of regime is not suitable to be applied to members of Parliament but to councils. He said that we did not need it because when we exercised executive power we could be corrected by the Parliament. We should apply it to councils because they do not have a Parliament, or the mayor cannot be corrected by the council and the councillors cannot be corrected by the mayor. I am not sure that I ever accepted that argument. However, the simple truth is this: that argument cannot apply to people who are employees. Employees can and should be corrected by the council. When we spoke about registers of interest before, we said that the register of interest should not be, like the council, made available to the public: it should be made available to the council, because it is council that should correct its employees where they err. Having said that that is the logical basis for these provisions, why does the Minister want to apply them to employees of the council? Why can employees not be corrected by the council?

The Hon. M.K. BRINDAL: The member makes a good point. I cannot answer the member, so I will look at the matter.

Clause passed.

Remaining clauses (271 to 303) passed.

Schedule 1 passed.

Schedule 2.

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

Schedule 2, clause 3, page 217, after line 26—Insert:

(ba) whether board members will be required to submit returns under Chapter 5, Part 4, Division 2;

Schedule 2, clause 3, page 217, after line 28—Insert:

(da) staffing issues, including whether the subsidiary may employ staff and, if so, the process by which conditions of employment will be determined;

Schedule 2, clause 4, page 218, line 22—Leave out 'council' and insert: charter

Schedule 2, clause 6, page 220, line 16—Leave out 'to the council'.

Schedule 2, clause 9, page 221, line 28—Leave out 'endorsed by' and insert: provided to

Schedule 2, clause 20, page 225, after line 32—Insert:

(ba) whether board members will be required to submit returns under Chapter 5, Part 4, Division 2;

Schedule 2, clause 20, page 225, after line 35—Insert:

(da) staffing issues, including whether the subsidiary may employ staff and, if so, the process by which conditions of employment will be determined;

Schedule 2, clause 20, page 226, after line 12—Insert:

(ka) the manner in which disputes between the constituent councils relating to the subsidiary will be resolved;

(kb) issues surrounding a council becoming a constituent council, or ceasing to be a constituent council;

Schedule 2, clause 21, page 226, line 34—After 'this Act' insert: if such returns are required by the charter

Schedule 2, clause 23, page 228, line 24—Leave out 'to the constituent councils'

Schedule 2, clause 26, page 230, line 5—Leave out 'endorsed by' and insert: provided to

Schedule 2, clause 30, page 230, line 35—After 'may,' insert: in accordance with the charter of the subsidiary and

These amendments are technical in nature. They are the product of detailed discussions with the Local Government Association, and they are designed to improve the operation of the subsidiaries provisions.

Amendments carried; schedule as amended passed.

Schedule 3.

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

Item 1, page 235, lines 12 and 13—Leave out 'whose total remuneration falls within prescribed scales,'.

The amendment is consequential on the change of the definition of 'senior executive officer' found elsewhere in the Bill.

Amendment carried: schedule as amended passed.

Remaining schedules (4 to 7) and title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (ELECTIONS) BILL

Adjourned debate on second reading.

(Continued from 17 February. Page 819.)

Mr CONLON (Elder): I will not say a great deal because this Bill will obviously be the subject of further and, I would assume, very lengthy consideration in another place, where I also assume a large number of further amendments may be added.

Mr Atkinson: Or may not be added.

Mr CONLON: Or may be subtracted.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr CONLON: The member for Spence clearly has a keen interest in local government. I again indicate my disappointment at my inability to understand the messages—it must be either my hearing or lack of understanding of the English language—I am being given by certain members in this place. I thought it had been indicated to me very clearly that some members were of a particular point of view in regard to those provisions concerning complaints against councillors; in fact, I was so misled as to believe that I had been told on many occasions that they held those points of view.

I thought I had been told as recently as only half an hour ago that they would oppose those provisions. I can only apologise to the House for my failings at plainly being unable to understand the simple messages from the members for Gordon and MacKillop.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr CONLON: I hope one day to be able to devise a system of communication between the Opposition and the so-called Independents that is reliable but, at the moment, it escapes me. I say no more. This Bill is going off to another

place where a large series of amendments will be made and much discussion. We can deal with it again when it returns in its, no doubt, slightly different form.

Mr ATKINSON (Spence): I have long taken a keen interest in the electoral process in local government, particularly in the City of Charles Sturt and the City of Port Adelaide Enfield. I have also taken an interest in it in the forums of the Australian Labor Party and have moved motions on local government electoral matters a number of times. In the early 1990s—

The Hon. M.K. Brindal interjecting:

The DEPUTY SPEAKER: Order!

Mr ATKINSON: —one of my factional opponents within the Australian Labor Party, Mr Hans Pieters, from the Semaphore area moved a motion in the Australian Labor Party that we support the idea of postal ballots for local government. I opposed Mr Pieters strenuously on the basis that this would expose local government to monstrous fraud. As ballot papers were put in letterboxes in one house after another, candidates would follow the postman picking the envelopes with the ballot papers inside of them out of the letterboxes and fill them in.

The Hon. M.K. Brindal: That is a criminal offence.

Mr ATKINSON: Yes, I know it is a criminal offence but such is my pessimistic view of human nature that I thought the provision for postal ballots would be abused. Mr Pieters made the point that it would lead to much higher turnouts in local government. Mr Pieters prevailed at the ALP conference and his idea went on to prevail in Parliament. I want to say now that Hans Pieters was right and I was wrong: postal ballots have been an enormous success in local government where they have been used, but I do think there still should be provision for attendance ballots at polling booths.

I know that in my own council area, the Town of Hindmarsh (which still existed when I first entered Parliament) managed to achieve 40 per cent turnouts in some wards.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: In response to the Minister's interjection, the Town of Hindmarsh was the only municipality to agree voluntarily by ballot to amalgamate with another council, and I will tell the Minister we achieved that with a fleet of motor vehicles taking Labor Party supporters to vote, so do not rule out attendance ballots altogether.

The Hon. M.K. Brindal interjecting:

The DEPUTY SPEAKER: Order!

Mr ATKINSON: The other thing I should say about postal ballots is that in the City of Port Adelaide Enfield there was a suspicion in the mayoral election, which Mr Pieters interestingly contested but lost, that electoral fraud was occurring by taking ballot papers out of other people's letterboxes and filling them in. This allegation was made by a councillor on the City of Port Adelaide Enfield. Interestingly, I was able to test that proposition in cooperation with the Electoral Commission because I happened to have a list, through my extensive doorknocking, of people who had died in my constituency but who were still on the electoral roll and people who had, I had been told when doorknocking, moved out of their dwelling in, say, the Dudley Park or Croydon Park areas, but who were still on the electoral roll.

I was able to ring the Electoral Commissioner Andy Becker and offer him the service of crosschecking those names and addresses against those people who had actually voted in the ballot and it was found that none had actually voted in the ballot and therefore the allegation was incorrect. Indeed, when Mr Becker left South Australia to take up an appointment with the Australian Electoral Commission, he thanked me for my services in helping him disprove the allegation.

I turn to another matter which appears in today's *City Messenger* and which relates to an excellent reform which the Labor Party supported in the City of Adelaide Bill, namely, the requirement that candidates for office in the City of Adelaide disclose the sources of the funding for their campaign—how much they spent.

The DEPUTY SPEAKER: Order! I ask that the member for Elder take a seat.

Mr ATKINSON: The article appears on page 3 and states:

> Adelaide University paid the election expenses of city councillor Judith Brine. This will be revealed with the release this week of details of campaign funding now required by the City of Adelaide Act 1998.

I interpolate that these provisions in the City of Adelaide Bill, as I understand it, are being reproduced in the Bill before us. Is that correct, Minister?

The Hon. M.K. Brindal: Yes.

Mr ATKINSON: The Minister says that it is. The article further states:

> Councillor Brine told the *City Messenger* it was no secret she was supported by the university. She also confirmed that she was negotiating with the university over how much of her council allowance would go back to the university to recompense it for the campaign contribution and the secretarial support she now needed for her council work.

I found that hard to believe, so I rang the Vice-Chancellor, Mary O'Kane, to ask whether it was true and she confirmed that it was true: the university wrote a cheque for about $2 600 to recompense Judith Brine for her campaign expenses.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: Yes, out of university funds.

The Hon. M.K. Brindal: You can't do that.

Mr ATKINSON: The Vice-Chancellor says that she did. Like the member for Mitchell, the Minister and the whole House, I have found this quite incredible but I want to put quite faithfully the Vice-Chancellor's argument. The Vice-Chancellor says that, for some years now, the university has been competing for tenders for consultancy work and that it would put money into the campaign of an academic who was bidding for consultancy work, and that if the academic employee obtained that work then some or all of the academic's fee would come back to the university. The university believes that, in doing this, it is doing good and that it is making sure its academics are helping society outside the university, and it has a commercial aspect to it. In the Vice-Chancellor's view, this campaign for Adelaide City Council by Judith Brine was analogous to that consultancy work.

The Hon. M.K. Brindal: But aren't they the—

Mr ATKINSON: Yes, they are; that is correct.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: There is more to it. Let me tell the story. There is more to it in terms of an apparent conflict of interest.

Mr Hanna: It may be a very good investment—

Mr ATKINSON: Exactly. The member for Mitchell says it may be a very good investment the university has made. That is precisely how the Vice Chancellor looks at it. She told me that the council approached the university to have Judith

Brine run for council. I said, 'Does that mean that the Chief Executive of the council, Jude Munro, approached you?' No, it was the Lord Mayor, Jane Lomax-Smith, who approached the university to have Judith Brine run for council.

The Hon. M.K. Brindal: Upon resolution of the council—

Mr ATKINSON: No, today a friend of mine has talked to a member of the university council about this and it has not gone before the university council.

The Hon. M.K. Brindal interjecting:

The DEPUTY SPEAKER: Order! The discussion between the Minister and the member for Spence will cease.

Mr ATKINSON: Sir, I have the floor. I do not think I am behaving improperly here—I am merely responding to an interjection, as I may, and I am trying to be helpful to both the Chamber and the Minister, and I am sure you will recognise that, Sir.

The interesting thing is that as part of the package the Lord Mayor, Jane Lomax-Smith, has now been appointed to the university council. The Minister coughs and splutters, but I believe this is true. I am happy to be corrected, but I understand that that is the completion of the arrangement. I am sure the Lord Mayor, Jane Lomax-Smith, would make an excellent member of any university council and I am not opposed to her being on the council, provided she goes through the proper procedures. It may be that Councillor Judith Brine will now make an excellent councillor, but the difficulty I have with the whole arrangement is that universities are publicly funded for the purpose of providing education and for research. The difficulty I have is that the university has become involved in local politics using university funds.

I put it to the Vice Chancellor that the university might like to go further and run candidates for State districts and Federal divisions and she said that that would be too political and controversial, but local government is in a different category. My difficulty is that I see it as a misuse of university funds and I see it as the university becoming partisan in what is a highly partisan form of politics, namely, the politics of the Adelaide City Council. The politics of the Adelaide City Council has for the past few years been far more vicious than the politics of either the State or Federal Parliaments. I also doubt that this would have occurred had Henry Ninio still been the Lord Mayor. I could not imagine the Vice Chancellor seeking to include Henry Ninio on the University of Adelaide Council, nor use $2 600 of university funds to back a candidate at the university nominated by Henry Ninio.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: Quite so. I am trying to keep an open mind about the arrangement, but there ought to be some public discussion about whether this is a proper use of university money. The further difficulty I have is that Councillor Brine will not merely be voting on matters of academic interest to a planner or architect, but voting on the whole range of matters before council. She will also be voting on a very important issue before council, namely, the closure of Barton Road. I put to the Vice Chancellor that in fact Councillor Brine was an absolute certainty to vote in favour of the continued closure of Barton Road, given her political connections with the Lord Mayor. My constituents in the Bowden, Brompton, Ovingham, Ridleyton and Hindmarsh areas might feel that the university was misusing its money in spending $2 600 on Judith Brine's campaign, with the result that Barton Road might remain closed by perhaps a single vote of the council. What concern was that of the University of Adelaide—why did it hate us so much in the western suburbs that it would spend money to achieve that result?

If I am wrong about Councillor Brine's vote on Barton Road, I am happy to clean her pavement and her whole street with a toothbrush if she votes in favour of reopening Barton Road. I do not think I will be called upon to fulfil that undertaking, but I make the undertaking and it will be fulfilled if in fact Councillor Brine votes for the reopening of Barton Road. I raise this matter tonight on this Bill because this Bill will require political election donations by all councillors, as I understand it. It is only as a result of this kind of legislation that we discovered that Councillor Brine—

The Hon. M.K. Brindal: Good legislation.

Mr ATKINSON: Yes, good legislation. It is only as a result of this kind of legislation that we found out about the University of Adelaide's donation to Councillor Brine. I heartily endorse the legislation. Who knows what else we might find out once it is passed, assented to and proclaimed?

Mr CONDOUS (Colton): When I read the article this morning, after being involved in local government myself for some 25 years, I was quite staggered as a taxpayer to think that maybe some of the funds that were targeted for education for young people were actually going to a member of the university's staff to run an election campaign for them to be elected onto the Adelaide City Council. The Minister has a problem that he now has to close up because what is to say that a Minister in his position (be it him or someone in the future) could not decide that, to get a better insight into what was happening on the Adelaide City Council, it would be a good idea to pay money out of his allowance to have a member of his staff elected to be on the inside telling him exactly what is going on every day on that council. This is a staggering revelation. I brought it up with a few of my colleagues this morning, but I am now staggered to hear the member for Spence bring it up.

I am not attacking Councillor Brine but attacking the principle of taking money out of the university funds targeted towards the education of young Australians. Even more staggering is to read that Councillor Brine told the *City Messenger* that it was no secret that she was supported by the university. As an elector of the City of Adelaide I was unaware during the election campaign that Councillor Brine's election was being paid for by the Adelaide University. I would say that 99 per cent of the ratepayers of this city would have had no idea that Councillor Brine's campaign was being paid for by university funds. If they had known that, she would not have got the support. They would have been very angered that money that was supposed to go to education was going towards electing someone to be on the Adelaide City Council.

She also confirmed that she was negotiating with the university over how much of her council allowance would go back to the university to recompense it for the campaign contribution. How would we be if the taxpayers of South Australia felt that we were using our allowance to store it away like a squirrel in readiness in four years' time to spend it on an election campaign? This is becoming unbelievable. Why should not the other seven members of the council, plus the Lord Mayor, squirrel away their allowances instead of having to pay the $10 000 to $45 000 that they spent during the campaign out of their pockets? They might as well squirrel away their allowances and use them to run their next

election campaign in 15 or 16 months. She also goes on to say that she wants to know how much she has to pay the university for the secretarial support she now needed for her council work.

I was up at the council the other day and was shown by a member their rooms that they now enjoy in the Adelaide City Council. I do not begrudge them that facility, but I can tell members that it is a very fine facility with all the latest fax machines, computers, and all the rest that go with it, plus support secretarial staff.

Mr Hanna: Better than what we've got in Parliament House.

Mr CONDOUS: That's right—better. Why should she use her allowance for secretarial support when it is already up there in the Town Hall in private rooms for them to use? I have just listened to the member for Spence and he tells me about a package. I did not know that there was a package going, that the Lord Mayor would come out openly—and she made no secret about it that her preferred candidate in the last election, and there was only one preferred candidate, was Judith Brine. Having done that openly, and 99 per cent of people knew that the Lord Mayor was supporting councillor Brine, she is then appointed as part of the package, referred to by the member for Spence, that put her on the Adelaide University Council. I have been in local government for a long time and if during my time any member of my council had done that I would have been very concerned.

Mr Atkinson interjecting:

Mr CONDOUS: I think some questions need to be answered. I honestly do. I am not going to ask those questions, but I believe it is the responsibility of the Minister to now hold an inquiry into how it is possible for taxpayers' money aimed for education to be used to fund a campaign for a member of the university staff, how it is possible for allowance money to be used to repay expenses for an election, and none of us in any State or Federal Government body are allowed to take the money for that. That money is allocated to enable you to carry out your job as a councillor to provide a service for the ratepayers you represent. The third thing is how are they allowed to use part of their expenses, their allowance, to fund secretarial staff at the university when the Adelaide City Council has gone to the enormous expense of refurbishing some fine offices and providing support secretarial staff?

I am glad that the member for Spence brought this up. It would have been embarrassing for me to bring it up. It would have been seen as me attacking local government. The concerns that I had this morning have now been aired, and I support him wholeheartedly. I simply say to the Minister: I ask you, in the interest of honesty and integrity of local government, that all levels of government in this country remain squeaky clean and that an investigation be carried out and those answers be brought back in a ministerial report to this Parliament.

Mr KOUTSANTONIS (Peake): I, of course, endorse the sentiments of both the member for Spence and the member for Colton. They are obviously both devastated by these allegations and I am sure the Minister will bring back a very good report. But I want to talk about the gerrymander that remains within local government elections. Throughout all of South Australia to become elected mayor of a council you must have served at least one term on the council. What concerns me, Mr Deputy Speaker, is an example we had in the City of West Torrens. We had the unfortunate death of Mayor George Robinson AO, who was an excellent mayor of our city. He was well regarded in the community and was loved by a large number of residents. With his unfortunate passing a by-election was held in the City of West Torrens, but the only people eligible to nominate for the position of mayor, even if you are a ratepayer, are people who have sat on the council for two years or more. I believe that this is disenfranchising a large number of constituents who live within that city who have just as much right as anyone else to serve on council and to be mayor of their city.

The Hon. M.K. Brindal interjecting:

Mr KOUTSANTONIS: An excellent point. I am glad the Government has finally acted on this piece of legislation. I congratulate the Minister on doing a fantastic job. So as not to take up the time of the House I will just again endorse the remarks of the member for Colton, because the most important thing that we need in Government today is transparency. We need to let every single ratepayer know that every level of government, whether local, State or Federal, is squeaky clean and transparent. I endorse the remarks of the member for Colton and the member for Spence and I am sure the Minister will act on this advice.

The Hon. R.B. SUCH (Fisher): I would like to make a brief contribution in respect of the allegations involving the University of Adelaide. Members need to be aware that the university, like the other two universities in South Australia, gets some of its money from Government but a lot of its money does not come from Government. The University of Adelaide, as we know, owns property on both sides of North Terrace. It has a development precinct at Thebarton. It has an investment business arm and, therefore, members should temper their comments in the light of that knowledge, and without being privy to all the details of this instance and without passing judgment, I think members should understand that the university has the power to co-opt members to its council, and that was specifically written into the legislation to allow university councils to involve people in the running of the university who otherwise would not be willing to go through a long, drawn out election process.

I simply make the point that, whilst on the surface it would seem surprising, as reported in today's *City Messenger*, nevertheless, members should withhold judgment and condemnation until they are aware of the full situation, and I repeat: our universities are not totally Government funded. The days when that happened have long since passed and universities now, whilst their main role, as I have often said in this place, is seeking truth, they are, in effect, very large multi-million dollar businesses. One could argue that the University of Adelaide would have a natural interest in the affairs of the Adelaide City Council, given the position it holds and the property it holds and its activities in the heart of the city.

The Hon. M.K. BRINDAL (Minister for Local Government): I only wish to make brief comments on the matters raised by honourable members in debate on the Bill and to thank them for their contributions. I remind members of the Government's principal aims for this Bill, as expressed to the House when moving that the Bill be read a second time, and I quote:

> The Government's principal aims for the Local Government (Elections) Bill are to encourage greater community participation in council elections and to establish fair and consistent rules and procedures that are as simple as possible.

Later in those remarks:

> The Bill promotes consistent practice across all council areas by providing for universal postal voting with exemption if possible in limited circumstances, one standard system for casting and counting votes, proportional representation, one independent authority, the Electoral Commission to be the returning office for all council elections.

I ask members to reflect on these matters. It was a clear finding of a thorough, independent and formal review in the May 1997 council elections, which was funded equally and jointly overseen by the Government and the Local Government Association, that voter participation in such elections could be greatly enhanced if there were consistent arrangements across the whole State. Members should also ask themselves whether it is really appropriate that those council members currently in office can currently determine the conditions under which they will face re-election, and I know all members will join me in arguing that, whatever this House and the other place comes up with, it must be consistent, clear and understandable rules for the election of local government, such as apply in the State and Federal jurisdictions.

The Bill gives the ultimate responsibility for the conduct of local government elections to the State Electoral Commissioner. I am indebted to the shadow Minister pointing out last Friday that, in fact, this is a provision that has been required of trade unions for some time, and he acknowledged that it works well, without undue interference in the process for the important elections of trade union officials.

It is highly desirable that Parliament, therefore, place clear responsibility for the consistent, timely and proper conduct of elections with an independent, experienced entity as a statutory duty. That provides certainty of quality outcome and reinforces the independent statutory role of all electoral officers acting under delegated authority. It also ensures that all councils, large and small, can take advantage of economies of scale in sourcing and meeting common requirements. I remind members that at the May 2000 elections approximately one million citizens, businesses and groups will be entitled to receive ballot papers within the space of seven days and cast a vote by post, although we must look carefully at those provisions, especially in light of the very enlightening speech of the member for Spence. What he did not say will be as much analysed as what he did say. Central coordination of printing of ballot packs, packaging and dispatch, and planning and liaison with the postal authorities will be essential.

The Government has listened to the representations of the local government community and has put in place provisions which meet specific local concerns without undermining the overall objectives. I point to the provisions of clause 10 relating to the appointment of a deputy returning officer nominated by councils who, subject only to their suitability, will be given substantial delegations and responsibilities. Under this provision, for example, it would be possible for the council to propose as a suitable officer an officer of the Australian Electoral Commission and, subject to their agreement to act, their appointment as deputy returning officer is guaranteed by the Bill. This would allow a degree of choice of a professional person to conduct the elections for that council under only limited direct oversight by the State Electoral Commissioner.

Where a deputy returning officer is nominated and appointed under the Act, the State Electoral Commissioner's costs and charges to the council would be small and in some cases they would be negligible. Certainly, there would be the ability for non-metropolitan councils with a history of high levels of voter turn-out at elections held at polling booths to seek approval to continue with this form of voting. This is important, especially for country councils. I reassure honourable members and the local government community that the proposed arrangements are flexible and cost effective, and allow councils to select suitable people to manage the operational aspects of the elections at a local level.

In respect of the matters raised by the members for Spence and Colton, I wish to assure them absolutely that that is why conflict of interest provisions exist in a Bill which we have previously debated. Certainly, if members reflected on the penal jurisdiction, they would realise that the sorts of matters being canvassed by the members for Spence and Colton tonight certainly indicate why we need some form of jurisdiction in this Bill. I can assure the members for Spence and Colton that the conflict of interest provisions not only for the Adelaide City Council but also for all councils will be very strictly monitored and will be adhered to in accordance with the law.

As do members who contributed to the debate, I find the article and some of the revelations shared with us by the member for Spence to be matters which should be contemplated further. I am not sure where they will lead us, but I thank the member for Spence for at least acknowledging that the sensible provisions of the City of Adelaide Act which we now seek to incorporate into the body of these Bills in fact provide for greater transparency in local government. As the member for Spence says, otherwise we would never have known. Whether this is right, appropriate or wrong we can say that at least now we know, and I think it will be not only the members for Spence and Colton who find this extraordinary if not bordering on bizarre. I commend the Bill to the House.

Bill read a second time.

Clauses 1 to 5 passed.

Clause 6.

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

Page 4, lines 18-20—Leave out subclause (2) and insert:

(2) A supplementary election will not be held to fill a casual vacancy if—

(a) the vacancy occurs within five months before polling day for a general election (the date of that polling day being known at the time of the occurrence of the vacancy); or

(b) —

(i) the vacancy is for an office other than mayor; and

(ii) the area of the council is not divided into wards and;

(iii) there is no other vacancy in the office of a member of the council (disregarding the office of mayor); and

(iv) it is a policy of the council that it will not fill such a casual vacancy until the next general election.

(2a) However, if—

(a) a vacancy has not been filled due to the operation of subsection (2)(b); and

(b) another vacancy occurs in the office of a member (other than mayor); and

(c) the other vacancy has not occurred within five months before polling day for a general election (the date of that polling day being known at the time of the occurrence of the vacancy),

then a supplementary election must be held to fill the vacant offices.

(2b) If—

(a) a casual vacancy has occurred; and

(b) a supplementary election is not to be held by virtue of the operation of subsection (2)(b),

any subsequent revocation or alteration of a policy of the council in force for the purposes of subsection (2)(b) cannot have effect so as to require the casual vacancy to be filled before the next general election.

This is a concession to requests from the LGA on behalf of some rural councils concerned at the cost of conducting a supplementary election by postal voting across the whole electorate. Where there are no wards, a council will, if it wishes, be able to adopt a policy that a casual vacancy for a councillor's position will be able to go unfilled until the next general election for all council members.

Amendment carried; clause as amended passed.

Clauses 7 to 12 passed.

Clause 13.

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

Page 7, lines 31 and 32—Leave out subclause (2).

It is proposed to delete subclause (2), having regard to the fact that a council's budget for conducting the elections is only one of a number of considerations which the returning officer will need to bear in mind. A separate subclause was therefore not considered to be warranted.

Amendment carried; clause as amended passed.

Clauses 14 to 38 passed.

Clause 39.

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

Page 21—Line 10—Leave out 'that complies' and insert:
and a set of candidate profiles that comply

Line 31—Leave out 'is not invalid by reason only of the fact' and insert:
may be admitted to the count notwithstanding

The first amendment relates to the issue of postal voting papers and extends the duty on the returning officer to send an explanatory notice about voting procedures to electors with their postal ballot papers by requiring that a set of candidate profiles be also sent out at that time.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: Again, the member for Spence gives away his secrets. The second amendment also relates to the issue of postal voting papers. The LGA has suggested that this subclause be redrafted to clarify the powers of the returning officer to admit votes to the count notwithstanding a formal defect in the declaration completed by the voter. In a democratic process such as a council election, it is desirable that every effort be made to admit people's votes to the count rather than rejecting them on technical grounds, subject always to the returning officer's being satisfied that opportunities for improper activities and acts are minimised. The amendment is therefore designed to clarify the provision and to support the returning officer in conducting fair and honest elections.

Amendments carried.

Ms CICCARELLO: With regard to the eligibility of persons to vote, clause 17 provides that people need to be an Australian citizen to be able to vote at council elections, and I believe that is discriminatory. Even with postal voting, there are serious concerns regarding people of a non-English speaking background being able to participate effectively in council elections. I would like to see that issue addressed because, if we are saying that people who are ratepayers or people who own property should be eligible to vote, it would be discriminatory if someone living in a particular property who did not happen to be an Australian citizen did not have the opportunity to vote.

The Hon. M.K. BRINDAL: The member for Norwood is wrong: they cannot stand for a council position unless they are an Australian citizen. That concurs with the position of this House and the various Houses in Canberra. Most Australians believe that the privilege of representing other Australians in local government or State or Federal Governments is one that should be extended to Australian citizens.

The answer to the member for Norwood's second question is 'Yes; they can vote at present.' There is no thought in this legislation to change their right to vote. Clause 14(1)(a)(ii) provides that a natural person—which I presume they will be—of or above the age of majority is entitled to vote if they are a resident at a place of residence within the area or ward and have lodged the prescribed application with the chief executive officer of the council. They do not have to be on a roll or an Australian citizen: they merely have to be a resident. That is the condition at present. If the member for Norwood wants to know my personal feelings, I think we are more than generous in local government elections. I have no personal objection to somebody who pays a fee voting in a council. I have no objection to Australian citizens and other people voting in such things.

This Bill goes even further and provides that, if you simply happen to live somewhere and you want to go down to the council chamber like, for example, all the people at St Marks can run up to the town hall, they can get themselves registered and they can have a vote in local Government elections. If there is another democracy in the world—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: St Marks, the college at the university.

Mr Atkinson: Wouldn't they be on the Assembly roll?

The Hon. M.K. BRINDAL: Not necessarily, because they may be registered on the Assembly roll wherever they live.

Mr Atkinson: Then how do they get to vote?

The Hon. M.K. BRINDAL: I am just explaining to the member that they simply have to go to the council, register as residents, so they are put on a residents' roll, and they are eligible to vote. I know of no other democracy in the world that extends such privileges to people who are non-citizens. The member for Norwood, in asserting what she did, is quite wrong. There is no provision to change it. However, I wish that all the other countries were as good with allowing people to vote for local government elections as we are in this State, because I can assure her they are not.

Mr CONLON: What is a prescribed application, and would that in itself place any impediments or restrictions upon those who might be successful with a prescribed application?

The Hon. M.K. BRINDAL: The nature of the form is laid out in regulations; that is why it is a prescribed form. There is no attempt at all to limit anybody from exercising the vote in local government, unless they are persons who are dead or something like that where they are non-persons and simply cannot vote. If any member were to try to get them to vote in the council election, they might find themselves in trouble.

Clause as amended passed.

Clauses 40 to 55 passed.

Clause 56.

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

Page 33, line 7—Leave out 'A' and insert 'The'.

Amendment carried: clause as amended passed.

Clauses 57 to 86 passed.

Clause 87.

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

Page 45, line 34—Leave out 'four' and insert 'three'.

I invite the member for Spence to consider this amendment carefully, because it is proposed to reduce the retention period for campaign donation returns from four to three years and just to limit the storage requirements on councils.

Mr Atkinson interjecting:

The CHAIRMAN: Order!

Amendment carried; clause as amended passed.

Clause 88 passed.

Clause 89.

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

Page 46, line 17—Leave out 'four' and insert 'three'.

This is almost consequential on the last amendment. It is proposed to reduce the retention time from four to three years with respect to candidates, as the previous one was with respect of campaign donations.

Amendment carried; clause as amended passed.

Remaining clauses (90 to 93), schedule and title passed.

The Hon. M.K. BRINDAL (Minister for Local Government): I move:

That this Bill be now read a third time.

I thank the Opposition, members on the Government benches and the Independents for their cooperation on this Bill. The Government is most pleased with the progress it has made. We will look forward to its passage through the Upper House. We hope that, if the Opposition is considering amending the Bill in the Upper House, we can ensure that we keep some of the very good provisions which, the member for Spence pointed out tonight, do not detract from this Bill. If the Opposition supports this Bill in the Upper House and amends it in a way which adds to the Bill, we will support it when it comes back here. If not, we will do what normally happens by way of parliamentary process. I thank all members of this House for their cooperation on this Bill.

Bill read a third time and passed.

STATUTES REPEAL AND AMENDMENT (LOCAL GOVERNMENT) BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 821.)

Mr CONLON (Elder): A great deal of this Bill plainly is consequential upon particularly the first Bill dealt with in this trio. I assume it will also rely in its final shape on that of the original Bill. Therefore, it is not my intention to spend a great deal of time canvassing it, but I will canvass a foreshadowed amendment of the member for Spence.

I want to make something absolutely clear: the amendment standing in the name of the member for Spence relates to a subject which is often seen as a particular crusade of the member for Spence, but I assure this House that, while it is the case that the member for Spence has pursued this subject with the utmost energy, it is absolutely the case that the Labor Opposition is 100 per cent behind him on this matter for the reasons I will briefly explain. The matter refers to the closure of Barton Road in leafy North Adelaide. I have never been so presumptuous as to suppose that I would ever live in North Adelaide but I do have one friend who does and I have occasionally been walking with him.

North Adelaide is, without doubt, one of the most beautiful places in South Australia; one of the best appointed; one of the richest in terms of landscape and parkland; and it is scenic, picturesque and well-endowed with facilities. It is therefore particularly galling that those people who have the good fortune to enjoy those things—or the council, I should say, which represents those people—are not content with what I personally consider to be a very significant level of wealth in Australia and in the world and have pursued a road closure not to stop the dirty unwashed moving in with them but merely to stop them driving past.

I have now heard this debate and all the arguments about Barton Road a dozen times and why it was closed but let me say this: no-one has convinced me for a moment that Barton Road was ever closed for any reason other than to prevent the disturbance of the already very fortunate residents of North Adelaide. I said that I would be brief; I foreshadow that I will energetically support the amendment of the member for Spence. I believe it is the most appalling self-interest of the residents of North Adelaide—and I do not mean all of them but those who represent them—to have this road closed. I can assure members that not only myself but a number of members of the Labor Opposition will be supporting the member for Spence in this matter.

The Hon. M.K. BRINDAL (Minister for Local Government): I thank the shadow Minister for his reasoned and detailed contribution to this Bill as in other matters relating to local government. I look forward to the part which the Upper House will play in amending this package of Bills. I am at a bit of a loss to understand why the honourable member seeks to do it in the Upper House. I know that none of his Upper House colleagues is quite as erudite or quite as quick on their feet as he is. I would have enjoyed the repartee, thrust and counter-thrust with the shadow Minister. Let us not denigrate members in the other place in terms of their ability but it would have been nice to see what the mercurial member had up his sleeve. It is nice to watch a magician at work.

With respect to the issue of Barton Road, I suggest that the member for Spence has developed a passion for this subject. No-one doubts his zeal, fervour or absolute wish to conquer the world, the flesh and the devil, whichever of those three get in his way, but on this issue we will just have to test the will of the House. The member for Spence's amendments, which propose to address matters that run parallel between council areas, abut council areas and other provisions where two councils are affected, are interesting propositions which, if I can get away from Barton Road and talk about Silkes Road ford, may have been provisions we would have wished to have.

Unfortunately, the honourable member's series of Governments were not enlightened enough. It is interesting that the member for Spence now prevails in his Party room but there must have been a time when he clearly did not. Something must have changed in the Party room opposite because the member for Spence has been here nine years. For part of that time the member for Spence's colleagues held Government and, if he could have convinced his colleagues at that time that such a provision was necessary, I acknowledge, in terms—

Mr Atkinson: Mr Sumner of Childers Street was a problem.

The Hon. M.K. BRINDAL: No—of the Silkes Road ford that it would have been a handy way of resolving a most unfortunate conflict between two councils. However, I think the debate has moved on and, as I said, we will need to test the will of the House. The member for Spence knows, and I admire the member for Spence for nothing if not his tenacity—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I will ignore the fact that the member for Spence seems to be threatening the Government and the passage of its Bill. That is clearly an intimidation of a vote but I will ignore that because I sometimes have some time for the member for Spence when he is not acting like a bully. Having said that—

Mr ATKINSON: I rise on a point of order, Sir. The Minister has referred to me as a 'bully'. It is unparliamentary language, I take offence and I ask him to withdraw.

The ACTING SPEAKER (Mr Hamilton-Smith): The comment is not unparliamentary in my view. There is no point of order.

The Hon. M.K. BRINDAL: If the member for Spence is offended, of course, I withdraw; I would hate to hurt his tender sensibility. It is my pleasure. I only said if he were acting like a bully I would be offended and I accept that he was not. The member for Spence knows—and, as I said, I admire his tenacity—that what we are doing in a raft of Bills is shifting legislative responsibility where it belongs. The member for Spence has said, and I have heard him say in debate, that the Roads (Opening and Closing) Act is the Act that should have been used in this instance. We are seeking to push all of these provisions into the appropriate Acts and I—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: Into the appropriate Acts—and I put to the member for Spence that that would be a very good opportunity to deal with these matters.

Mr Atkinson: You wont support me then, either.

The Hon. M.K. BRINDAL: The member for Spence says that we will not but how does he know. He just assumes that we have the same prejudicial—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: The member for Spence is being unfair. All I am saying to the member for Spence is that, consistent with our approach throughout these Bills, if this is a matter he wants to address—and I am sure the member for Adelaide will vigorously debate the issue with him because they always do—

The Hon. M.H. Armitage: No, I'd make the same points I made before.

The Hon. M.K. BRINDAL: No, I am not talking about now; I am talking about in another context. If the points are made at that time in that Bill then it can be tested. I thank members for their contributions to this Bill and commend it to the House.

Bill read a second time.

In Committee.

The CHAIRMAN: I advise the Committee that this Bill contains a few references to section numbers in the Local Government Bill which passed through this House earlier this evening and which will change as a result of amendments made in that Bill. I advise the Committee that it is my intention to make those changes as clerical amendments.

Clauses 1 to 22 passed.

Clause 23.

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

Page 24, lines 24 to 29—Leave out subclause (4) and insert:

(4) Subsection (3) of section 77 of the 1999 Act, insofar as it relates to the fixing of allowances at the first ordinary meeting of a council at the conclusion of the periodic election to be held in May 2000, operates subject to the qualification that any amount fixed at that meeting for the ensuing period of 12 months must not exceed the maximum allowance prescribed by the regulations for the purposes of that section.

This amendment is designed to ensure that allowances fixed by councils at their first ordinary meeting after the May 2000 elections are not greater than the maxima set by the legislation. This will include all principal members, some of whom are currently in receipt of allowances above the maximum likely to be prescribed in the regulations.

Amendment carried; clause as amended passed.

Clauses 24 to 40 passed.

Clause 41.

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

Page 28, line 21—Leave out 'Part 3' and insert 'Part 2'.

This amendment is purely technical to correct a reference. The relevant phrase should refer to Part 2 of chapter 11.

Amendment carried; clause as amended passed.

New clause 41A.

Mr ATKINSON: I move:

Page 28, after line 24—Insert:

Certain road closures to cease to have effect

41A. (1) The closure of a prescribed road to vehicles generally or vehicles of a particular class in force under section 359 of the 1934 Act immediately before the repeal of that section ceases to have effect (unless already brought to an end) six months after the repeal of that section (and the relevant council must, on the closure of a prescribed road ceasing to have effect pursuant to this subsection, immediately remove any traffic control device previously installed by the council to give effect to the closure).

(2) However, subsection (1) does not apply if the closure of the road is, before the expiration of the six month period referred to in that subsection, confirmed by action taken by the relevant council under another Act.

(3) In this section—

'prescribed road' means a road—

(a) that runs from the area of one council into the area of another council; or

(b) that runs along the boundary between two councils; or

(c) that runs up to the boundary of a council; or

(d) that runs up to another road running along or containing the boundary between two councils.

The Local Government Act does contain, until this package of Bills goes through, a section known as 359 of the Local Government Act. When first enacted it was titled 'Temporary closure of streets or roads'. That section was designed to allow councils to close roads and laneways temporarily for purposes such as the grand final street parade or the John Martin's Christmas Pageant, as it then was, or a street fair of some kind. It could also be used to close a road so that council workers could do roadworks on that road. When it was introduced in 1986 the clause notes read as follows:

Clause 27 amends section 359 of the principle Act so as to allow part only of a street, road or public place to be closed on a temporary basis.

Members interjecting:

Mr ATKINSON: If the member for Adelaide were overseas I could conjure him in that seat merely by talking on this topic—he could indulge in astral travel to be here.

The Hon. M.H. Armitage interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: Could I have some protection here, Sir? When that Bill went through Parliament in 1986 the member for Adelaide's sister-in-law, the present Minister for Transport, said of this amendment:

A further amendment to section 359 is to close public pathways and walkways on a temporary basis.

So, this provision went into the Local Government Act in 1986 but as a result of the Minister's reforms to the Local Government Act it will no longer be in there. Section 359 has

fallen to the ground. I thank the Minister for that because he has accepted my policy arguments that it is unsatisfactory to have—

The Hon. M.K. Brindal: Quite right.

Mr ATKINSON: I thank the Minister for saying 'quite right'. It is unsatisfactory to allow a local government body, a council, to permanently close a road which runs between two municipalities simply by passing a resolution. A council that proposes to close a road running between two different municipalities should either use the Roads (Opening and Closing) Act or use the equivalent provision to section 359, which I understand will now be in the Road Traffic Act, and consult and obtain the consent of the other council into whose area the road runs. I understand the Minister is accepting my suggestion on that and that is what will be in the Road Traffic Act. That is splendid and I thank the Government for accepting my suggestion. The Government is saying that the member for Spence on principle is right and I thank the Government for that.

Section 359 of the Local Government Act now falls to the ground. The question is how we handle that. We have a transitional Bill before us and that is the appropriate place in my view to handle the transitional arrangements. The question is: what happens to permanent closures of roads that run between two municipalities under a section of the Local Government Act that no longer exists? The proper place to deal with it is in a transitional provision. I must tell the member for Adelaide that the numbers to insert this proposed new clause may not be here in the Assembly—I am only one vote short here—but the numbers are unquestionably there in another place.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: I think I am only one vote short. It is also fair to say that I have not yet met a member of the House, other than the member for Adelaide, who does not accept my argument on this. In fact no member in the Parliament, apart from I think the Minister for Transport in another place, has been willing to rise to support the argument of the member for Adelaide on this.

The Hon. M.H. Armitage interjecting:

Mr ATKINSON: Alas the Hon. C.J. Sumner is no longer with us in Parliament. It is true, as the member for Adelaide points out, that there have been many uses of section 359 of the Local Government Act to close roads within a municipality permanently. That is quite true. My own council, the City of Charles Sturt, has been one of the great offenders.

Mr Clarke interjecting:

Mr ATKINSON: Alas the staff are not.

Mr Clarke interjecting:

Mr ATKINSON: I have never said such a thing. Could I have some protection from the interjections, Sir. I am trying to make some important points here.

The CHAIRMAN: Order! The member for Spence is going a fair way to aiding and betting some of the responses that he is receiving.

Mr ATKINSON: It is true that for many local governments, once they realised that they could close roads permanently under section 359 of the Local Government Act, contrary to the intentions of the people who put that section in the Act, indulged in a fiesta of closing roads permanently under that provision. The City of Charles Sturt joined in. Gilbert Street at Ovingham was closed pursuant to other road closure provisions, I think provisions in the Road Traffic Act, but shortly before debate commenced in this House on the City of Adelaide Bill, I noticed in the *Government Gazette* that these already existing closures, closures which had existed for many years, were renewed under section 359 of the Local Government Act. I do not have a quarrel with roads entirely within one municipality being closed under section 359 of the Local Government Act permanently. The quarrel I have is with permanent closures of roads running between two different municipalities, and there are only two road closures that fit that description.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: There is a lot more to come. The deadlock conference on this is going to be—

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: There will be far more debate on this because, as I understand it, there are the numbers in another place to support this clause going into the Bill. Believe me, once it goes into this Bill in another place, the unanimous view of the parliamentary Labor Party is that these Bills will not be passed without that clause. So I hope that the Minister understands what is at stake here. It is all very well to try to protect one member's residential amenity and the resale value of his property, but to make that a stanchion of Government policy—

The Hon. M.K. BRINDAL: On a point of order, Mr Speaker. I believe the member for Spence has ascribed improper motives to this Government. The member for Spence has said that this Government seeks to protect one member's residential amenity, and I believe that that is outrageous.

The CHAIRMAN: Order! There is no point of order. The Minister can answer that allegation when he responds, if he so wishes.

Mr ATKINSON: For the whole of the Government's policy on these three Bills to be hanging on whether they can keep a particular road closed does seem to be very bad legislative policy by Government and rather irresponsible, I would have thought. Anyway, I shall move on from there. When I raised this question on the City of Adelaide Bill, not only did the other place support my view but the Assembly supported my point of view and it changed the City of Adelaide Bill so that no longer could a road running between two municipalities be closed under section 359 of the Local Government Act unless the consent of the other municipality was obtained. This applies not just to Barton Road but to Silkes Road ford, running between the City of Campbelltown and the City of Tea Tree Gully. There are two examples of this. So the only two road closures to which this transitional provision applies of which I am aware are those two. So that is what we are talking about.

The Minister on the City of Adelaide Bill, who is the same Minister who is with us tonight said in debate on the City of Adelaide Bill:

> If we look at the issue of roads where two councils are adjoining, it must be looked at in that context, and the rightful context is the Local Government Act Review.

Well, we are here now.

The Hon. M.K. Brindal: Who said that?

Mr ATKINSON: You did Chucky; it is you who said it.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: The Minister says he is wrong, but he said it. Well, I am here, bright eyed and bushy tailed, to look at exactly that question under the review of the Local Government Act. The member for Adelaide said at that time:

> It is about the ability of the local council to stop additional traffic coming down the local streets within that local council for the amenity of its local residents.

I think what the member for Adelaide implies by that is that this matter should be remitted to the Adelaide City Council. That is exactly what I am proposing under this clause. So, I am happy to have the council of the City of Adelaide look again at the closure of Barton Road, North Adelaide, and I am happy for the City of Tea Tree Gully to have another look at the closure under the temporary closure provision that has fallen to the ground of—

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: The Minister says it has already dug up the road. That is quite right. The City of Adelaide has dug up Barton Road; the City of Tea Tree Gully has dug up the Silkes Road ford, and, if it has not already done that, it has erected concrete barriers. But as Commissioner Iris Stevens found when she investigated this for the Local Government Department, these are still temporary road closures because they may be revoked at any time by a simple resolution of the council. So, in Commissioner Stevens' view, doing her inquiry for the Government, she says that these are still temporary road closures. It matters not that the roadway has been dug up. It matters not, as I am sure the adviser will tell the Minister. I notice the Minister nods, and the Minister concedes that that is what he has been told.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: These are still temporary closures in the sense that they can be revoked by a simple resolution. So what I am proposing to do by this amendment is remit to the Tea Tree Gully Council and to the Adelaide City Council the consideration of these so-called temporary road closures, and this time they can renew them after having consulted the other local government body. That is not retrospective legislation at all. There is not an element of retrospectivity in it. It is just making certain how we deal with the transition from one Act to a new Act. I am happy for this matter to be remitted to the Adelaide City Council. The person who is now resisting the Adelaide City Council deliberating on this closure is, in fact, the member for Adelaide, because he knows that now that the—

Mr Clarke interjecting:

Mr ATKINSON: Not to put too fine a point on it. He knows that the numbers on the council have changed. If the matter were now remitted to the Adelaide City Council afresh it would not support the closure; in fact, it may revoke the closure by resolution in the not too distant future. So the person who is resisting the remitting of this matter to local government is the member for Adelaide, who leads the Opposition to this amendment. I am not going to call a division on this amendment, Sir, because I believe that that would put it to your casting vote, and I do not want to put you in an embarrassing position. But this amendment will be carried in another place, and the matter that will then face the Government is: should the whole of the Local Government Act reform, all three Bills, hang on the pecuniary interests of one member of the Government?

The Hon. M.H. ARMITAGE: I do not intend to in the vernacular 'rake over old coals'. I am absolutely confident that the member for Elder does, however, because that is the member for Elder's personality.

Mr Conlon interjecting:

The Hon. M.H. ARMITAGE: I am confident you will. I do wish to bring to the attention of the House the fact that my interest and involvement in the closure of Barton Road on legitimate advice which the then council of 15 or 20 years ago received was nil, despite what the member for Spence continues to allege. For him to again allege that that was the case is incorrect and flies in the face of a previous apology which the member for Spence has made in the House.

As I have indicated on a number of occasions, it is my view that a local government has every right to protect the amenity of its local citizens, which is exactly what the Adelaide City Council was doing and has continued to do by the closure of Barton Road.

Members interjecting:

The Hon. M.H. ARMITAGE: I am certain they will be. Sir—sorry: Madam Chair—what I find particularly interesting is that a member of my staff actually rang the Charles Sturt Council within the past couple of working days, to be informed that the only closure operating for Gilbert Street, Ovingham was section 359 of the Local Government Act. So, I would suggest that the member for Spence might ring his local council to clarify that matter, because that was our advice. We took the step of ringing the local council to be informed unequivocally that the only closure operative on Gilbert Street, Ovingham was section 359 of the Local Government Act. So, given that information, I look forward to the member for Spence's attitude on this matter, because it is my view that, just as the Adelaide City Council has absolutely legitimately protected the rights of its citizens not to be subjected to through traffic, particularly when there is such an easily accessible alternative route, that right is exactly—

Members interjecting:

The Hon. M.H. ARMITAGE: The member for Spence laughs. I will not be drawn into the debate, because it is simply not worth it, but I do remind the House that, in this House and publicly, the member for Spence has said the only way—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: He denies it Sir; I am very happy to identify to the member for Spence the day in *Hansard* on which he said it and his article in the newspaper which quoted it. He said that the only way to get from Brompton to North Adelaide was to go onto Park Terrace—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: The member for Spence is trying to back away, but the one thing I know perhaps more than any others about *Hansard* is that it actually reports what one says.

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: Now the member for Spence is saying 'three'. Why, Sir? Because his fingers were in the till and the thing is very quickly closed.

Mr ATKINSON: I rise on a point of order, Madam Acting Chairman. The member for Adelaide has accused me of having been caught with my fingers in the till, which is both offensive and unparliamentary, and I ask him to withdraw it.

The ACTING CHAIRMAN (Mrs Geraghty): In the context in which it was said I do not think it had a literal meaning but, if the honourable member finds it unparliamentary, I ask the Minister to withdraw.

The Hon. M.H. ARMITAGE: I am very happy to withdraw, and I do so, because that is actually what the member for Spence directly—not inadvertently—accuses me of doing all the time and refuses to—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: I will have to get it, but I certainly have it. And he refuses to withdraw. I am very happy to withdraw what was a figure of speech absolutely unrelated to financial return, whereas for five years the member for Spence has indicated that my view on this is a

direct financial benefit to me—and again he is wrong. However, that is irrelevant, because I was arguing the fact that the member Spence said that the only way to get from Brompton to North Adelaide is to turn right—

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: The member for Spence now says, 'I never said that.' No, Sir, he did. He said that the only way is to turn right down Park Terrace, turn left at the brewery corner, and then go left all the way along—

Mr Atkinson: Go on, look for it there.

The Hon. M.H. ARMITAGE: No, it's a different matter altogether. You go up past the police barracks, up past the hotel on the corner, up North Terrace and over the Morphett Street Bridge. He then embellished it by saying that if we wanted to, on this mythical journey, we could actually wave to the people in Parliament House as we went over the Morphett Street Bridge, up past Montefiore Hill and so on. That is claptrap. If one wants to get from Brompton into North Adelaide, one turns left up Park Terrace and right down Jeffcott Street and there you are.

Everybody knows that the member for Spence over embellished. Members will note that I am not using unparliamentary language. Everybody knows he deliberately over embellished that road. Why? It was because he does not want what could be liberally described as the truth to be in the debate. He has made a habit of it; it is as simple as that. That is the level to which the member for Spence sinks. He directly identifies roads which are about 5½ kilometres instead of a road which is about 1¼ kilometres. I have the figures somewhere; I will find them and read them into *Hansard* later. I have actually driven the road to work out the distances. That is where the member for Spence completely and unfortunately (because he is a man who takes his own intellect seriously) identifies that in this case it is a house of cards. He would have a lot more credibility if he did not deliberately over embellish. If he actually said what was clearly the truth, which is, 'The easiest and quickest way is this way', everyone would understand that, but for him to say 'the only way' is clearly ridiculous.

Mr Atkinson: I never said that.

The Hon. M.H. ARMITAGE: The member for Spence says, 'I never said that.' I look forward to identifying exactly where the member for Spence said that. I presume that people in my office are looking for that right now. Sir—Madam Chair—another interesting thing—

Ms KEY: I rise on a point of order, Madam Acting Chairman. I would understand that you should be called 'Madam Chair' not 'Sir', and I would ask that the honourable member use the proper language.

The ACTING CHAIRMAN (Ms Hurley): I uphold the point of order.

The Hon. M.H. ARMITAGE: Madam Chair, with respect, if you check *Hansard* you will identify that I had already said that anyway. So, simply, my advice is that Gilbert Street, Ovingham, is closed under this clause which the member for Spence says is so dreadful. I am sure that the residents of Ovingham would not like to have that road reopened, just as the residents living in the North Adelaide area feel exactly the same way about their council. Another interesting thing is that my advice is that Wright and Lamont Streets, Renown Park are affected by this.

Mr Atkinson interjecting:

The Hon. M.H. ARMITAGE: I understand that it does. Sir, it was interesting to see the member for Elder earlier who identified—Madam Chair—that this dastardly thing had occurred.

Ms KEY: On a point of order, madam Chair, I do not think that you are a 'Sir', and I would suggest that the Minister observe proper protocol in Parliament.

The ACTING CHAIRMAN: Whilst I uphold the point of order, I think the Minister is obviously elevating the title 'Sir' to me. However, I think he should call me by my correct title.

The Hon. M.H. ARMITAGE: Madam Chair, if you check *Hansard*, I have already done that. It is a bit too late. The other interesting thing is that the member for Elder seemed to identify that this particular road was the closest thing to Armageddon that he can imagine. I am informed that Goodale Avenue, Clarence Gardens, will be affected by this provision. I look forward—

An honourable member interjecting:

The Hon. M.H. ARMITAGE: It happens to be in the electorate of the member for Elder. It will be most interesting to see what the various people in the electorate of the member for Elder and that of the member for Spence say when it becomes clear that, rather than acknowledge that a local government body ought to have the right to protect its local constituents, for all the reasons of the class warfare of 1930 and 1940 they will choose to move this amendment. I think it most interesting. I do not intend to reiterate the statements in this debate unless I am able to note quickly where the member for Spence made his great embellishment. I look forward to bringing that to the attention of the House, otherwise, I continue to oppose this course.

Mr CONLON: I rise not to go on at great length about this—

Mr Atkinson: Unless that were necessary!

Mr CONLON: Unless that were necessary, as the member for Spence says—but merely to urge the justice of the member for Spence's case. He asks for no more than that the closure be reconsidered by the council. As I understand it, it was a council that originally closed it, so it hardly seems unfair. One of the other things that I would like to do is correct what may have been a false impression that I gave during my second reading contribution. I do not believe that the bulk of residents of North Adelaide are responsible for the closure of Barton Road. I think that the bulk of them, being fair people, would recognise the justice of this case. I am sure that the council, were it allowed to consider it, would recognise the justice of the case. It is simply a small group.

I did not intend to say much on this at all, but one phrase of the Minister simply could not go without comment, when he said that it was the legitimate right of the council to protect the amenity of its residents. According to the member for Adelaide, it may be its right to protect it but it is certainly not its right to review it, just in case it changes. I would just like the House to consider that phrase and consider the amenity of the residents of North Adelaide. Perhaps I could take members on a little tour just north of this place along King William Road, past on the left the scenic Adelaide Oval, considered to be the finest and most beautiful cricket oval in the world. Consider briefly the terraces on the western side of North Adelaide. Walk through the golf course and the gardens, and see the leafy gardens, the hibiscus plants, the vines, and the houses with their beautiful little secret gardens. I am not jealous of that: good luck to them.

I just ask members to consider the amenity of the residents of North Adelaide, then go to the north and consider again the boundary of beautiful park lands and the swimming centre.

Then take a detour back through some of the many amenities available to the local residents, such as the tennis courts—more per head, I guess, than anywhere else in South Australia—then come back along O'Connell Street, see the beautiful cafes and restaurants, and perhaps duck left again coming back and go down Melbourne Street to the lovely cafes. Consider the parklands on the eastern side and, if you are really tired of all that amenity, duck over and take in the northern part of the Torrens Linear Park, up past more parklands and tennis courts, and consider the amenity of the poor residents of North Adelaide.

I say again that most of the residents of North Adelaide would see the justice in this. There is just a very small group, a very wealthy and very exclusive group, that simply cannot get enough. I must say that I have no difficulty with the council reconsidering the closure of a street in my electorate. I have great confidence in my local council to make the right decision, just as I have great confidence in the council of the City of Adelaide to make a just resolution on this.

Mr CLARKE: I, too, support the comments of the member for Spence and, in particular, the member for Elder, who stole my thunder somewhat about the member for Adelaide's contribution with respect to the impact on the amenities of the residents of North Adelaide, in relation to the member for Spence's amendment. The reality of it is that all 69 members of this Parliament would like this matter to be resolved in favour of the member for Spence, if for no other reason than that we do not have to put up with the Barton Road debate year in, year out, session in, session out. For five years I have endured this torture, this debate in Chamber between the member for Adelaide and the member for Spence. And I would like it to cease once and for all.

I do not think that the member for Spence's idea is bad at all, because basically it does not reopen Barton Road simply at the decision of this State Parliament: it will be a decision for the City of Adelaide, the recently elected Council of the City of Adelaide, which will be obliged to review its decision and to make a decision. The member for Spence has taken a punt that he has either bought, suborned or cajoled the majority of members of the City of Adelaide to vote his way. He may not have been successful at counting his numbers, but it will be up to the recently elected Council of the City of Adelaide to determine whether or not Barton Road remains closed or is reopened.

It is not this Parliament that will decide it: we are simply saying that we want the council within six months to make that decision. The member for Spence is quite right when he says that it was a gross abuse of power by the previous council, because of the type of gerrymander electorate that it had, where some North Adelaide residents who had a disproportionate influence on the council because of the ward system of representation on the City of Adelaide were able to get that road closure through. Now that all city councillors are responsible to the city as a whole and have to take a broader view and are not beholden to rotten boroughs, in the sense of the North Adelaide wards, we are simply asking through the member for Spence's amendment for a vote either to confirm the *status quo* or to overturn it.

I do not think that that is actually a hideous position. We are saying that it is the elected council that will determine the position, not this Parliament. We are simply saying: 'Get on with it and make that decision within six months and save this State and its taxpayers year in and year out of debate between the member for Spence and the member for Adelaide on this point.' As to what the member for Adelaide said—and I agree totally with the member for Elder—in terms of the impact on the so-called amenity of the residents of North Adelaide, North Adelaide is an inner city suburb and, where many residents of Adelaide are required to travel through North Adelaide into the city of Adelaide for work or recreation, road closures do impact on the broader community.

I say quite frankly to the member for Adelaide that I am fed up with breaching the law every time I travel down Barton Road—because I do. When I travel down Hill Street to drop my daughter off at St Dominic's Priory College in Hill Street, North Adelaide, I have a quick look round to make sure there are no cops lurking around the corner, and I dart up Barton Road. When I want to come home, go back down to Prospect or whatever, I have a quick look around for a police car and I go down Barton Road. And do you know what? I am not the only vehicle driver in South Australia to breach the law.

There is a queue of cars doing the same as I do, going down Barton Road. This amendment simply brings it back to a position which should have prevailed right at the very beginning and which I am sad to say that the previous Labor Government did not deal with, despite the representations of the member for Spence. He was right in his criticism of the former Labor Government from 1989 to 1993 on this issue. I do not know why we took the North Adelaide residents' view, given that we did not hold the seat and we would not gain any political mileage in our doing so. We were recommitting the issue back to the City Council. You did it by a con job 10 years ago or thereabouts, totally without principle, totally without consultation with people not just the residents of that area of Barton Road and Hill Street who are impacted upon but the many thousands of people who want to visit their parents, wives, girlfriends or relatives who are patients at Calvary Hospital, all the parents who drop off their children at St Dominic's Priory College, and all the other people who live elsewhere in North Adelaide and in the western suburbs who want to use Barton Road as a convenient detour. And why should they not? It happens elsewhere. But, because of a small group of residents in North Adelaide, they are denied that amenity.

All the member for Spence is saying is that we should let the elected City Council of Adelaide—elected only in December of last year—affirm or reverse its decision on the closure of Barton Road within six months, if for no other reason than that every member on the Liberal Party side should seek to deny the member for Spence a pedestal from which he has been able to pronounce widely and loudly for the past 10 years on the injustices done to the residents of the western suburbs by the closure of North Adelaide. That has been his *raison d'etre* for living and the very reason for his being a member of Parliament. You would be denying him the oxygen that he needs to remain in this place. From pure political selfish reasons, you should support the member for Spence's amendment.

The Hon. M.H. ARMITAGE: In *Hansard* of Thursday 23 July 1998 (page 1585), the member for Spence says--

Mr Atkinson: Either. Read it.

The Hon. M.H. ARMITAGE: I'm happy to read it. He says:

> . . . in order to get to western North Adelaide, which we can see from our homes, we—
>
> *Mr Atkinson interjecting:*
>
> **The Hon. M.H. ARMITAGE:** I am—
>
> must either trek south along Park Terrace. . .

But no alternative method to get to North Adelaide is mentioned. Further down—

Mr Atkinson: I didn't say that; you're not quoting properly.

The Hon. M.H. ARMITAGE: That is the end of the quote. I read on.

Mr ATKINSON: I rise on a point of order, Mr Chairman. The Minister is purporting to quote from *Hansard*. He is not quoting from it; he is making it up.

The CHAIRMAN: Order! There is no point of order. The member will have the chance to respond.

The Hon. M.H. ARMITAGE: I am not a bit surprised that the member for Spence is emotional, because recently he identified that he had never said this. I am about to re-read into *Hansard* what the member for Spence actually said. I will read after '*An honourable member interjecting:*' as follows, and this is the member for Spence I am quoting:

> In order to get to western North Adelaide, you have to go down Port Road in a southerly direction and then turn left through the lights at the Squatters Arms Hotel, past the police barracks, over the railway line and then up the hill towards the Newmarket Hotel.

That is exactly what I indicated before. He then goes on:

> . . . that gets us back to Hill Street to a location from which we were separated by only a few metres before we started.

That is the only method that the honourable member mentioned.

Mr CONLON: I rise on a point of order, Mr Chairman. I refer to Standing Order 128 which refers to a member indulging in tedious repetition of a substance already presented in debate.

The CHAIRMAN: Order! We have heard a fair bit of repetition tonight; there is no point of order.

The Hon. M.H. ARMITAGE: The last thing I will say in this debate tonight is that I reiterate the member for Spence said (*Hansard*, 23 July 1998, page 1585):

> In order to get to western North Adelaide, you have to go down Port Road. . .

As I indicated in the debate previously, that is a route of about 5½ kilometres, as opposed to the route that any sane, sensible person would take, which is 1½ kilometres or thereabouts. It clearly indicates that the member for Spence is more than happy to gild the lily. We all know what I would say if I were outside Parliament.

Mr ATKINSON: The member for Adelaide misquoted me. He attributed to me, pretending to quote from *Hansard*, the word 'only' when the word 'only' does not appear there. What I said was—and I refer to *Hansard* of 23 July 1998:

> In rebuttal of the member for Adelaide, if one lives in Ovingham, Bowden, Brompton or Hindmarsh in my electorate, in order to get to western North Adelaide, which we can see from our homes, we must either trek south. . .

There are three routes for people in my electorate wanting to get to western North Adelaide, and I have said so both in *Hansard* and in the briefing which I give people who inquire about this issue. Those three routes—

The Hon. M.H. Armitage interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: Adelaide, Sir; that's the one interjecting.

An honourable member interjecting:

Mr ATKINSON: Government Enterprises.

The CHAIRMAN: Order! The member for Spence has the floor.

Mr ATKINSON: Thank you, Sir. That is very kind. It would be nice to have some protection from the Minister for Government Enterprises. There are three methods for my constituents for getting into western North Adelaide—

The Hon. M.K. BRINDAL: I rise on a point of order, Mr Chairman. This is not relevant to the clause under debate.

Members interjecting:

The CHAIRMAN: Order! There is no point of order. The member for Spence has the floor.

Mr ATKINSON: The Minister for Local Government retains his almost nil average with points of order. There are three methods of getting from my electorate into western North Adelaide. One is via Park Terrace—

An honourable member interjecting:

The CHAIRMAN: Order! The Minister will take his seat.

Mr ATKINSON: They are via Torrens Road and Park Terrace into Jeffcott Street; another is via Port Road and the Morphett Street bridge; and the third is via War Memorial Drive. So there are three methods. If you live in West Hindmarsh, the time trials on those various routes to get to Calvary Hospital are: for Jeffcott Street, about eight minutes; for West Terrace-Hindley Street, nine minutes; and for War Memorial Drive, nine minutes. They are the time trials we have done on them.

Clearly, if you live in Ovingham, the Hindley Street route is completely illogical—it is just entirely stupid, you would not use it. If you live in Ovingham you would use either War Memorial Drive or Jeffcott Road, but if you live in West Hindmarsh you may well use West Terrace, Hindley Street and the Morphett Street Bridge. In fact, the person who first mentioned this alternative route to me, via the Morphett Street Bridge, Hindley Street and West Terrace, was a constituent and dear neighbour of the member for Adelaide, Robert Neville Francis. He is the person who uses that route.

The Hon. M.H. Armitage interjecting:

The CHAIRMAN: Order!

The Hon. M.H. Armitage interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: Thank you for your protection from the unruly Minister for Government Enterprises. What the Minister will not tell the House is that there is in fact much support for reopening Barton Road in North Adelaide itself. My constituents are almost unanimous in favour of the reopening of Barton Road; I can think of only three who are in favour of keeping it closed.

Members interjecting:

Mr ATKINSON: David Richards, Elizabeth Fitzgerald and Bill Thomas.

The CHAIRMAN: Order!

Mr ATKINSON: The member for Adelaide's constituents are far more divided about this matter if they live in North Adelaide. Many North Adelaide residents have rung me asking for the road to be reopened and, moreover, they have agreed to go on my mailing list about the Barton Road closure. The member for Adelaide knows who those people are but he is not prepared to represent them. And now, as a result of the redistribution—

The Hon. M.H. ARMITAGE: I rise on a point of order, Sir. I represent all of the constituents in my electorate.

The CHAIRMAN: There is no point of order. The member for Spence.

Mr ATKINSON: The fact is that the member for Adelaide has taken one side of this dispute which divides the suburb in which he lives. Many people in North Adelaide are in favour of reopening Barton Road—in fact, the North Adelaide Society is divided on this question; the O'Connell Street traders support reopening Barton Road; the publican

at the Caledonian Hotel, Jack Jennings, supports reopening Barton Road; the nuns at Calvary Hospital support reopening Barton Road; the people who live and work at Saint Dominic's Priory School support reopening Barton Road; and I could go through the names and addresses of people who live in the member for Adelaide's immediate precinct but does he represent them? No. On this issue he directly contradicts their will.

As a result of the redistribution the member for Adelaide will pick up about 400 people living in Ovingham who almost unanimously support reopening Barton Road.

The Hon. M.H. Armitage interjecting:

Mr ATKINSON: The Minister says, 'At least now they'll get decent representation.' The weekend before last I went from house to house talking to each of them one on one and if that—

Members interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: House to house, door to door—

Mr Clarke interjecting:

The CHAIRMAN: Order!

Mr ATKINSON: —and if that is not good representation, I do not know what is. I can assure the residents that they will not be seeing the member for Adelaide in those circumstances.

The Hon. M.H. Armitage: Yes, they will be.

Mr ATKINSON: The member for Adelaide says, 'Yes, they will be.' We will examine that one very closely.

Mr Koutsantonis interjecting:

The CHAIRMAN: Order! The member for Peake is out of his seat.

Mr ATKINSON: The fact is that not one person living in Ovingham supports the closure of Barton Road, North Adelaide. The member for Adelaide can look but he will not find one. It is very dangerous for this Liberal Government to have a marginal seat, which is crucial to the future of Liberal Government in this State, hanging on 400 people in Ovingham who are being slapped in the face by the member for Adelaide on this issue because of his own interests. I think that Liberal members of Parliament ought to be very careful about this issue. They have indulged the member for Adelaide far too long on this matter.

There are many road closures in the metropolitan Adelaide using section 359 of the Local Government Act. In so far as those are closures of roads that run between two different municipalities, wherever they may be, I am happy to have those closures submitted to the council which originally made the closure. I care not where they are. The member for Adelaide claims that Gilbert Street, Ovingham, was closed pursuant to section 359 of the Local Government Act—and I can assure him that it was closed before that section went into the Act—and if he wants the closure of Gilbert Street, Ovingham, submitted to the Prospect Council, I am happy for that to happen. I am very happy for that to happen.

The member for Adelaide has previously called for Gilbert Street, Ovingham, to be reopened to Churchill Road traffic. The people who live in Ovingham now know what the member for Adelaide said about that because they have been presented with quotes in writing from *Hansard* and I have called on them.

The Hon. R.B. Such: They must live in fear.

Mr ATKINSON: In response to the member for Fisher, the people living in Ovingham were pleased to see me the weekend before last. They have the home number and address of their member of Parliament. They can ring their member of Parliament at home at night and on the weekend. That is something they will not be able to do after the next general election and the member for Adelaide does not interject about that.

The Hon. M.K. BRINDAL (Minister for Local Government): I move:

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

Motion carried.

Mr ATKINSON: When the member for Adelaide alleges that I said there was only one means, that is, via Hindley Street, of getting from my electorate to western North Adelaide after the closure of Barton Road, that is simply not true; the record shows it. Furthermore, the amendment is normative. It is general. It was an amendment that was invited by the Minister for Local Government on the City of Adelaide Bill. I remind the Committee that the Minister said:

If we look at the issue of roads where two councils are adjoining it must be looked at in that context and that rightful context is in the Local Government Act review.

Well, we are here. The eagle has landed. We are on the Local Government Act review and all I am asking for is a transitional provision, not a retrospective provision, that remits the closure of roads under section 359 of the Local Government Act running between two municipalities to the council which originally passed the closure resolution. All I am asking is for councils all over the State, where those circumstances exist—and when I came into this debate I was aware of only two such circumstances: Barton Road and Silkes Road ford—to have the matter remitted to that council for its consideration.

The Hon. M.H. Armitage: What about the adjoining council?

Mr ATKINSON: The Minister for Government Enterprises says, 'What about the adjoining council?' I believe that, under the Road Traffic Act as under the City of Adelaide Bill, such a closure resolution ought to have been passed after consultation with the other local government body and, of course, I support that. The Minister is the only person who is not supporting it. In fact, the House supported it. That is why it was included in the City of Adelaide Bill.

My proposition is reasonable and applies uniformly across the State. It is not retrospective and remits Barton Road to the Adelaide City Council. The only reason the member for Adelaide is dragooning the Liberal Party into resisting this amendment is that he is frightened of the decision the Adelaide City Council will now make. I ask the Committee to support the amendment.

The Hon. M.K. BRINDAL: The member for Spence is cute in what he says, and so are some members opposite. Under this Act—and the member for Spence knows it—until it is repealed, section 359 continues in existence.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: The very point. The member for Spence says, 'It's not in the new Act.' Until the intended legislation is introduced to amend the Road Traffic Act, Parliament does not have before it the relevant provisions to replace sections 359 and is at a disadvantage in trying to determine whether the proposed amendment is either necessary or appropriate. Apparently the member for Spence is not only omniscient but omnipresent. He knows also what is in a Bill that nobody else knows. That would be expected from the member for Spence. This matter is better handled—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: Yes, and the member for Spence alluded to his better idea before, so I do not know why he has regaled the House for the past three-quarters of an hour on a matter that may well prove to be less than relevant. This matter is better handled in transitional provisions to the intended Bill shortly to be introduced. The Statutes Repeal and Amendment (Local Government) Bill merely provides for the appeal of section 359 when convenient, following the amendments of the passage of the Road Traffic Act. The Road Traffic Act is where people would expect to see the final results of new provisions on roads closing to classes of traffic and the effect those new provisions will have, including the road closure resolutions previously enacted.

The point is that until those provisions are repealed, I believe, with the little knowledge I have of what might be under the new Act, council may at any time seek to review the closure under what is section 359. So by saying to this Chamber that the member for Spence is giving them the opportunity to review the decision, that is not true. He is forcing them to review a decision, which they can review at any time. But he is forcing every other council in a similar position to do the same. I have done a little bit of work and I understand that there could be hundreds of roads, especially in country areas, that could be affected by his unintended provision, especially when one remembers that Barton Road is not technically closed. It is closed to a class of traffic. It is not a complete road closure.

Mr Atkinson: A class of people.

The Hon. M.K. BRINDAL: Not at all. It is closed to a class of traffic. As far as I am aware buses carry all classes of people indiscriminately. You do not have to have some sort of socio-economic status to get on a bus. It is closed to classes of traffic, as is Silkes Road ford. I believe Silkes Road ford is still technically open to bicycles. The member for Spence forgets that roads are permanently closed by barriers under section 359. They are within council areas and the member for Spence seeks to ignore whether those closures were at all appropriate.

In summary, I acknowledge to the member for Spence that I made a mistake. Under the City of Adelaide Bill I said that the provision he is proposing was best dealt with under this Bill. I now acknowledge that he has to be a little more patient because, in the light of proper consideration, if he wants this matter considered it is more appropriately dealt with in a Bill shortly to be introduced by my colleague the Minister for Transport in another place. The member for Spence is welcome to debate it for six hours next time because I will not be the Minister in charge of the Bill and I will not have to listen to him.

Mr ATKINSON: There are a number of ways of getting Barton Road, North Adelaide, reopened to the two-way movement of motor vehicles and pedal cycles. Remember that the member for Adelaide supports fining cyclists who use the bus lane in Barton Road—that is part of the resolution he supports. As I have said to the House many times, I am never sure whether it is the noise or the emissions of me and my bicycle that cause the member for Adelaide to support closing that bus lane to pedal cycles. They are several ways of reopening the road. One is to pass this clause and then remit the matter to the Adelaide City Council. We can do that through Parliament.

A second method is for the Adelaide City Council to revoke the temporary closure resolution, which it may well do at some time before the next council election. The third measure is by administrative means by the Government. For all the pain we have gone through on this issue over so many years in this House, members opposite have to realise that within hours of Labor forming a Government in this State that road will be reopened to the two-way movement of private motor vehicles and pedal cycles. That reopening will be greatly appreciated not just in the electorates of Spence and Adelaide but greatly appreciated in the electorate of Colton, which is also marginal and where a great many people support the reopening of Barton Road.

Here is the Minister for Government Enterprises putting at risk not one but two Liberal Party marginal seats at the next State election because he wants to keep a road near his home closed. It is quite extraordinary conduct. I find it amazing that members opposite, who hope to be part of a Liberal Government after the next State election, would put their Party's governance at risk for what is essentially, when it comes down to it, the resale value of a particular house in North Adelaide. It is just extraordinary politics, because there are so many hundreds of people both in North Adelaide, Spence and Colton who want this road reopened and who are on a direct mailing list.

Shortly I will put out a reply paid card with a covering letter across those electorates whereby people who want the road reopened will be able to reply to me post free and enter their names on a mailing list. We have hundreds now—after that we will have thousands. I want members opposite to understand that this is a very important political issue in western North Adelaide and in the western suburbs. When I look over at the Government benches and look at some of the good members over there I am reminded of the saying that they are lions led by a donkey.

New clause negatived.

Clause 42.

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

Page 29, after line 17—Insert:

(2a) A by-law made under the 1934 Act (including by the operation of subsection (2)), and all subsequent by-laws altering that by-law, unless it has already expired or been revoked, expire on 1 January of the year following the year in which the seventh anniversary of the day on which the by-law was made falls.

(2b) For the purposes of subsection (2a), a by-law will be taken to have been made on the day on which it is published in the *Gazette* or, in the case of a model by-law, the day on which the notice of the resolution adopting the model by-law is published in the *Gazette*.

This is a technical amendment which clarifies that by-laws made under the old Act, which are preserved by virtue of this Act, continue to sunset as they would have otherwise done. They will have expired seven years from when they were made but can be remade if the power remains available.

Amendment carried; clause as amended passed.

Clauses 43 to 45 passed.

Clause 46.

The Hon. M.K. BRINDAL: Following the passage of the local government amendments to Chapter 5 and Schedule 2 of the Local Government Bill this clause is no longer necessary and hence I propose that this clause not stand as part of the Bill, in other words, that this clause should be deleted.

Clause negatived.

Remaining clauses (47 to 54) and title passed.

The Hon. M.K. BRINDAL (Minister for Local Government): I move:

That this Bill be now read a third time.

I thank members for their consideration of this Bill. I do so patchily. I would wish that it be otherwise than the member for Spence being preoccupied with one particular provision of local government, but it is not so and he has a right under the procedures of this House. Nevertheless, I thank all members for their consideration of the Bill and I wish it speedy and effective passage through the Upper House.

Bill read a third time.

INDUSTRIAL AND EMPLOYEE RELATIONS (WORKPLACE RELATIONS) AMENDMENT BILL

Adjournment debate on second reading.

(Continued from 11 March. Page 1152.)

Ms KEY (Hanson): Not satisfied with the defeat in 1997, when the Government tried to introduce its harmonisation legislation, the Olsen Government is about to try again to change the State's industrial laws. The glossy brochure that we received *Focus on the Workplace*, issued by Minister Armitage, would have us all believe that changes will bring about an increase in employment, help business and provide workers with greater freedom of choice. The reality is somewhat different. Without any evidence to show that the changes will produce one extra job or assist one single worker, the Government is blindly pursuing its ideological agenda aimed at reducing workers' rights and their protections.

The Government proposes to amend the Industrial and Employee Relations Act, renaming it as the Workplace Relations Act 1999, and introducing legislation for major changes. These proposed changes include: the introduction of individual contracts; the stripping back of the award safety net, even further than it is in the Federal arena; bringing in severe restrictions with regard to the right of unions to enter workplaces; and also removing or reducing a worker's right to a fair hearing following an unfair dismissal. In addition, young workers would be discriminated against on the basis of their age; and access to public holidays would also be threatened if this Bill became an Act.

Similar changes to the proposals in this Bill were defeated in 1997 with the combined vote of the Opposition and the Democrats in the Legislative Council. South Australia is regarded as having among the best industrial relations laws in the country. Proposed changes will not bring about any improvements, as we see it, but, rather, continue to go down the well worn path of removing workers' rights, and also union bashing.

In the Opposition's reply tonight I wish to address the following matters. I wish briefly to look at the philosophical reasons why I think Minister Armitage would amend the previous Brown Ingerson Industrial and Employee Relations Act 1994. If there is any justification, or considered research supporting the changes, I would like to raise the concerns of the Opposition with regard to the arguments that have been put to us supporting the Bill. I would also like to refer to national and international concerns with regard to the tenor of this Bill, despite the protests of the Minister to the contrary, and I will quote his second reading speech where he says:

> The changes are 'South Australian' in nature and do not 'blindly' follow workplace relations systems, either federally or in other States. The Bill will not implement a radically deregulated system, but it will re-position South Australia's workplace relations legislation abreast of other States.

So, despite those protests I think that I will show, and the Opposition will show, that in fact this Bill does mirror the Howard Reith legislation with regard to industrial relations. Also, having gone through an extensive consultation process in the short time that was available to the Opposition, I can talk about the responses to the Bill. I would like to talk about specific clauses in the Bill, and then make some general comments.

First of all, I would like to refer to what I would say is the background to the Bill that we have before us tonight, and refer to a document that I received, entitled 'Minister for Employment, Workplace Relations and Small Business, Leader of the House of Representatives', 'Cabinet-in-confidence', and this document is dated 3 December 1998. It is a letter addressed to John Howard and signed by the Federal Minister Peter Reith. I will not read the whole letter, but parts of that letter:

> My dear Prime Minister,
>
> Thank you for your letter of 11 November 1998 inviting me to outline initial options for advancing the Government's priority for action to reduce unemployment.

It then goes on to make a number of points. As I said, I will refer to just some of them, in part. On page 9 of this Cabinet-in-confidence document, one of the dot points is 'Additional Labour Market Reform Options'. Minister Reith says:

> There are a range of options which could be characterised as mid points between the system emerging from the implementation of *More Jobs, Better Pay* and a fully regulated labour market. These include:
>
> · a separate stream within the workplace relations system applicable to the employment of unemployed persons. This would include a discreet series of minima applicable to their employment, for the purposes of awards and/or underpinning workplace agreements. It could also include a specific exemption from unfair dismissal laws in respect of the employment of unemployed persons. The definition of 'unemployed persons' for these purposes could be tailored to mid-term or longer term unemployed, and could be complementary to any strengthening of mutual obligation principles in the social security benefit system.

At another dot point under the 'Additional Labour Market Reform Options' we see:

> · A revision of the Objects of the Workplace Relations Act to require the Australian Industrial Relations Commission to have regard for the broader unemployment position in the Australian economy.

It further states:

> · The greater use of the Commonwealth corporations power to promote agreement making by corporations as a method for opting out of the regulation of Federal or State awards and the system of conciliation and arbitration of (notionally) interstate disputes.

The last point in this section of the Cabinet-in-confidence documents states:

> · The negotiation with States individually or collectively for the transfer (in whole or in part) of State jurisdiction over industrial matters to the Commonwealth. This measure, already implemented in Victoria, constitutes a substantial deregulation and microeconomic reform to the workplace relations system, and also lowers transaction costs.

This important briefing document goes on to talk about a discounted wage for long-term unemployed and, in part, it states:

> However, the incentives to employers to hire the long-term unemployable could be supplemented by considering the introduction of a discounted wage for the long-term unemployed to reflect their lower productivity in the initial stages of a new job (to, say, six months or so) due to their prolonged period out of work and by exempting the long-term unemployed for a defined period from the unfair dismissal provisions.

On page 14 of the Cabinet in confidence document Part C deals with youth unemployment. I will not go into all the points but, needless to say, in regard to one of the areas looked at it states:

> Legislation is already in place to retain junior rates of pay and extending them where they do not already exist. Consideration is also being given to extending the training wage arrangements for new apprentices, which applies in AWAs to awards so as to improve the flexibility of new apprenticeship training arrangements under awards.

This document also deals with some of the initiatives that need to be looked at with regard to industry policy, including small business initiatives. On page 16 the document states:

> First, as you are aware, legislation has been tabled to exempt small business employing less than 15 employees from claims for unfair dismissal by new employees. Small businesses are least able to bear the burden of dealing with the requirements of the unfair dismissal legislation. Second, within my portfolio we are developing a small business incubators project and a program to develop the capacity of small business.

It goes on to state:

> I am also examining how best to support self employment and independent contractors through further revisions to the Workplace Relations Act. Another area which I propose to explore is the provision of the exemption to small business from award provisions, provided that the small business meets minimum set of requirements in respect to working conditions for their employees.

With regard to communication and consultation, Minister Reith states:

> We know that further deregulation of the labour market is an important part of the answer. Selling this will be difficult, and we need to build an intellectual case for it and garner the necessary support.

I use this document as a case example. I cannot see how the Minister can say in his second reading speech that the changes are South Australian. I could refer members to plenty of other evidence in this document, but it is absolutely obvious that Minister Armitage is not presenting us with original and new industrial relations legislation but is following the Federal Reith agenda with regard to industrial relations.

I will conclude my comments about the Cabinet in confidence document that I have received, which has a number of attachments. Although some of them support some of the arguments that have been put forward with regard to connecting the state of the economy and the type and total number of jobs that are available, I will refer to a couple of points in this document. One of them is Attachment C, A Guide to VISTA (Values in Strategy Assessment). This briefing document was put together in other to help the Labour Ministers' Council understand core workplace issues. It is crucial to understand how personal values of workers affect their perceptions and attitudes towards workplace governance, unions and workplace reform. This document was produced by the Australasian Research Strategies. In particular, the principal investigator was Mark Dexter, the Managing Director, and he was assisted by Simon Burger and Matt Pickworth, the Research Director. I name those people so that the labour movement can have on record the people who were behind this research document.

There are some interesting points that I would expect that the Federal Government and also the State Government would not like us to know about, because in many ways this document talks about the contribution of the trade union movement to the personal satisfaction and the sense of accomplishment of workers in their workplace. I will quote a few parts of the document to underline what I am saying. In the executive summary 'The Workplace', the report states:

> The personal values drivers behind perceptions of workplace are accomplishment and personal satisfaction. Workers need to feel satisfied with the job they do and what they've accomplished.
>
> Role of Government.
>
> The single biggest perceived benefit of Government involvement in the workplace is organisation and stability, perceived to be inherent in the setting of guidelines and standards. Policy guidelines and standards are important to maintaining economic stability.

So this seems to be in the face of the propaganda and rhetoric that we hear from the Government that we have to deregulate the labour market and industrial relations to somehow make the workplace a better place. Later, the document continues:

> Similarly, if a Government is perceived to blatantly take sides on industrial relations matters, workers fear the outcomes that are unfair, which in turn affects their sense of self-esteem.

I underline the point that, where we talk about having a healthier workplace in South Australia and creating employment and economic stability—and I am sure that is a vision that we all share in this House—it seems to me that there is a point to be made about where industrial relations seems to be heading and how workers feel about themselves in the workplace. Also, it would affect their productivity. The document further states:

> The role of unions
>
> Security and self-esteem drive favourable attitudes towards unions.

There are some criticisms in here; I do not want to mislead people with the arguments that I am putting forward, but I would like to make another point from this document, which deals with workplace agreements. Under 'Workplace agreements' it describes a number of issues regarding individual negotiation and accomplishment. It also states:

> The main perceived drawback of workplace agreements is that if a worker does not have the ability or bargaining power to adequately communicate their position in a negotiation they may be taken advantage of and their self-esteem damaged. Some workers also feel that the workplace dynamic may be compromised because a workplace agreement is oriented on the good of the individual rather than the good of the whole. This affects morale, productivity and diminished satisfaction with life and security.

I am quoting from an attachment to a Government briefing document, which was to assist Ministers of Labour in the area of workplace strategy. We then come to just before the press release of the Hon. Rob Lucas with regard to the new legislation when the paper tells us the following:

> Reith calls for new anti-union shake-up
>
> Jobs and business investment will be lost to the other States unless South Australia adopts tough anti-union laws, the Federal Government has warned. Workplace Relations Minister Mr Reith said South Australia's industrial system languished five years behind the other States and the Commonwealth. He called on the South Australian Parliament to pass far reaching amendments to the Industrial and Employee Relations Act. In a crack-down on unionism the State Government announced last month plans to shake up unfair dismissal laws and limit union powers. Included in the measures, the State's 161 000 casual workers will have no rights of appeal, nor will employees with less than six months continuous service. Union officials must warn employers before entering work sites, while the Government will monitor complaints against unions. Mr Reith said State Parliament should look constructively beyond its borders for the benefits that flow from a modern industrial workplace.

I had to get this off the Internet, but some of us actually received the Hon. Rob Lucas's media release on 23 January 1999. It was interesting that a Minister in another place, who I understand was the acting Minister for Government Enterprises, would actually release this policy. I would have thought that the Minister would have enough pride actually

to release his own handiwork, if it is his handiwork. I take the document as quite an insult to this side and also to people in the industrial relations arena. It is called Freedom, Flexibility and Fairness. As we go through the Bill, it will become absolutely clear that freedom, flexibility and fairness are not part of the Bill's proposals.

There was some discussion in the local newspaper, in particular, and on radio about some of the issues that were seen to form part of the focus on the workplace. There is an information booklet entitled Workplace Relations Amendments 1999, and then on 18 February we received a draft copy of the Industrial and Employee Relations (Workplace Relations) Amendment Bill 1999. It is fair to say that the Minister—and this in case it was the Hon. Michael Armitage, Minister for Government Enterprises—ensured that there was very good distribution of the Bill to members of the Parliament and, as I understand from the various employer associations, to them and also to some of the trade union movement. That was appreciated, and I and everyone from the employers associations sat down to have a look at the Bill.

Apparently, the Australian Council of Trade Unions also received a copy of that version of the Bill, and on 19 February 1999 I received a letter from Jenni George, President of the ACTU, which states:

> The ACTU is concerned by suggestions that the South Australian Government is proposing further changes to your State's industrial relations legislation. The South Australian Government's publication entitled *Focus on the Workplace* does appear to substantially undercut already inadequate worker protections. The ACTU understands that the Bill intended to implement the discussion paper is likely to be introduced into the Lower House in Parliament on or around 18 February 1999.
>
> The legislation seems in many respects to incorporate foreshadowed changes to the Federal Workplace Relations Act.

That is a surprise. She continues:

> The ACTU urges you to consider the adverse consequences these changes will have on the working life of people in your State and the capacity of unions to perform representative functions within the industrial relations framework. The ACTU in cooperation with the UTLC would appreciate an opportunity to further elaborate upon our concerns once the content of the legislation is public. In the interim period we urge your caution and critical analysis of the legislation when it is tabled in State Parliament.

Another version of the legislation appeared in the meantime, and eventually we received another copy of the Bill two Thursday days ago when it was tabled in this House. A number of issues have been raised with regard to the various drafts of the Bill. One that I would like to refer to in particular can be found in *Workforce*, a magazine that claims to be the independent weekly newsletter on industrial relations, issue 1202, 19 March 1999. One of its many articles to which I would like to refer is headed 'ILO gives Aust second dressing down'. Referring to the Federal Government, it states:

> The Federal Government has dismissed as irrelevant the ILO's second finding in a year that the WR Act—

which, as I said, is very similar to the Bill before us—

> breached Aust's international treaty obligations. The Geneva-based body's 'Committee of Experts'—made up of 20 international jurists—found that WR Minister Reith's legislation breached Convention 87, which covers freedom of association and the right to organise. It did so primarily by: prohibiting workers from striking on an industry-wide or multi-employer basis over economic or social issues; proscribing sympathy strikes where the original action was legal; and allowing the IRC to terminate protected industrial action if it believed the economy was being damaged—a step beyond the Convention's provisions allowing restrictions when essential services were affected.
>
> The committee called on the Government to amend the Act to bring it into line with the treaty Aust ratified in 1973. Reith, however, disagreed with the observations and maintained that blindly adopting them 'would be a disaster for Australia.'

Also in that edition—and I will refer to this matter later in my contribution—is a very disturbing article headed 'Reith wins on 35 awards'. I raise this now because when we get to the body of the actual Bill I wish to talk about the concept of allowable matters, which the Minister hopes to introduce if this Bill is successful. This article emphasises the number of things that will actually be lost if the allowable matters argument has some substance and is supported, and it reads:

> Peter Reith has largely been successful in further rolling back award protections through his application for review of 35 awards.

It goes on to talk about the full bench, made up of a number of Presidents, Vice-Presidents and Commissioners, and says that it agreed with most of his submission on the allowability of matters, although it rejected his request to strip back a clause regulating nude scenes for actors. However, the bench was less forthcoming on Reith's petition for reviews under items 48 and 49, and this is set out in print R2700 of 12 March 1999. I remind the House that I am actually reading from the independent weekly newsletter on industrial relations: this is not something that I am reporting directly. On limiting part-time hours, it states:

> The bench deleted a clause in an aerospace industry award providing maximum part-time hours of 32 a week and a minimum of 10. The Cmn ruled both non-allowable under section 89A(4). However, the bench found a minimum daily engagement for part-timers 'allowable in principle'.

The article goes on to look at providing protective equipment clothing and so on, and states:

> The bench deleted clauses in various awards requiring employers to provide protective equipment, clothing, tools and materials, but said it would give parties to a vehicle award the chance to argue for reformulated clauses.

This is another example of the so-called allowable matters. This is definitely not an allowable matter as per the commission ruling. The next item relates to providing transport, and states:

> The bench allowed most of the challenged clauses requiring employers to provide transport. It found most were a form of allowance, allowable under s89(A)(2)(j) [of the Federal Act]. However, the bench deleted clauses requiring safe vehicles and prescribing passenger seating and numbers.

As for providing facilities, the bench ruled non-allowable clauses requiring provision of first aid facilities, tea and coffee and accommodation for transferred staff. It also deleted a clause prescribing numbers of first aid and casualty officers. As to training, the bench axed provisions giving preference for adult apprenticeships to existing employees and requiring employers to provide text books, but retained a clause containing employer training obligations. It also retained a glass industry award clause requiring six months experience before starting up an adult apprenticeship.

The other areas to which I will just refer because of the time are termination and disciplinary procedures. The bench deleted clauses on providing employees a statement of employment and pre-redundancy counselling, and outlining codes of conduct and disciplinary procedures. One matter that was actually allowable was the clause for visual display terminal rest breaks, a clause compelling union members to use all available computer equipment functions required by the employer to perform work, and a provision for $150 000

compensation if disabled or killed when travelling at employer request in a substandard aircraft. They are just some of the examples that have recently gone before the Federal commission with regard to allowable matters. As I said, I will refer to that when I get into the substance of the Bill.

I said before that, as I understood it, a number of the interested parties in this State received legislation. When I went to speak to some of the employer associations last week, most of them did not have the correct legislation. I do not know whether this was a deliberate ploy. It was certainly very clever, because the employer associations were cheesed off with the Minister as they could not talk to me about the most recent drafts. So I am not sure what happened after the first distribution, and I am sure it is a very satisfying thing for him and those in his department to know that people did not have the same information and found it very difficult to have a discussion.

However, I am pleased to say that many of the employer associations, unions and interested associations that I spoke to had some major philosophical concerns with the Bill that was being proposed. I doubt very much whether they will say that publicly but, as I understand it, some amendments are being looked by some of the employer associations.

The other thing that they said to me, especially those who are represented on the Industrial Relations Advisory Council, was that the working party's deliberations last year on the Bill and the harmonisation proposal—that is, harmonisation with the Federal Act—did not seem to be reflected in the Bill that is now before the House. There was not a connection between the two lots of issues that were raised by the working party—some of which were agreed but most of which were not agreed—and the Bill we ended up with. I really wonder what sort of consultation the Minister actually took up, especially when you look at the IRAC Bill and section 47 of the Act which defines the functions of the committee. Section 47 provides:

(a) to assist the Minister in formulating, and advise the Minister on implementing, policies affecting industrial relations and employment in the State; and

(b) to advise the Minister on legislative proposals of industrial significance; and

(c) to consider matters referred to the committee by the Minister or members of the committee.

Section 48(2) provides:

The committee must seek to achieve, as far as possible, consensus on all questions arising before it.

It must act on a non-political basis. The Act also provides that the committee must meet at times appointed by the Minister and this should be at least once a quarter. The Minister must also convene a meeting of the committee if requested to do so by four or more of its members. Given the IRAC report for last year, it is still difficult to understand the basis for some of the proposals that are put forward in this Bill.

I consulted with interested parties and talked to a number of unions, and I also received a very lengthy letter from the Secretary of the United Trades and Labor Council, Mr Chris White. I will not go into the important points he raised. However, I will quote briefly from the document he provided to me. When I talk about specific clauses in the Bill, I will refer to his comments and the comments of the trade union movement in South Australia. In his introduction, he says, in part:

There is, for example, no clear reference to what exists now and where if any are the shortcomings in legislation that have been twice reformed by this Government. Unlike other major Government policies, there is no accompanying research to back up the Minister's claims. The Minister says that anecdotal stories from some employers known to him and their perceptions are regarded as sufficient. This is not the case and runs counter to the reasonably good workings of the system, part of South Australia's good industrial relations record. We re-emphasise that the UTLC's submission in all regards has been rejected by the Minister. This is not consultation; this is hardly balanced.

Please note that the Federal system now covers large employers in major industries—approximately 60 per cent of the South Australian work force—where there are historically high levels of unionisation and enterprise bargaining. The State jurisdiction covers employees who require greater protections. They have little bargaining power, are in smaller businesses or scattered occupations, many not in unions and with many more casuals and part-time employees, women, young and non-English speaking background employees in service sector occupations such as clerical, cleaning, child care, hospitality and non-government teaching sectors.

It then goes on to talk about a number of the issues that the trade union movement raises in this State with regard to this Bill.

Nobody here would be surprised that the trade union movement would have objection to a Bill such as this. I have to say that I was disappointed to find out that the Minister has not responded to an open letter he received which I quoted in part in this House from 25 February. Although the Minister may laugh at my comments, a number of issues referred to underpin my opposition to this Bill. As I said in my opening remarks, one of the problems I have with this Bill is that research has not been provided to help the Opposition to understand the assumptions which are being made and which are then found in the industrial relations legislation.

As I have also said, there appears to be a connection between the unemployment rate that seems to be argued by this Government and the level of wages and access to wages, which I do not think has been supported in any of the information that has been provided by the Government or by the staff. The open letter from the academics from the three universities in South Australia states:

The South Australian industrial relations system can justly be viewed as one of the State's strengths. Although important legislative changes have been made by both Labor and Liberal Governments during this decade, these have not altered some of the system's key characteristics: the relative simplicity of the legislation, low levels of industrial disputation and cooperation behaviour by unions and employers alike; the faith that parties generally have in the Industrial Relations Commission and the sensible, balanced approach it brings to its tasks. We are concerned that these features may now be sacrificed or ignored in the rush to import elements from other systems without clear evidence about the benefits to be gained. After careful analysis of the proposed changes, we wish, firstly, to raise a series of general matters relating to the issues of employment, fairness, flexibility and social life in our State. Having outlined our concerns in these areas, we turn to more detailed commentary on certain aspects of the proposed amendments.

I will not quote the whole document, but they say:

Our main areas of concern are that the hoped for employment effects are unlikely. The changes will result in greater inequity. They will damage the quality of social life in South Australia. They will undermine the hitherto constructive role of the Industrial Relations Commission. They will encourage those employers who wish to engage in exploitive contracts. They will inhibit employees' capacity to join unions; and the elimination of unfair dismissal redress for many employees is discriminatory and unfair.

I am not saying that; it is academics who look into the areas of labour movement, the labour market and who are recognised and published in this area. I certainly support what they say but my point is that a number of eminent people amongst them are recognised as having expertise in this area. The Minister, on the other hand, has not provided any research or

justification in either the briefing he gave us on Monday or the information that he provided in Focus in the Workplace. It is absolutely disgraceful that something of such importance to people in South Australia is not justified by anything. I challenge the Minister to provide the research that supposedly supports his legislation. It will be interesting to see whether it is different to the justification that the Federal Government uses.

The general concerns I raised from this paper are important to this debate because, as I said, the philosophy put forward links the industrial relations sector with the employment sector and, although that is not unreasonable, many assumptions are made that cannot be supported.

In relation to employment, first, the amendments are proposed to increase employment, especially amongst young people. This implies that a relationship exists between employment growth and changes to the regulation of industrial relations. There is, in fact, little evidence that a shift to individual employment contracts, the removal of recourse to unfair dismissal provisions for many and the extension of junior rates for young people and related measures will affect aggregate unemployment levels. This case is simply not established. All of those points are contained in the legislation as if they have been established. My point to the Minister is that he has not established those points.

In delivering the keynote address to a recent conference in Adelaide, Professor Keith Hancock, an eminent South Australian economist, addressed this issue. His comprehensive analysis of the relationship between employment levels and the decentralisation of the industrial relations system, both in Australia over the past 25 years and internationally, provides significant evidence which undermines the assertion of the supposed effect. What decentralisation of systems does guarantee, however, as Professor Hancock's work reveals, is a widening of the disbursion of earnings between different groups of workers, creating greater inequality. We believe that, on this and other research, the proposed amendments will not achieve the employment growth objectives the State Government seeks.

Reliance upon changes in labour market regulation to achieve employment growth is an unreliable and unproven remedy. Such changes often have the opposite effect to that which is intended. For example, a fall in wages for young people relative to others is more likely to result in labour market substitution of young for the old rather than net job creation. Such outcomes are both inefficient and inequitable. Similarly, there is no evidence that making unfair dismissal possible in smaller companies will create employment. Indeed, evidence from the Australian workplace industrial relations survey—the most comprehensive data available at the date of this letter—suggests that unfair dismissal regulation is a lower order concern to small businesses in relation to hiring decisions. Interestingly, when I did talk to employer associations, which I do regularly, they supported the fact that unfair dismissal was not their major concern in creating jobs.

Changing the regulatory regime of industrial life in our State is likely to have many effects but they are unlikely to include a significant boost to employment. Indeed, one consequence of the proposed amendments is likely to be a decline in the demand for labour over the medium term. Industrial laws that result in lower wage outcomes are likely to dampen the demand for goods and services by eroding the purchasing capacity of employed South Australians.

The Minister might say that I am on the right track but I challenge him, as I did previously, to provide some evidence that counters that information. I would be very interested to talk to him about what research he has that indicates that people, such as Professor Bob Gregory and Professor Keith Hancock, do not know what they are talking about, because that is what he is implying by scoffing at my contribution on this matter.

I would like to talk now about the Bill and some of the clauses that I believe are absolutely disastrous for South Australia. I should say that the whole Bill seems disastrous but I could probably pick out 30 clauses of particular concern and I call on the Minister to try to answer these questions in his reply. New paragraph (d) of section 3 as proposed in this Bill incorporates into the Industrial and Employee Relations Act, the State Act, the euphemistic principle of lowering wages for young people. The removal of the present paragraph (d) relating to awards and the replacement of the proposed object (eb) is consistent with the continued devaluation of the status of awards given the restricted basis on which we looked at this whole issue of allowable matters. The amendments to the names of the different organisations and tribunals that come under the umbrella of 'industrial relations' reflect the Federal terminology with regard to workplace relations. In fact, the term 'enterprise agreement', should this Bill be successful, becomes 'workplace agreement'.

These changes are consistent with the argument that has been put forward by the Federal Minister. Some concern is raised about a new definition, namely, 'improper pressure' in relation to the negotiation of an agreement. The phrase is defined to mean pressure amounting to duress at common law. This is quite a limited concept, I am advised. The phrase 'improper pressure' with reference to negotiation of agreements is now added to the previous test of coercion. There can be no approval of workplace agreement if the employee is subjected by the employer to coercion, harassment or improper pressure.

Although I can see the reason for that being put into the legislation, my advice is that this does not address the reason or object for its being put into the Act. Some real concerns have been raised by some of the industrial relations lawyers and advocates about where this really takes us. The whole definition of improper pressure with regard to workers being subjected to pressure by the employer needs to be looked at. One of the most substantial amendments is in regard to the power of the Employee Ombudsman (section 62). The repeal of a number of powers is of some concern to the Opposition because, in the past, employees, especially those who are not members of trade unions, have benefited from the advice and support of the Employee Ombudsman.

There are real questions about why this particular section has been changed so significantly. The Opposition is concerned about new subsection (1)(f) of section 62 as it relates to outworkers. One of the powers of the Ombudsman is to advise individual home-based workers, who are not covered by awards or enterprise agreements, on the negotiation of individual contracts. I also notice that the intervention and assistance that the Ombudsman has been able to give to workers on occupational health and safety matters is also deleted from this provision. Although some provision is made for the Ombudsman to have the same powers as inspectors, when we reach the clause that covers inspectors there is some question about whether the powers of the inspectors continue in the way we have known them. I am still waiting to find out what is the Government's position on my question in that area.

I refer to the Workplace Agreement Authority in new section 65A, division 3 of the proposed Bill. This is the second attempt by the Government to introduce an independent approving authority on workplace agreements. 'Workplace agreements' is a term that has been adopted from the Federal-speak of Minister Reith. Basically the Industrial Relations Commission gets cut out of the deal and we set up an authority called the Workplace Agreement Authority, which I will talk about a little more in a moment. Basically it looks at undermining the State commission by having another body which, I understand from a leaked document that I received, has a set-up cost of something like $500 000 and the employment of a whole lot of publicly funded mediators. There will be some interesting questions to ask in Estimates, if this proposal gets up, about where the funding is coming from for this unnecessary authority.

I refer to the Long Service Leave Act. I am told by employers and unions that nobody has said that they particularly wanted the Long Service Leave Act in the parent Industrial Relations Act. I would be interested to know where this came from. From what I can make out so far, and we will certainly examine it in Committee, the entitlement for long service leave is similar, if not the same. It obviously emphasises the problem the Opposition has had in the past with cashing out one's long service leave. We lost that argument in the past, but I raise it again as there are still real concerns about long service leave in this State.

I forgot to mention, in referring to the Workplace Agreement Authority, that the appointment of these people to the authority is six years. They have extensive powers, including worksite visits. I argue that they probably have similar powers to what we understand the inspectors have and the Minister is the one who employs these people who will work in the Workplace Agreement Authority. There is reference to consultation with a number of people, but basically it is in the Minister's province to decide what happens.

I return to long service leave. Because of the way the Bill is set up (in particular I refer to new section 78C(2)), the long service leave entitlement can be below the minimum standard if agreed collectively or individually, as is the case with sick leave, annual leave and parental leave, or if approval is given by the commission under new section 78C. Although we will check in Committee whether there has been a proper translation of the provisions, in the light of day when people sit down and negotiate there is an opportunity for them to have a minimum standard in this area.

It is of no surprise to the Opposition or the trade union movement, but the Minister in this Bill has a preoccupation with union deductions on two levels, the first being with regard to payroll deduction and the second relating to payroll deduction being an issue on a yearly basis. A new subsection (3A), which has been introduced in this Bill in the amendment to section 68, limits the life of payroll deductions to 12 months. It seems that this is the formula that was successfully tested in the State Public Service that is now being introduced into the private sector. Clause 34 in the Bill is interesting because there is a penalty of up to $1 250 and some of the unions and employers are asking whether, if the employer breaches this negotiation, that means a penalty of $1 250 per employee not signed up for payroll deduction or whether that is the total cost that employers will have to look at if they do not take notice of this provision of the Bill, should it be successful. It seems to be a petty provision, but it makes very clear that the aim of this legislation is to get at the unions and to make life as miserable as possible for them. When I get to the other point with regard to union fees, the agenda becomes abundantly clear.

We then go onto workplace agreements. There is a new chapter 3 in Part 2 relating to workplace agreements. For the most part the changes deal with the mechanism for the approval of individual agreements as well as collective agreements. The rights of representation are still afforded to associations, but by and large the provisions of the enterprise agreements still apply. We should be happy about some part of it. The significant change is that all workplace agreements must be submitted for the approval of the new WAA, the Workplace Agreement Authority, and under new section 78B the WAA must approve the agreement if it finds no reason to believe the criteria for approval have not been satisfied. The matters with regard to compliance will not be subject to assessment such as they are in the commission at the moment. On the one hand there is good news but on the other hand we will have to be cautious about that proposal.

The commission will only have the limited role of considering those agreements referred to it by the WAA in the circumstances outlined in new section 78B(4) of the Bill. One of the circumstances where the parties intend the agreement to have an effect, despite the non-compliance of the minimum requirements, relates to conditions of employment.

On page 24 of the Bill much time is spent looking at the criteria for approval by the commission. That is limited. With respect to section 78B(4), as I said, there are some real concerns about the circumstances that are limited in that area. Basically, this is in the same terms as section 79(5) of the Act. The commission must have regard to any relevant award in considering whether employees will be substantially disadvantaged. However, under the new scheme the terms of the award will otherwise be irrelevant. The WAA will not have to consider whether the agreement is inferior to award terms. Again, where this section started to look as though it was perhaps reasonable, it is yet another way of making sure that award terms do not have to be observed.

The objects of Part 2 no longer include that ensuring award remuneration and conditions of employment operate as a safety net underpinning the negotiated agreements (current section 73C). The object now becomes one of providing a safety net based on specified minimum standards of remuneration and conditions of employment. The no disadvantage test is altered by the removal of the current section 79 test for the approval of an enterprise agreement and, in particular, section 79(1)(e) which provided that:

> The agreement must be in the best interests of employees covered by the agreement and must not for remuneration or other conditions of employment be inferior to scheduled standards or inferior to remuneration or conditions of employment considered as a whole prescribed by the award.

That is a significant disadvantage for workers as we see it. Proposed section 77 now requires that a workplace agreement contain minimum requirements as to conditions of employment, namely, that the agreement must provide a rate of pay that is no less than the ordinary time rate applicable under a relevant award—big deal! The annual leave, sick leave, bereavement leave, parental leave and long service leave shall no less favourable than the minimum standard in the standards. I should point out that it might seem that areas which do not have bereavement leave at the moment might actually be recognised as needing that leave, but basically if it is not in the award bereavement leave will not be available to workers, despite the inequity of that position.

There is now no requirement that the agreement not provide for remuneration or conditions of employment considered as a whole to be inferior to award remuneration or conditions except to the limited extent allowed to the commission pursuant to section 78C(2)*(e)*. This is the State equivalent of the Federal no disadvantage test set out in Part 6E of the Federal Act. So, this is substantially narrower.

The approval criteria proposed in section 78 do not include detailed provisions with respect to consultation with and information to be provided to employees. It is not clear until one can refer to the procedural requirements mentioned in proposed section 75(2), which is on page 16 of this Bill, and proposed new section 78(2)*(b)*, which will presumably be set out in these regulations which, of course, we have not seen yet, whether the present approval criteria set out in proposed new section 79(1)*(a)* is to be abandoned. If so, protection of employees, particularly those entering individual agreements, will be greatly diminished.

I have referred a couple of times to the issue of allowable matters. Section 90 of the current Act is in for a substantial change if the amendment in this Bill is carried. The powers of the State commission will be limited in the same way that section 89 limits the powers of the Federal commission. Whereas now the State commission has virtually unrestricted power to make an award about remuneration and other industrial matters, new section 90 will prevent the commission from making an award about any industrial matter unless it falls within subparagraphs *(a)* to *(l)* of subsection (1) of section 90. These subparagraphs cover many of the same matters as allowable matters in section 89A(2) of the Federal Act. Of course, as the Minister says in his second reading explanation, this is an original piece of work and an original industrial relations exercise that we supposedly are embarking on.

What is significant about proposed section 90 is that it does not include aspects of section 89 which allow the Federal commission to expand on the strict interpretation of allowable matters. For example, there is no equivalent power to that section 89A(6) provision allowing the commission to include an award provision incidental to the allowable matters and necessary for the effective operation of the award. The existence of this incidental power has proven to be of great significance in proceedings before the Full Bench of the Australian Industrial Relations Commission which determines what were and were not allowable matters pursuant to a particular award, which proceedings were considered as a test case.

At the start of my contribution I quoted from a work force where a whole range of allowable matters were not seen to be appropriate. The commission in the Federal arena is able to include what are called 'exceptional matters' within awards in certain circumstances. In my reading of the provision, that power will not be made available to our State commission.

In relation to unfair dismissal provisions, as I understand this, it has been subject to trying to bring in regulations and our having to argue that they should be disallowed. The only good thing about this provision is that, for once, the Government is being up-front about having the unfair dismissal provisions in the Act rather than resorting to introducing regulations, which for some reason seems to be a feature of Federal tactics.

Further attempts are now being made to enshrine in the State Acts substantially wider criteria for allowing for the exclusion of dismissed employees from access to a remedy. As I said, it is probably better than what I would see as a devious way of trying to introduce changes to industrial regulation with regard to unfair dismissal. But a number of workers will now be excluded from having access to unfair dismissal provisions.

There is some real concern that I raise in relation to this particular area because it will depend on where you work as to what sort of rights you as a worker have to unfair dismissal. If you tend to work in areas that have less than 15 employees, which would apply to a majority of workplaces in South Australia, as I understand it, and if you have been a casual—and there is always a lot of debate in the industrial arena about what is a casual, what the definition is of a true casual, or the oxymoron, which is the permanent casual—these workers will basically not have access to unfair dismissal provisions. Without any evidence that, in fact, unfair dismissal legislation is harsh and limits whole classes of workers, I can only assume that this has been introduced either to mimic the Reith agenda with regard to unfair dismissal exclusion or that there is some ideological reason that I am not aware of that somehow justifies the reason for bringing in these particular provisions.

So, section 106 now proposes that an application for unfair dismissal be accompanied by a fee of $100, which is clearly an unfair provision. It was $50. There were the debates about the access to unfair dismissal and the connection supposedly between lodging a fee of $50 and vexatious claims, but now we are being told that an unfair dismissal application has to be accompanied by a fee of $100.

Getting back to unions, which I know is the Minister's favourite punching bag, section 124 of the Act will now allow a union member to resign from the union upon provision of 14 days written notice, whether or not that member still owes union fees. It will be very interesting to see whether the RAA or medical benefits, or some of the other organisations in South Australia—

An honourable member interjecting:

Ms KEY: The Farmers' Federation—have actually made such a restrictive provision.

Mr Clarke interjecting:

Ms KEY: The Employers Chamber was a bit concerned about section 124 when I spoke to them, and they were saying that privately they did not actually support this provision, either. As to right of entry, yet again it is, 'Let's get the union officials.' The ability of union officials to enter premises of the employer is to be further watered down under section 140. Now, it is rather than drawing upon authority to enter a workplace conferred by an award or an agreement, because, as I said before, we have to have these allowable matters, so obviously the right of entry will not be part of that allowable matter, if the Government is successful. There will be no right of entry, unless officials are able to discharge what may be, in practical terms, an onerous burden of establishing a suspicion on reasonable grounds that the employer has committed a breach of the applicable award or workplace agreement.

There are some real concerns in that area. Having been a trade union official, I know that often when people have grievances and problems they do not necessarily want to be identified, and most of the unions that I have represented, in fact all the unions I have represented, have had no problems with giving reasonable notice on entering a workplace. I wonder why we need this amendment. There are already provisions in the Act that, I think, adequately cover the right of entry issue.

That is bad enough but, when you look again at the diminishing number of people who seem to be in the DAIS inspectorate, and given that someone who is a non-union member has to be identified by an inspector before they can go into the workplace, I wonder what the Government has to hide and why it wants to bring in this sort of provision. If things are going on in the workplace that are against the workplace agreement, the award or whatever provision applies in the workplace, what is there to fear by having union officials or inspectors having the right to inspect that workplace if they give reasonable notice and if they have a legitimate grievance to follow up? This seems to be harsh and, again, I wonder about the basis for introducing it. One can only assume that it is in keeping with union bashing—which seems to be the flavour of the day with this Government and also the Howard Government.

One area is probably reasonable, but we certainly will not be supporting it at this stage. New section 173 provides that the court or the commission may make orders for costs in certain circumstances. The advocates and lawyers to whom I have spoken in this area see this as being a reasonable provision. We do see that there could be some beneficial parts for unions and employees but, as I said, in the context of the whole measure, it is a bit hard to be very positive about anything to do with this legislation. I do concede that the Opposition can see some sense in the amendment of section 173.

The big issue, which I think will be totally disastrous, is mediation. Section 197 of the current Act provides that the Industrial Commission has the power to mediate. My experience is that it does it very well. I wonder why we have to have yet another body which will mediate without any reason necessarily to take any notice of that mediation. It seems that $500 000 could be better spent on, perhaps, having more trainees or more apprentices in this State. That is just the start-up fee. The whole process of mediation, as I said, is quite beyond the Opposition's comprehension.

We know that mediation works in other jurisdictions. There have been some positive examples with regard to the Family Court, and in juvenile conferencing there have been good examples of mediation. We are not saying that mediation is not reasonable but the point we make is that it is already available under the Act for the Industrial Commission, a body that is respected by people who actually practise in industrial relations, not people who draft legislation and who do not have anything to do with the day-to-day running of industrial relations.

A lot of those skills are already with the commissioners from both sides of the industrial arena. It just seems that this is a nonsense. If we were talking about mediation in the workers' compensation area, I could understand the assistance that would bring to people who have been injured or who have an illness associated with their work but, at this stage, the Opposition would need more information about the mediation process as set out in the Bill.

New section 193 provides for who may represent parties. For a long time in the State Commission there has been a debate about whether there are parties in the State Commission, but that is an argument we can have elsewhere.

Other than that, there seem to be inappropriate provisions relating to who can be represented and who cannot. Maybe all will be revealed by the Minister in Committee but, subject to further information, at this stage we do not support that provision at all.

As I said before, there is a real issue about 'improper pressure', the term that appears under the proposed definitions and objects at the beginning of the legislation. New section 225 makes it an offence to harass or apply improper pressure to employers and employees in relation to enterprise agreements. The phrase 'improper pressure' is not defined in clause 4 at present and is capable of wide interpretation. Again, people who practise in the industrial arena will know that there have been a number of debates about what is 'reasonable'. I am advised that the term 'improper pressure' could probably keep lawyers very adequately remunerated and employed for a long time. So, whereas we have this mediation process that does not have lawyers involved or representation except for the Crown and some corporations, I would argue that we will create a nightmare with regard to the term 'improper pressure'—not to mention the rest of the legislation. But that one seems to stick out as being a real problem.

I refer now to schedules 3, 4 and 5. With regard to minimum standards, new section 6 of schedule 3 allows for the sacrifice of sick leave by obtaining an allowance or loading. I must say that this is a fantastic provision that has been put forward by the Government. We have the ability to trade off long service leave: now we will be able to do it with sick leave. I can only congratulate the Government (or, as young people say, 'Not!') for introducing that provision. I stated earlier that the Opposition will look at the abolition of the Long Service Leave Act and the introduction of schedules 6 and 7 when we are in Committee, so I will not go into the details of that here.

In looking at the legislation in detail, one of the areas that I found very interesting, especially when I consider the rhetoric about industry in South Australia, was the definition of 'small business'. I think it is important for members to note that definition, under new section 105A(2)(*d*), page 35:

> A small business is the business of an employer who, at the relevant time, employs not more than 15 employees in the business

and this is the interesting point—

> (disregarding casual employees who are not employed on a regular and systematic basis). However, if an employer or a group of associated employers divide a business in which more than 15 employees are employed into a number of separate businesses, a business resulting from the division is not to be regarded as a small business even though not more than 15 employees are employed in the business.

So, again, this will be great: there will be counting like you would not believe to see whether someone can have access to their entitlements under the industrial relations legislation, if it is successful, and there will be number crunching in workplaces like we have never seen before. It concerns me that this is considered to be the deciding point with regard to access to some industrial rights.

In addressing the last point, I should go through some of the areas that are being envisaged as allowable matters, because it is important for members to be aware of the areas that we are talking about. There are obviously implications for many workers in South Australia covered by the State arena in respect of what is being left out.

I have already mentioned the amendment of section 90, 'power to regulate industrial matters by award'. It provides:

> The commission may make an award about any one or more of the following industrial matters.

So, you do not have to take up the whole lot of them: it can be for only one or it can be for others as well. It continues:

> (a) classifications of employees and skill-based career paths;

(b) ordinary time hours of work, rest breaks, notice periods and variation to working hours;

(c) rates of pay generally (such as hourly rates and annual salaries) rates of pay for juniors, trainees or apprentices and rates of pay for employees under the supported wage system.

It was interesting to hear the Minister for Government Enterprises speaking so passionately about work for people under the area of disability, so I am pleased to see that he has been consistent in including the supported wage system. Just incidentally, that was the system that the ACTU and the United Trades and Labor Council introduced into South Australia so that disabled workers would not be ripped off totally. So, I am pleased to see that the supported wage system is still there. Also included are: piece rates and bonuses; annual leave and leave loadings; long service leave; personal/carer's leave, including sick leave, family leave, bereavement leave (and, as I said before, we have to qualify that), compassionate leave, cultural leave and other like forms of leave.

The thing to remember about all of this leave is that it has to be in the parent award before one can access it, which is my understanding of how that works. As I have already stated, there is lots of provision in this Bill, should it become legislation, to undermine any of those provisions. I am sure that there will be some very crafty advocates and lawyers out there who will be able to get through some of the loopholes that will be provided by this Bill.

The amendment of section 90 also includes allowances; loading for working overtime or for casual or shift work; penalty rates; redundancy pay; notice of termination; stand-down provisions (it is interesting that that is in there); dispute settling procedures; jury service; type of employment, such as full-time employment, casual employment, regular part-time employment and shift work; superannuation; and any other matter prescribed by regulation. Of course, we do not know what is in the regulation, but that is an interesting issue in itself.

New subsection (2)—and, as I said, it is sort of the good news and the bad news—provides:

An award may regulate pay and the conditions under which outworkers work but only to the extent necessary to ensure that the pay and conditions are fair and reasonable in comparison with the pay and conditions of employees who carry out the same kind of work at an employer's business or commercial premises.

So, although the Employee Ombudsman is not in a position to assist the outworkers, there are still some provisions in this Bill.

As I said before, most of the issues in the Bill are highly contentious. There are a few technical provisions that the Opposition can see the merit in—and, when I say 'a few', there are probably three that I would concede are halfway reasonable. As I said before, with respect to new section 173, 'Costs', I will be interested to hear the Minister expand further on that. The employment of children, which comes under Part 1A, new section 72B, on the surface seems like a reasonable provision, but we have been sitting in here week after week in private members' time hearing the member for Torrens try to get up some reasonable provisions in this area, and here we are a year later and we still have no provisions for those children—some of them eight years old, I might add—who are working on the streets, being picked up unsupervised and taken camping by the people who they are working with and put into areas where they do not know anyone. It is the end of March and it is quite late at night and we still do not have those provisions.

The way in which the Government has dilly-dallied on this issue is an absolute disgrace and, despite the reassurances from the Minister for Human Services and a number of other people in this place, we still do not have a provision in this area. I must say that it is heartening to see the employment of children provision in this legislation, but it is a bit late. Certainly, it is one of the few things that I could commend to this side of the House. As I said before, in section 197 of the Act as it stands we can see the issue of mediation. We will be interested to hear arguments from the Minister about why mediation and this whole new system of the WAA is going to be significant support for workers in South Australia. I guess that we reserve our views on that area. Other than those areas, I really cannot find very much in this Bill that the Opposition would wish to support.

I would now like to summarise my contribution. My major problem, and I am sure that of the Opposition, is that we do not actually see the justification for this legislation. When the Minister says in his second reading explanation that the Government is not blindly following the Federal agenda, we really wonder. I do not know whether that is true or not—it does not seem as if it is—but we really wonder why he has introduced it at all. Despite the protestations from this side and the concerns that were raised with the Dean Brown-Graham Ingerson legislation, people have said generally that it is a system that we can live with for the time being. We are really asking why we are changing this system when we have a system that we can put up with. I will not say that we love it—that would give Graham Ingerson an exaggerated view of what we think of it.

What people are generally saying, whether they be academics, employer association people or trade unions, is: why bring in the nonsense that is part of this Bill? There is a real suspicion about the philosophy behind bringing in such legislation. We are concerned that there seems to be an attack on the Employee Ombudsman. I must say that the Employee Ombudsman is not necessarily a position or a unit that the unions support. There is a lot of criticism of the Employee Ombudsman from the associations, whether it be the employer unions or the employee unions. It is not as if the current Ombudsman is Mr Popularity in the industrial relations stakes, but I think that everyone recognises the major contribution that he and the staff in that unit have made to workers. They have actually fulfilled their brief adequately and assisted employees—particularly those who are not members of a trade union.

We do not see the need for the Workplace Agreement Authority. The Opposition's view is: if there is such a desperate need to expand the mediation role, why not get people who are considered to be independent umpires to do that in the Industrial Relations Commission? As I said earlier, the issue of the deduction of union fees is absolute nonsense. It will mean, especially in large workplaces, that an employer will need to go through an administrative process every year for one deduction, instead of all the other deductions being looked at. It is obviously a political ploy to pick on trade unions and try to make their life miserable. When we link that with the issue of people not having to pay their union fees when they are outstanding, and being able to give 14 days notice, it is obviously trying to incite concern from the trade union movement. There does not seem to be a good reason for doing it.

As the member for Ross Smith said, if that is such an important issue, will that be the case with the unions for employers and bosses? How fairhanded are we being if it is

directed only at the trade unions that represent employees? The Minister said in his second reading speech that there would be no reduction in entitlements as a result of this change. As I have pointed out tonight, there are a number of proposals that may be obvious in some aspects but less obvious in others. One of them in particular is Division 5, new section 77(2)(a)(vi), which undermines what we understand to be reasonable minimum standards or the safety net. There are a number of loopholes in this proposal which, if an employer had the mind to do so, could be used to totally exploit the workers.

We reject the secret individual contracts that are called workplace agreements in this legislation. From the examples that I have witnessed in New Zealand, Western Australia and in other places, I can say that individual contracts of this sort are not acceptable to the Opposition. There have always been different types of individual contracts and we wonder why, especially when this State Government, and certainly the Minister, is saying that this Bill is a South Australian approach to industrial relations, he would follow up in this way with regard to secret workplace agreements.

The Opposition does not believe that any of these measures will improve the employment situation in South Australia. The Opposition acknowledges that this is a big issue for South Australia. We also acknowledge that there are a number of problems in our economy, on which I know we do not agree. No evidence has been put forward by this Government to connect the industrial relations legislation that is being proposed and an increase in employment in South Australia, particularly with regard to junior rates. The Government has not provided any evidence that junior rates will create more jobs for young people.

I cannot think of many things concerning this Bill that the Opposition can support. Indeed, as I said, Opposition members will not support the Bill and we will continue to argue against it because of the inequities that it contains. My colleagues will canvass a number of other issues in their second reading speeches, including the nonsense with regard to public holidays. As we said, there are many core issues that the Labor Party considers to be minimum standards. There is also no reason and it is absolute waste to set up yet another body called the WAA. I will leave my comments at that point and I look forward to the Committee stage when I am sure that the Minister will try to enlighten us and persuade us that the Bill has some substance.

The Hon. G.A. INGERSON (Bragg): I rise to support the second reading of this Bill and I do so from a particular vantage point. I may not be the father of the House but I am happy to claim the mantle of father of the principal Act that this Bill seeks to amend, namely, the Industrial and Employee Relations Act 1994. As members would be aware, I was the Minister who was involved in creating that Bill with my then chief of staff, Mr Peter Anderson. I was involved in creating the policy framework for the Act and achieving its passage through this House, and I oversaw its first three years of implementation.

When considering this Bill, the House should be cognisant of the context in which the 1994 Act was developed and implemented. This amending Bill builds on the foundation of the 1994 reforms.

The 1994 Act was the first complete overhaul of South Australian industrial relations laws since 1972. It was a generational reform—one of the first legislative Acts of the then incoming Liberal Government following its landslide win on 11 December 1993. It set the direction for the reform program of the South Australian Government and restructuring of our economy—reform that was progressive, that was targeted and that was uniquely adapted to the South Australian circumstances of the time. Above all, it was reform that was needed to bring South Australia's industrial relations structure out of the closeted deal-making world which characterised the Labor Party and the UTLC approach to industrial relations in this State.

It was needed to help create a new workplace culture, especially in small business and internationally competing employers, after the destruction of the State's confidence and finances by the incompetent Bannon and Arnold Administrations. It was needed to make sure that South Australia did not slip further behind other Australian States and lead to more head offices going east, as we so frequently saw in the Labor years. It was also needed to counter attempts by the then Keating Government to impose the ACTU's will (such as Laurie Brereton's unfair dismissal laws) on South Australian workplaces. I was interested to note—

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Not the same ones, and you know that, too—comments of the Labor spokeswoman, the member for Hanson, in relation to the treaty breach.

An honourable member interjecting:

The Hon. G.A. INGERSON: It was a very good speech. A fair amount of nonsense was put forward in this place about the fact that unions are being discriminated against by this and the previous legislation. The unions have one tremendous challenge available to them, and that challenge is to go out, get members, give them the service and carry on what the old unions used to do.

An honourable member interjecting:

The Hon. G.A. INGERSON: That's right. Exactly! The challenge is there for them to go out and do it. It is a challenge that was available to them then, and it is available to them today. I am proud of the 1994 Act, and I am proud that it was achieved as an almost exact template of the 1993 industrial relations policy that the Liberal Party put before the people of South Australia. It works towards an objective in a way that maximises the benefits to the workplace and minimises any disadvantages. That is why the 1994 Act was not and did not seek wholesale deregulation. Nor does this Bill. For me and others to maintain the argument that one should not radically deregulate overnight and to have credibility, you have to accept the flip side of the coin—that you should keep moving progressively towards a less regulatory system. That is what this Bill does.

As I have often said (and I said it even to the current Prime Minister when he was in Opposition in dealing with these matters), you can choose to cross a river in one of two ways: jump in head first, get wet and hope you can swim; or, alternatively, you can throw a few boulders in the river and take a number of steps, getting across but doing so safely.

This Bill can be likened to the second of the boulders five years after the first. As important as it is not to get wet is the need to not remain stranded on the first rock. Going backwards, as the Labor Party would have us do, is simply not a luxury that this State or its economy can afford. I stand before the House proud of the 1994 Act and pleased that the strategic approach which the Liberal Government outlined five years ago for progressive change is being continued. I congratulate the Minister for continuing this progress.

Mr Conlon interjecting:

The SPEAKER: Order! The member will come to order.

Mr Conlon interjecting:

The SPEAKER: Order! It might be 11.50 p.m. but you may get an earlier minute than the rest of us. I warn the member for Elder.

The Hon. G.A. INGERSON: I turn now to the merits of the Bill. When the emotion and political scaremongering that so often accompany industrial relations legislation are put to one side, the Bill contains measures that are fair and able to be justified on their merits.

Mr Conlon interjecting:

The SPEAKER: I warn the honourable member for the second time. I also remind him of the cumulative effect. It may be 10 minutes to midnight, but there is a consequence of getting named at that time. Also, the spokesperson for the Opposition was heard in silence for approximately two hours, and I suggest that, bearing in mind the lateness of the hour, we hear the member for Bragg in silence.

Mr CONLON: I rise on a point of order, Sir. If that is to be the consistent treatment, then some of the debates earlier tonight were rowdy in the extreme—

The SPEAKER: Order! There is no point of order. Your argument is with me and not with what happens elsewhere in other debates. If the Chair calls people to order, the Chair expects people to observe silence and give people a fair go.

The Hon. G.A. INGERSON: There are gains for employers and employees. In fact, the Minister has already distributed a long list of employee benefits—evidence of the balance in the Bill when it is read as a whole. Perhaps the most contentious aspect of the Bill is the proposal to introduce into our State system the option, subject to safeguards, of a workplace agreement between an employer and an individual employee. Again, those who know my views on industrial relations realise that this proposal was not included deliberately in the 1994 Bill. To do so in 1994 would, in my view, have been too many steps at the one time.

The 1994 Act fundamentally altered the system by allowing opting out of the awards system into collectively negotiated workplace agreements—agreements with an employer and a group of employees which were then called enterprise agreements. That was a big step—a step made even more significant because we did not discriminate between union and non-union agreements and did not allow unions the right to veto over non-union agreements.

Having done that in 1994 and now having established a strong agreement making culture into the structure of the South Australian industrial relations system, there is no good reason why we should deny the further choice of allowing the parties to move the system forward by giving legislative recognition to employer and individual employee agreements, provided that there is genuine consent and the appropriate safeguards which this Bill provides.

That is the crux of this whole exercise: whether it is fair or unfair and, provided that it is done by agreement, provided that there are safeguards and provided that there are tests, it is a position at which I think we should at least have a serious look. In examining this question, it is important that the Parliament does not overreact to the Labor Party and the trade union scare campaign. We should, at the outset, expose their vested interests.

The Labor Party is the creature of the union officials. Labor members are preselected by votes of union officials, and union officials do not like employer-employee agreements because they give an employee a say that an uninvited official cannot override. So, I disregard the exaggerated ALP outrage.

The fact is that employer-employee agreements have existed for many years. Every employee who gets a job has, for decades, had their own common law employment contract—some more detailed than others. It has simply been that the system has not formally recognised such agreements and has allowed awards to override them. That is an important point: those agreements have been in existence under common law for ever and a day—for a long period of time.

Further, we now have experience of other industrial relations systems in Australia to guide us as to how such arrangements would work if given legal recognition. Individual employer-employee agreements have been recognised for seven years in Victoria, six years in Western Australia, two years in Queensland and three years federally—a total of 18 years experience. I must say that the world has not fallen apart in those jurisdictions over this time. Wages and conditions in each of these jurisdictions have improved, not declined.

That is also a fairly important fact to note: that is, in these individual agreement areas wages and conditions in each of these jurisdictions have improved, not declined. Their unemployment rates are lower than ours and, perhaps more revealingly, in State and Federal elections in these jurisdictions the Labor Party, with the resources of the union movement and its vested interest to denigrate such arrangements, has not been able to put together even one television or radio commercial with an employee who made such an agreement and who now claims disadvantage. I know what the political process is about as well as anyone else. Why would you not exploit something if you believed that people were being exploited?

The simple reality is that wages and conditions in these jurisdictions have improved, not declined. Anyone who has gone into it has looked at all the records in all the States, and the conditions are going ahead, not backwards. The biggest increases on a percentage basis have occurred in the individual agreement area. I think that is a fairly fundamental issue because much of the criticism that has been put forward for individual agreements—

Mr Clarke: Are you talking about enterprise agreements with union involvement?

The Hon. G.A. INGERSON: I am talking about individual agreements in the States that have them. I am not talking about the collective agreements. Clearly, all the nonsense that is put forward about a decline in conditions and a decline in wages has not occurred. I think members have to take the reality of practice to put that into its right perspective. Members would think that 18 years of experience would have given the ALP a lot of fuel to use for its scare campaign and credibility.

The following is a related point that this House should note. The proposal is not as radical for South Australian law as one might make out. It is true that the current enterprise agreements are agreements between an employer and a group of employees, but the definition of a group does not need to be the whole collective workplace. It could be just a couple of employees who do work of a particular kind. The concept of moving from an enterprise agreement between an employer and two or three employees to an agreement with just one of those employees is not such a big jump as often as has been said. I seek leave to continue my remarks later.

Leave granted; debated adjourned.

TOBACCO PRODUCTS REGULATION (SMOKING IN UNLICENSED PREMISES) AMENDMENT BILL

Returned from the Legislative Council without amendment.

ADJOURNMENT

At 11.58 p.m. the House adjourned until Wednesday 24 March at 2 p.m.